Courts and Tribunals Judiciary

The Administrative Court

Judicial Review Guide 2025

August 2025

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Contents

Foreword to the 2025 Edition

The Judicial Review Guide is, a valuable resource for all who are involved in proceedings before the Administrative Court.

It covers all the stages of a claim for judicial review. Good practice is identified and pitfalls foreshadowed. It is required reading for all those who conduct judicial review cases (whether or not they are lawyers).

The production of the Guide is dependent on the work of many judges, lawyers and other staff members. I am particularly indebted to Mr Justice Chamberlain (who took over as Judge in Charge of the Administrative Court on 1 September 2024) and Mr Justice Sheldon (who has overseen the editing for this edition of the Guide) for their valuable contributions. Their work was ably assisted by Jyoti Gill, Freya Mansfield and Alexia Kotsakis. The content included here also includes work done in previous years under the supervision of the previous Judge in Charge, Mr Justice Swift. I am grateful to all those who have given their time to produce this valuable Guide to such an important part of the High Court's work.

The Rt Hon Dame Victoria Sharp DBE
President of the King's Bench Division

Preface to the 2025 Edition

This Guide provides a general explanation of the work and practice of the Administrative Court. It is designed to assist parties to conduct judicial review claims in the Administrative Court, by drawing together into one place the relevant statutory provisions, rules of procedure, practice directions and case law on procedural aspects of judicial review. It provides general guidance as to how litigation in the Administrative Court should be conducted in order to achieve the overriding objective of dealing with cases justly and at proportionate cost.

The Guide has been prepared with all Court users in mind, whether they are persons who lack legal representation (known as "litigants in person") or persons who have legal representation. All Court users are expected to follow this Guide when they prepare and present their cases.

The Guide refers readers to the relevant sections of the Civil Procedure Rules and associated Practice Directions. The Administrative Court is one of the busiest specialist courts within the High Court. It is imperative that everyone who is a party to judicial review proceedings is aware of and follows the Civil Procedure Rules and Practice Directions so that Court resources (including the time of the judges who sit in the Administrative Court) are used efficiently. That has not uniformly been the case in the past. The Court has experienced problems. To name a few: applications claiming unnecessary urgency; over-long written arguments and bundles of documents; authorities and skeleton arguments being filed very late and in the wrong format. The Court has had occasion to restate the importance of considering carefully whether urgency is required in R (DVP) v Secretary of State for the Home Department [2021] EWHC 606 (Admin), [2021] 4 WLR 75. The Court has also emphasised the importance of concision in statements of case and skeleton arguments. On these and other topics, the Guide sets out in clear terms what is expected. Parties and/or their legal representatives may be subject to sanctions if they fail to comply.

The Upper Tribunal continues to undertake a significant number of judicial review cases. Annex 8 contains important information about its jurisdiction, with a particular emphasis on immigration cases.

We are grateful to all those who provided constructive feedback on the 2024 Guide, which we have reflected in the present edition. We continue to welcome feedback, which should be sent by email to administrativecourtoffice.guidefeedback@justice.gov.uk. We plan to update this Guide from time to time, as appropriate.

Court users should also be aware of the Administrative Court User Groups which meet regularly with the Judge in Charge of the Court and the liaison judges in the regions, and take note of the minutes of the User Group meetings.[1]

The Honourable Mr Justice Chamberlain

The Honourable Mr Justice Sheldon

Royal Courts of Justice, July 2025

1 Courts and Tribunals Judiciary, Administrative Court User Group meeting minutes. Available at: www.judiciary.uk/courts-and-tribunals/high-court/administrative-court/administrative-court-user-group-meeting-minutes

Part A: Preliminary Matters

1 Introduction

1.1 The Judicial Review Guide

1.1.1 This Guide has been prepared under the direction of the Judge in Charge of the Administrative Court. It explains the practice and procedures of the Administrative Court in judicial review cases. It is designed to make it easier for parties to conduct such cases. It is not intended to address the substance of administrative law, or public law more generally. For this, reference should be made to the many academic and practitioner texts on the subject.

1.1.2 The Guide must be read with the Civil Procedure Rules ("CPR") and the supporting Practice Directions. Litigants and their advisers must acquaint themselves with the CPR and Practice Directions.

1.1.3 The Guide does not have the force of law, but is "essential reading for all those who practice in the Administrative Court".[2] All those engaged in proceedings in the Administrative Court should have regard to it.[3] However, where relevant, parties should draw the Court's attention to a particular rule or case and not merely rely on this Guide. The Guide applies to cases heard in the Administrative Court wherever it is sitting and in the Administrative Court Offices ("ACOs") across England and Wales.

1.1.4 The contents of the Guide, including any websites, email addresses, telephone numbers and addresses, are correct at the time of publication. The Guide will be updated from time to time.

1.1.5 Where possible, referenced documents are hyperlinked in the electronic version of this document, available at www.judiciary.uk/courts-and-tribunals/high-court/administrative-court/. All references to the Civil Procedure Rules (CPR) can be viewed at www.justice.gov.uk/courts/procedure-rules/civil/rules. References to UK legislation can be viewed at www.legislation.gov.uk. References to case law can be viewed at caselaw.nationalarchives.gov.uk. Finally, references to British and Irish case law and legislation can be viewed at www.bailii.org.

