

to the plaintiff's application on the basis that the documents were without prejudice and accordingly, inadmissible.

[3] On 4 November 2025 a directions conference was convened to consider the disputed documents. The parties agreed that I would be given access to the disputed documents and timetabling directions were made in respect of submissions and evidence in support of, or in opposition to, the admissibility of the evidence.

[4] This judgment provides the Court's decision on the admissibility of the disputed evidence. The reasons for the decision will be provided as part of the substantive judgment following the hearing of the challenge.

[5] I am satisfied that without prejudice privilege applies to the draft record of settlement. This evidence is accordingly inadmissible. The references to the draft record of settlement in paragraphs [33] and [34] of the plaintiff's brief of evidence, referring to the contents of the communication, are also inadmissible.

[6] Costs are reserved until the conclusion of the substantive matter.

M S King
Judge

Judgment signed at 9.45 am on 1 December 2025