2 R (DVP) v Secretary of State for the Home Department [2021] EWHC 606 (Admin), [2021] 4 WLR 75, [8].

3 R (AB) v Chief Constable of Hampshire Constabulary & Others [2019] EWHC 3461 (Admin), [108].

1.2 The Civil Procedure Rules

1.2.1 The overriding objective set out in CPR 1.1(1) is central to all civil proceedings, including judicial review claims. It requires the parties and the Court to deal with cases justly and proportionately, including at proportionate cost.

1.2.2 The CPR are divided into Parts. A Part is referred to in the form: "CPR Part 54". A rule (and paragraph) within a Part is referred to in the form: "CPR 54.12(2)". The current CPR can be viewed on the Government's website at www.justice.gov.uk/courts/procedure-rules/civil/rules.

1.2.3 The judicial review procedure is mainly (but not exclusively) governed by CPR Part 54 and the associated Practice Directions. These are required reading for any litigant considering judicial proceedings. More details on these provisions will be given throughout this Guide.

1.3 Practice Directions

1.3.1 Most Parts of the CPR have an accompanying Practice Direction or Practice Directions, and other Practice Directions deal with matters such as the Pre-Action Protocols.

1.3.2 The Practice Directions are made pursuant to statute and have the same authority as the CPR themselves. However, in case of any conflict between a rule and a Practice Direction, the rule will prevail. Each Practice Direction is referred to in the Guide with the number of any Part that it supplements preceding it. For example, Practice Direction A supplementing CPR Part 54 is referred to as CPR 54A PD. A particular sub-paragraph of a Practice Direction will be referred to, for example, as CPR 54A PD para 5.1.

1.3.3 The key Practice Directions associated with CPR Part 54 are CPR 54A PD (Judicial Review), CPR 54B PD (Urgent applications and other applications for interim relief), CPR 54C PD (Administrative Court (Venue)) and CPR 54D PD (Planning Court Claims).

1.3.4 These Practice Directions are required reading for any litigant considering judicial review proceedings.

1.4 Forms

1.4.1 CPR 4.1 provides that forms approved by the Civil Procedure Rule Committee are published online by His Majesty's Courts and Tribunals Service ("HMCTS") to be downloaded or printed for use.

1.4.2 Annex A lists the Administrative Court forms that are referred to and required by the CPR and the Practice Directions. Other forms may be provided by the ACO and are not available online.

1.4.3 The relevant N forms that are most used in judicial review proceedings are:

N461	Judicial Review claim form
N461 PC	Judicial Review claim form (Planning Court)
N462	Judicial Review acknowledgment of service
N462 PC	Judicial Review acknowledgment of service (Planning Court)
N463	Judicial Review – application for urgent consideration
N463 PC	Judicial Review – application for urgent consideration (Planning Court)
N464	Application for directions as to venue for administration and determination
N464 PC	Application for directions as to venue for administration and determination (Planning Court)

1.4.4 The following general N forms are also required in a judicial review application:

N215	Certificate of service
N244	Application notice
N260	Statement of costs (Summary Assessment)
N279	Notice of discontinuance
N434	Notice of change of legal representative

1.4.5 The forms are available on the ACO website.[4]

4 HM Courts and Tribunals Service, Administrative Court forms. Available at: www.gov.uk/government/collections/administrative-court-forms

1.4.6 There are a few forms which are not set out in the rules that practitioners must use. Two important ones are Form QBD OHA, which is used for out of hours applications (see para 17.8 of this Guide), and Form 86b which is used to request an oral hearing where permission to apply for judicial review is refused on the papers (see para 9.2 of this Guide).

1.5 Fees

1.5.1 By virtue of the Civil Proceedings (Fees) Order 2008 No. 1053 (L.5) (as amended), the ACO is required to charge fees at certain stages in proceedings or when a party requests an order from the Court. The relevant fees (at the time of publication) are outlined in Annex 2.[5] Current fees can also be checked at the Administrative Court website.[6]

1.5.2 Some litigants may be entitled to the remission of fees.[7] Guidance on whether a party may be entitled to fee remission can be found on form EX160A and litigants can apply online.[8] Litigants should be aware that fee remission is potentially available for all fees save for copying charges (except for vexatious litigants and persons subject to Civil Restraint Orders, where different rules apply: see para 5.1.6 of this Guide).

1.5.3 Court fees should not be confused with costs between parties, which can be considerably more than Court fees. Costs are discussed in this Guide in Chapter 25.

1.5.4 A litigant in person will be expected to comply with the requirements to use the right form and to pay fees, just like a represented litigant. Litigants in person should therefore make themselves familiar with those parts of this Guide which are relevant to their claim and with the applicable requirements.

1.5.5 Among other things, a claimant must pay a fee on applying for reconsideration at an oral hearing or where the Court grants permission to apply for judicial review. Failure to obtain a fee remission or pay this fee can result in the claim being struck out.[9]

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5 The fees are set out in the Civil Proceedings (Fees) Order 2008, Schedule 1 (as amended).

6 HM Courts and Tribunals Service, Fees in the Civil and Family Courts - full list (EX50A). Available at: www.gov.uk/government/publications/fees-in-the-civil-and-family-courts-full-list-ex50a

7 The fee remission provisions are set out in Civil Proceedings (Fees) Order 2008, Schedule 2 (as amended).

8 GOV.UK, Get help paying court and tribunal fees. Available at: www.gov.uk/get-help-with-court-fees

9 CPR 3.7. See also para 10.1.4.1 of this Guide.

1.6 Calculating time limits

1.6.1 Unless the period specified is 5 days or less, references to days in the CPR, Practice Directions or this Guide are to clear, calendar days, which include weekends and bank holidays.[10]

1.6.2 The date of service of a document is not the date when the document is actually received. Where service is by post, the date of service is the second working day after the day that the document was sent.[11]

1.7 The Administrative Court

1.7.1 The Administrative Court is part of the King's Bench Division of the High Court (one of the 3 divisions of the High Court, together with the Chancery Division and Family Division). The Administrative Court hears applications for judicial review[12] and some statutory appeals and applications which fall outside the remit of this Guide.

1.7.2 Judicial review is the procedure by which an individual, company or organisation can challenge the lawfulness of a decision or other conduct of a person or body whose powers are governed by public law. Persons and bodies who are amenable to judicial review are referred to here as "public bodies".

1.7.3 The Rt Hon Dame Victoria Sharp DBE is the President of the King's Bench Division ("the President"). Mr Justice Chamberlain is the Judge in Charge of the Administrative Court ("Judge in Charge"). Mr Justice Eyre is the liaison judge for the Midlands and Wales and South West. Mr Justice Fordham is the liaison judge for the North and North East.

1.7.4 Most cases in the Administrative Court are heard by a single High Court Judge or by another judge or deputy judge authorised to sit in the Administrative Court.

1.7.5 Judicial review claims which challenge planning decisions are heard in the specialist Planning Court, which is part of the Administrative Court.

1.7.6 Some cases in the Administrative Court are heard by a Divisional Court, usually consisting of one Lord or Lady Justice of Appeal (or the President) and one High Court Judge.

10 See CPR 2.8 for more detail and examples.

11 CPR 6.14 and CPR 6.26.

12 See paras 6.5, , and 6.7 of this Guide, where the exceptions are discussed.

1.7.7 If a party considers that their case should be heard by a High Court Judge (rather than by another judge), or by a Divisional Court, the ACO should be informed as soon as possible, and reasons should be given.

1.8 The Administrative Court Office

1.8.1 The management of judicial review cases in the Administrative Court is dealt with by the ACO. All documentation must be filed with the ACO and all enquiries on cases must be directed to the ACO (not sent directly to the judiciary).

1.8.2 The ACO and its staff are a part of HMCTS, which in turn is an executive agency of the Ministry of Justice ("MOJ"). There are ACOs in Birmingham Civil Justice Centre, Cardiff Civil Justice Centre, Leeds Combined Court Centre, Manchester Civil Justice Centre, and in the Royal Courts of Justice in London. Contact details for the ACOs can be found in Annex 1 and Annex 9 to this Guide.

1.8.3 The ACO is open for business from 10am to 4.30pm (10 am to 4pm for the out of London ACOs) on every day of the year except:[13]

1.8.3.1 Saturdays and Sundays;

1.8.3.2 Good Friday;

1.8.3.3 Christmas Day;

1.8.3.4 One further day over the Christmas period determined in accordance with the table annexed to CPR 2A PD. This will depend on which day of the week Christmas Day falls on;

1.8.3.5 Bank holidays in England and Wales;

1.8.3.6 Such other days as the Lord Chancellor, with the concurrence of the senior judiciary, may direct.

13 CPR 2A PD para 2.

1.9 The judiciary and the Master

1.9.1 The judiciary in the Administrative Court consists of the High Court Judges (who are styled "The Honourable Mr/Mrs Justice...") and other judges and deputy judges who have been authorised to sit in the Administrative Court. When this Guide refers to a judge or judges, it includes all of these. All judges are addressed in Court as "My Lord" or "My Lady".

1.9.2 In the Royal Courts of Justice there is also a Master of the Administrative Court, currently Master Gidden. He generally deals with interim and pre-action applications and is addressed in Court as "Judge".

1.10 E-filing

1.10.1 The use of E-filing (the external element of CE-File) for claims in the Administrative Court is optional, save in respect of Immediate applications and Extradition appeals or applications which should not be filed via E-file but must continue to be filed via the specific email inbox.

Immediate applications via:
administrativecourtoffice.immediates@justice.gov.uk

Extradition appeals/applications via:
administrativecourtoffice.crimex@justice.gov.uk

1.10.2 Any urgent applications using Form N463 in the regions should also be notified to the appropriate regional office in accordance with PD54B and PD54C and not be filed via E-File.

2 Procedural Rigour

2.1 The need to observe the rules

2.1.1 Judicial review proceedings are different from private law proceedings because the interests in play are typically not just those of the parties to the litigation. Depending on the context, the proceedings may affect third parties. It may also be necessary to consider the public interest.

2.1.2 However, this does not mean that the Court will overlook or tolerate breaches of directions made by the Court or of obligations imposed by the CPR or Practice Directions or by this Guide. The appellate courts have emphasised the need for procedural rigour in judicial review.[14]

2.1.3 The importance of procedural rigour is reflected in a number of sections of this Guide. It applies to claims with a public interest element with as much force as to other claims[15] and as much to defendant public authorities as to claimants.[16] In particular, attention is drawn to the need for legal professionals and litigants in person:

2.1.3.1 to consider carefully who are the proper parties to any claim (see para 3.2 of this Guide);

2.1.3.2 to comply rigorously with the duty of candour, at all times, but especially when making applications for urgent consideration (see para 17.3.3 of this Guide);

2.1.3.3 to ensure that applications are made at the earliest stage possible and not left to the last minute (for example, see para 13.7 for applications to extend time; para 23.2 for applications to adduce expert evidence);

14 R (Spahiu) v Secretary of State for the Home Department [2018] EWCA Civ 2604, [2019] 1WLR 1297, [2]. R (Talpada) v Secretary of State for the Home Department [2018] EWCA Civ 841, [67]. R (Dolan) v Secretary of State for Health and Social Care [2020] EWCA Civ 1605, [2021] 1 WLR 2326, [116]-[120]. R (AB) Chief Constable of Hampshire Constabulary [2019] EWHC 3461 (Admin), [108].

15 R (Good Law Project) v Secretary of State for Health and Social Care [2022] EWCA Civ 355, [2022] 1 WLR 2339, [70].

16 R (SWP) v Secretary of State for the Home Department [2023] EWCA Civ 439, [2023] 4 WLR 37, [72].

2.1.3.4 to comply with deadlines set by Court direction, the CPR, or a Practice Direction and to apply for relief from sanctions where documents are filed late (see paras 13.7.7, and 13.9 of this Guide);

2.1.3.5 to file documents and authorities in hard copy and electronic form in the correct format (see paras 20.3, 21.4 and 22.4).

2.2 Sanctions

2.2.1 If parties or their legal representatives fail to comply with the procedural requirements imposed by the CPR, Practice Directions or this Guide, the Court has a range of sanctions at its disposal, including the powers:

2.2.1.1 to decline to accept documents filed in the wrong format (see paras 7.3.9, 20.4.6, 21.4.5, 21.7.1 and 22.6.1 of this Guide) or late (see paras 20.4.6, 21.2.5, 21.7.1 and 22.6.1 of this Guide);

2.2.1.2 to impose adverse costs orders against a party (see para 24.1 of this Guide) or a wasted cost order against a legal representative (see para 25.13 of this Guide); and

2.2.1.3 to refer a legal representative to the relevant professional regulator (see Chapter 18 of this Guide).

3 The Parties

3.1 Identifying the parties

3.1.1 This part of the Guide is intended to give guidance on who should be the parties in a judicial review claim. Identifying the parties correctly ensures that pre-action discussions take place between the proper persons (see reference to the pre-action Protocol at para 6.2 of this Guide). It also ensures that the proper parties are referred to on any Court documents.

3.2 The parties

3.2.1 Claimant(s)

3.2.1.1 Claimants are those persons who wish to challenge the conduct of a public body in the Administrative Court (for more detail about "standing", see para 6.3.2 of this Guide).

3.2.1.2 The claimant can be any individual or incorporated company (also known as a corporation). Partnerships can bring proceedings in the name of the partnership.

3.2.1.3 The Court may allow unincorporated associations (which do not have legal personality) to bring judicial review proceedings in their own name.[17] But it is sensible, and the Court may require, that proceedings are brought in the name of one or more individuals, such as an officeholder or member of the association, or by a private limited company formed by individuals. Costs orders may be made against the party or parties named as claimant(s).

3.2.1.4 Public bodies can be claimants in judicial review proceedings. The Attorney General has a common law power to bring proceedings. Local authorities may bring proceedings under section 222 of the Local Government Act 1972.

17 Aireborough Neighbourhood Development Forum v Leeds City Council [2020] EWHC 45 (Admin), [29].

3.2.1.5 The Court has an inherent jurisdiction to allow a claimant to be substituted for a different claimant (e.g. where the original claimant has died). The proposed new claimant must have sufficient standing and sufficient identity of interest with the original claimant.[18]

3.2.2 Defendant(s)

3.2.2.1 The defendant is the public body whose conduct is under challenge, not the individual decision-maker within that public body.

3.2.2.2 Where the decision is made by a Government Department, it is the relevant Secretary of State who is the defendant. Therefore, even if the decision challenged is that of a civil servant working in, for example, the Home Office, the defendant would be the Secretary of State for the Home Department.[19]

3.2.2.3 Where the conduct challenged is that of a court or tribunal, it is the court or tribunal which must be named as defendant. The opposing party in the underlying case is named as an "interested party" (see below at 3.2.3.2).

3.2.3 Interested parties

3.2.3.1 An interested party is any person (including a corporation or partnership), other than the claimant or defendant, who is "directly affected" by the claim.[20] "Directly affected" means "affected without the intervention of any intermediate agency".[21] For example, where a claimant challenges the decision of a defendant local authority to grant planning permission to a third party, the third party is directly affected by the claim because the relief sought would affect his or her legal rights, so he or she must be named as an interested party.

18 R (Batmanghelidjh) v Charity Commission for England And Wales [2024] EWHC 2637 (Admin).

19 The whole system of departmental organisation and administration is based on the notion that the decision of a government official is constitutionally that of the Minister, who alone is answerable to Parliament. This is called the Carltona principle: see Carltona Ltd v Commissioners of Works [1943] 2 All ER 560.

20 CPR 54.1(2)(f).

21 R v Rent Officer Service ex p. Muldoon [1996] 1 WLR 1103. For a recent discussion of the principle set out in ex p. Muldoon, see R (Watson) v Chief Constable of Greater Manchester [2025] EWHC 332 (Admin)..

3.2.3.2 Where the defendant is a court or tribunal, any opposing party in the lower court or tribunal must be named as an interested party in the judicial review claim.[22]

3.2.3.3 Interested parties must be included in pre-action correspondence and named in the Claim Form. Interested parties must also be served with the Claim Form.[23]

3.2.4 Interveners

3.2.4.1 In judicial review proceedings, the Court has an express power to receive evidence and submissions from persons who are not parties. Any person can apply under CPR 54.17 for permission to make representations or file evidence. The application must be made by filing an Application Notice. This must be done promptly.[24] There are costs considerations (see para 25.7 of this Guide).

3.2.4.2 Potential interveners should ensure that all parties are made aware of the intended application from the earliest stage.

3.2.4.3 The Application Notice should explain who the applicant is and indicate why and in what form the applicant wants to participate in the hearing (e.g. by written submissions only or by making written submissions and filing evidence).

3.2.4.4 The application should include a summary of the representations that the potential intervener proposes to make at the hearing and a copy of any evidence the potential intervener proposes to file and serve, with an explanation of the relevance of that evidence to the issues in the proceedings.

3.2.4.5 If the applicant to intervene seeks an order as to costs which departs from the provisions made by section 87 of the Criminal Justice and Courts Act 2015, the application must include a copy of the order sought and grounds on which it is sought.

22 CPR 54A PD para 4.6(2).
23 CPR 54.7(b).
24 CPR 54.17(2).

3.3 Multiple claimants / defendants / interested parties

3.3.1 A claim for judicial review may be brought by one claimant or, in appropriate circumstances, by more than one claimant. It may, for example, be appropriate for the claim to be brought by more than one claimant where a number of different individuals are affected by the decision challenged. However, parties should bear in mind the need to ensure that claimants are limited to those best placed to bring the claim. It is not appropriate to add parties simply to raise the profile of the litigation or to make it easier to raise funds. The Court may decline to accord standing to such additional parties.[25]

3.3.2 A claim may be brought against one defendant or, in appropriate circumstances, against two or more defendants. This may, for example, be appropriate where two or more bodies are responsible for the conduct under challenge.

3.3.3 There may, exceptionally, be circumstances in which a number of different challenges by different claimants against different defendants can be combined in one single claim for judicial review. This will generally only be appropriate if the different challenges can be conveniently dealt with together.

3.3.4 If a claimant considers that any person is directly affected by the claim, the claimant must identify that person as an interested party and serve the Claim Form on him or her.[26] A defendant must also identify in the Acknowledgment of Service any person who the defendant considers is an interested party because the person is directly affected by the decision challenged[27] and the Court will consider making that person an interested party when determining the application for permission to apply for judicial review.

3.3.5 Where a person who is a potential defendant or interested party has not been named or served with the Claim Form, the Court may direct that he or she be added as a party and that the claim be served on him or her. When this happens, the interested party may make representations or lodge an Acknowledgment of Service.[28]

25 See para 6.3.2 of this Guide.

26 CPR 54.6 and CPR 54.7.

27 CPR 54.8(4)(ii).

28 CPR 19.2(2) and CPR 19.2(4). In an appropriate case, ACO lawyers would have powers to make such an order under CPR 54.1A. For the requirement to serve the papers on a new party, see CPR 5A PD para 3.1. For removal of parties, see CPR 19.2(3).

3.4 Case titles

3.4.1 In judicial review proceedings, the case title differs from other civil proceedings to reflect the fact that judicial review is the modern version of a historic procedure in which His Majesty's judiciary acted in a supervisory capacity to ensure that public powers were properly exercised. The case title reflects this:[29]

"The King (on the application of X) v Y", where X is the Claimant and Y is the Defendant.

3.4.2 The case title is often written as follows, with R (for Rex) denoting The King:

R (on the application of X) v Y & Ors; or R (X) v Y.

3.4.3 The Crown will not involve itself in any way in the claim on behalf of the claimant. The inclusion of The King in the title is purely nominal.[30]

29 This form of the case title is stipulated in Practice Direction (Administrative Court: Establishment) [2000] 1 WLR 1654.

30 R (Ben-Abdelaziz) v Haringey LBC [2001] EWCA Civ 803, [2001] 1 WLR 1485, [29].

4 Litigants in Person

4.1 General

4.1.1 Many cases in the Administrative Court are conducted by parties who do not have professional legal representation and who represent themselves. These are known as "litigants in person". The rules of procedure and practice apply to litigants in person in the same way as to parties represented by lawyers. Many forms of help are available for individuals who wish to seek legal advice before bringing claims for judicial review. In addition, the Court will, where appropriate, have regard to the fact that a party is unrepresented and will ensure that unrepresented parties are treated fairly.

4.1.2 Represented parties must treat litigants in person with consideration at all times during the conduct of the litigation. Represented parties are reminded of the guidance published by the Bar Council, CILEx and the Law Society.[31]

4.1.3 Litigants in person must show consideration and respect to their opponents (whether legally represented or not), their opponents' representatives and the Court.

4.1.4 A litigant in person must give an address for service in England or Wales in the Claim Form. It is essential that any change of address is notified in writing to the ACO and to all other parties to the case, otherwise important communications such as notices of hearing dates may not arrive.

4.2 Obligation to comply with procedural rules

4.2.1 A litigant in person will be expected to comply with the CPR and Practice Directions and the provisions of this Guide apply to them. Litigants in person may be penalised if they do not comply with the rules.

4.2.2 Litigants in person should therefore make themselves familiar with those parts of this Guide which are relevant to their claim and also with the applicable provisions of the CPR and Practice Directions.[32] These are examples of things to consider:

31 Law Society, Litigants in person: guidelines for lawyers, 2015. Available at: www.lawsociety.org.uk/topics/civil-litigation/litigants-in-person-guidelines-for-lawyers

32 Barton v Wright Hassall LLP [2018] UKSC 12, [2018] 1 WLR 1119, [18].

4.2.2.1 The requirement to set out grounds of challenge in a coherent and well-ordered way (see para 7.3.1 of this Guide) applies to litigants in person in the same way as it applies to litigants with representation.

4.2.2.2 The requirement to provide all relevant information and facts to the Court and to the other parties to the claim (described at para 15.1 of this Guide under the heading "Duty of candour and cooperation with the Court") applies to all litigants. This includes a requirement that parties disclose to each other and to the Court documents and facts which are relevant to the issues, even if they are unfavourable to their own case. This duty is of particular importance when an application is made to the Court without the other party being present or notified in advance (usually in cases of urgency). Here, the litigant is under a duty specifically to draw the Court's attention to such matters.

4.2.2.3 It is the duty of all parties to litigation, whether represented or not, to bring relevant matters to the attention of the Court and not to mislead the Court. This means, for example, that parties must not misrepresent the law and must therefore inform the Court of any relevant legislation or previous Court decisions which are applicable to their case and of which they are aware (whether favourable or not to their case).

4.3 The hearing

4.3.1 Litigants in person must give copies of any written document (known as a "skeleton argument") which sets out the arguments they intend to rely on and any other material in support of their arguments (for example, reports of cases) to the Court and to their opponents in good time before the hearing. Litigants in person should familiarise themselves with the rules about skeleton arguments in Chapter 20 of this Guide. If they do not follow these rules, the Court may refuse to hear the case, or may adjourn the case to allow the other party or parties proper time to consider and respond to the late skeleton or material. If the court does this, it may order the litigant in person to pay the defendant's costs occasioned by the adjournment.

4.3.2 Litigants in person should identify in advance of the hearing what they consider to be their strongest points. They should put these

points first in their skeleton argument and in any oral submissions to the Court.

4.3.3 At the hearing, litigant in persons will be asked to give their name(s) to the usher or in-court support staff if they have not already done so.

4.3.4 The case name will be called out by the Court staff. The hearing will then begin.

4.3.5 At the hearing, the claimant usually speaks first, then the defendant. Finally, the claimant has an opportunity to comment on what the defendant has said. Sometimes the judge may think it is sensible, depending on the circumstances, to vary that order and, for example, let the defendant speak first.

4.3.6 At the hearing, the judge may make allowances for any litigant in person, recognising the difficulties that person faces in presenting his or her own claim. The judge will allow the litigant in person to explain his or her case in a way that is fair to that person. The judge may ask questions. Any other party in Court, represented or not, will also have an opportunity to make submissions to the judge. At the end of the hearing, the judge will either give a ruling or judgment orally or "reserve judgment" (i.e. adjourn to produce a written judgment). If an order is being made at the hearing, the judge will normally explain the effect of the order. Representatives for other parties should also do so after the hearing if the litigant in person wants further explanation.

4.4 Practical assistance for litigants in person

4.4.1 Neither the Court staff nor the judges are in a position to give advice about the conduct of a claim. There is, however, a great deal of practical help available.

4.4.2 Support Through Court is a free and independent service based in a number of court buildings which supports litigants in person.[33] It does not give legal advice and will not represent a litigant, but will assist by taking notes, discussing the workings of the court process, and providing assistance with forms. Support Through Court operates in each of the Court centres in which the majority of judicial reviews are heard (Birmingham Civil Justice Centre, Bristol Civil Justice Centre, Cardiff Civil Justice Centre, Leeds Combined Court Centre, Manchester Civil Justice Centre, and the Royal Courts of Justice in London) as well as some other Court buildings.

33 Support Through Court: www.supportthroughcourt.org

4.4.3 Citizens Advice provides advice on a wide range of issues at drop-in centres, by telephone and online.[34]

4.4.4 There is a Citizens Advice service at the Royal Courts of Justice which may be able to offer some advice.[35] It is situated on the ground floor, on the left-hand side of the main hall.

4.5 Legal representation and funding

4.5.1 Legal representation can be provided in a number of ways, including fee-paid representation, legal aid, and pro bono (i.e. free) representation.

4.5.2 Fee-paid representation

4.5.2.1 Legal representatives will act for a party who pays their fees directly. Fee-paid representation is generally conducted at an agreed hourly rate or by agreeing a fixed fee in advance.

4.5.2.2 Some legal representatives will agree to act for a party under a conditional fee agreement ("CFA"), commonly known as a "no win, no fee" agreement. Individual firm or barristers will be able to confirm the basis on which they will act.

4.5.2.3 Some lawyers will agree to undertake a specific piece of work, without representing the client for the whole case. For example, a lawyer may be prepared to draft a skeleton argument, which the litigant can then use for the hearing, or may appear at a particular hearing. This is sometimes called "unbundled" work.

4.5.3 Legal aid (civil cases)

4.5.3.1 Individual legal representatives will be able to confirm whether they can work on a legal aid basis and whether a particular claimant will be entitled to apply for legal aid and, if so, the terms on which legal aid may be granted.

34 Citizens Advice: www.citizensadvice.org.uk

35 Royal Courts of Justice Advice: www.rcjadvice.org.uk

4.5.4 Legal aid (criminal cases)

4.5.4.1 Judicial review proceedings are not incidental to lower court proceedings and thus any representation order granted in the lower Court will not cover judicial review proceedings.[36] A representation order may not be granted by the Administrative Court itself, although legal aid may be available from the Legal Aid Agency.

4.5.5 Pro bono advice and representation

4.5.5.1 Some solicitors and barristers will offer limited pro bono (i.e. free) legal advice on the prospects of a claim. Individual solicitors or barristers will be able to confirm if they are prepared to give advice on such terms.

4.5.5.2 There are some specialist organisations that arrange for free advice and representation. The largest are: The National Pro Bono Centre (formerly known as the Bar Pro Bono Unit), Advocate and Law Works.[37, 38, 39]

4.5.5.3 Potential litigants should note that the resources usually available to pro bono organisations are limited. This means that they are not able to offer assistance to everyone who asks for it. The application process can be lengthy. The Administrative Court is unlikely to stay a claim or grant an extension of time to file a claim to await the outcome of an application for pro bono advice or representation.

36 Criminal Legal Aid (General) Regulations 2013, reg. 20(2)(a).

37 National Pro Bono Centre: www.nationalprobonocentre.org.uk

38 Advocate: weareadvocate.org.uk

39 Law Works: www.lawworks.org.uk

4.6 McKenzie Friends and rights of audience

4.6.1 A litigant in person may have the assistance of a non-legally qualified person, known as a "McKenzie Friend". Where a McKenzie Friend assists, the litigant in person must be present at the hearing and will be responsible for the conduct of his or her case at that hearing, but the McKenzie Friend may provide some assistance.

4.6.2 Guidance on McKenzie Friends was given in Practice Guidance (McKenzie Friends: Civil and Family Courts),[40] which established that a McKenzie Friend may:

4.6.2.1 provide moral support for litigant(s) in person;

4.6.2.2 take notes;

4.6.2.3 help with case papers; and

4.6.2.4 quietly give advice on any aspect of the conduct of the case.

4.6.3 The Practice Note also established that a McKenzie Friend may not:

4.6.3.1 act as the litigant's agent in relation to the proceedings;

4.6.3.2 manage litigants' cases outside Court, for example by signing Court documents; or

4.6.3.3 address the Court, make oral submissions or examine witnesses on behalf of the litigant in person.

4.6.4 The Court can give permission to a person who is not a party and who has no rights of audience to address the Court.[41] This is only done in exceptional cases, if an application is made, and where it is shown to be in the interests of justice.[42]

40 Courts and Tribunals Judiciary, Practice Guidance: McKenzie Friends (Civil and Family Courts). Available at: www.judiciary.uk/wp-content/uploads/JCO/Documents/Guidance/mckenzie-friends-practice-guidance-july-2010.pdf

41 Legal Services Act 2007, Schedule 3 para 1(2)(b).

42 The principles are set out in James v Eltham Conservative & Unionist Club [2013] EWHC 979 (QB), [2021] LLR 1, [25]-[38]. See also Malik v Governor of HM Prison Hindley [2022] EWHC 2684, [2023] 1 WLR 949, where the Court refused to grant rights of audience to a disbarred former barrister.

4.6.5 A litigant in person who wishes to attend a hearing with the assistance of a McKenzie Friend should inform the Court as soon as possible, indicating who the McKenzie Friend will be. The proposed McKenzie Friend should produce a short curriculum vitae or other statement setting out relevant experience, confirming that he or she has no interest in the case and that he or she understands the role and the duty of confidentiality.

4.6.6 The litigant in person and the McKenzie Friend must tell the Court if the McKenzie Friend is being paid for his or her assistance and be ready to give details of that remuneration. The Court may stop a McKenzie Friend from assisting if the Court believes there is good reason to do so in any individual case. It is unlawful for a person who is not authorised to do so to give paid or unpaid legal advice or representation in respect of immigration matters.[43]

4.6.7 If the Court considers that a person is abusing the right to be a McKenzie Friend (for example, by attending in numerous claims to the detriment of the litigant(s) and/or the Court) and this abuse amounts to an interference with the proper processes of the administration of justice, the Court may make an order restricting or preventing a person from acting as a McKenzie Friend.[44]

43 Section 84 of the Immigration and Asylum Act 1999.

44 Noueiri v Paragon Finance plc [2001] EWCA Civ 1402, [2001] 1 WLR 2357.

5 Civil Restraint Orders and Civil Proceedings Orders

5.1 General

5.1.1 The Court has power to make a civil restraint order ("CRO") under CPR 3C PD in relation to any person who has brought claims or made applications considered to be "totally without merit". Under section 42 of the Senior Courts Act 1981 the Court may make a civil proceedings order ("CPO") in respect of a person who has used litigation vexatiously.

5.1.2 The effect of either of those orders is that persons subject to them must obtain the permission of the Court before they may start a judicial review claim.

5.1.3 The application to start proceedings is distinct from the application for permission to apply for judicial review.

5.1.4 If a person who is subject to a CRO or CPO files a claim or makes an application to the Court without first making an application for permission to start proceedings and receiving permission to do so, the claim or application will not be issued. The Court may also consider the filing of the claim or application to be a contempt of court.

5.1.5 The application for permission to start proceedings must be made by filing an application notice (N244) with the ACO with the relevant fee.

5.1.6 The fee is not subject to fee remission and must be paid. If permission to start proceedings is later granted and the applicant is able to claim fee remission, the fee can be refunded.[45]

45 Civil Proceedings (Fees) Order 2008, Schedule 2, para 19(3) (as amended).

5.2 Civil restraint orders

5.2.1 Prior to making an application for permission to start proceedings or an application for permission to apply for amendment or discharge of the CRO, a party who is subject to a CRO must set out the nature and grounds of the application and give the other party at least 7 days to respond.[46]

5.2.2 An application for permission to start proceedings or for permission to apply for amendment or discharge of the CRO must:[47]

5.2.2.1 be made in writing; and

5.2.2.2 include the other party's written response, if any, to the notice served.

5.2.3 Such an application will be determined without a hearing.

5.2.4 There is a right of appeal (see Chapter 26 of this Guide), unless the Court has ordered that the decision to dismiss the application will be final.[48]

5.2.5 The Court will dismiss the application unless satisfied that it is not an abuse of process and there are reasonable grounds for bringing it.[49]

5.2.6 For a person who is subject to a CPO, an order dismissing the application, with or without a hearing, is final and may not be subject to reconsideration or appeal.[50]

46 CPR 3C PD paras 2.5, 3.5 and 4.5.

47 CPR 3C PD paras 2.6, 3.6 and 4.6.

48 CPR 3C PD paras 2.3(2), 2.6(3), 3.3(2), 3.6(3), 4.3(2) and 4.6(3). For the conditions under which an extended civil restraint order may be discharged, see Middlesbrough Football & Athletic Co v Earth Energy Investments LLP and Millinder [2019] EWHC 226 (Ch).

49 Section 42(3) of the Senior Courts Act 1981.

50 Section 42(4) of the Senior Courts Act 1981.

6 Before Starting the Claim

6.1 General considerations

6.1.1 This section outlines the practical steps to be taken before bringing a claim, including the pre-action procedure, factors which may make bringing a claim inappropriate, costs protection, the timescales in which proceedings should be started and the duties of the parties concerning the disclosure of documents.

6.1.2 Any prospective claimant should think carefully about the implications of commencing a claim. A litigant acting in person faces a heavier burden in terms of time and effort than a litigant who is legally represented, but all litigation calls for a high level of commitment from the parties. This should not be underestimated.

6.1.3 The overriding objective of the CPR is to deal with cases justly and at proportionate cost. In almost all proceedings there are winners and losers. The loser is generally ordered to pay the costs of the winner and the costs of litigation can be large (see Chapter 25 of this Guide for further guidance about costs).

6.2 The Judicial Review Pre-action Protocol

6.2.1 So far as reasonably possible, an intending claimant should try to resolve the claim without litigation. Starting litigation should be a last resort.

6.2.2 The steps that should be taken before proceedings are commenced are set out in the Judicial Review Pre-action Protocol ("the Protocol").[51]

6.2.3 It is very important to follow the Protocol before commencing a claim, for two reasons: first, it may serve to resolve the issue without need of litigation or at least to narrow the issues in the litigation; secondly, if the Protocol has not been followed the party or parties responsible may be subject to costs sanctions.

6.2.4 A judicial review claim must be brought within the time limits fixed by the CPR. The Protocol process does not affect these time limits (see para 6.4 of this Guide). The fact that a party is following the steps set out in the Protocol would not, of itself, be likely to justify a failure

51 HM Courts and Tribunals Service, Pre-Action Protocol for Judicial Review. Available at: www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_jrv

to bring a claim within the time limits set by the CPR, nor would it provide a reason to extend time. So, a party considering applying for judicial review should act quickly to comply with the Protocol but note the time limits for issue if the claim remains unresolved.

6.2.5 If the case is urgent (e.g. where there is an urgent need for an interim order), it may not be possible to follow the Protocol in its entirety. However, even in urgent cases, the parties should attempt to comply with the Protocol to the fullest extent possible. The Court will not apply costs sanctions for non-compliance where it is satisfied that it was not possible to comply because of the urgency of the matter.

6.2.6 Stage one of the Protocol requires the parties to consider whether a method of alternative dispute resolution ("ADR") would be more appropriate. The Protocol mentions discussion and negotiation, referral to the Ombudsman and mediation (a form of facilitated negotiation assisted by an independent neutral party).

6.2.7 Stage two is to send the defendant a pre-action letter. The letter should be in the format outlined in Annex A to the Protocol.[52] The letter should contain the date and details of the act or omission being challenged and a clear summary of the facts on which the claim is based. It should also contain details of any relevant information the claimant is seeking and an explanation of why it is relevant.

6.2.8 The defendant should normally be given 14 days to respond to the pre-action letter and must do so in the format outlined in Annex B to the Protocol.[53] Where necessary, the defendant may ask for additional time to respond. The claimant should allow the defendant a reasonable time to respond, where that is possible in the circumstances of the case and without putting the time limits for starting the case in jeopardy.

52 HM Courts and Tribunals Service, Annex A in Pre-Action Protocol for Judicial Review. Available at: www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_jrv#annexa

53 HM Courts and Tribunals Service, Annex B in Pre-Action Protocol for Judicial Review. Available at: www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_jrv#annexb

6.3 Situations where a claim for judicial review may be inappropriate

6.3.1 There are situations in which judicial review will not be appropriate or possible. These should be considered at the outset. Litigants should refer to the CPR and to the commentary in academic works on administrative law. The following are some of those situations in outline:

6.3.2 Lack of standing (or locus standi)

6.3.2.1 A person may not bring an application for judicial review unless he or she has a "sufficient interest" in the matter to which the claim relates.[54] This is known as the requirement for "standing" or (in Latin) locus standi.

6.3.2.2 Any issue about standing will usually be determined when considering the application for permission to apply for judicial review, but it may also be raised and determined at a later stage.

6.3.2.3 Neither the parties nor the Court can agree that a case should continue where the claimant does not have standing.[55] A party must have standing in order to bring a claim.

6.3.2.4 In general, persons whose legal rights and obligations are directly and adversely affected by a public body's conduct will have standing to challenge it. However, in some cases, a claimant whose legal rights and obligations are not affected (such as an association or non-governmental organisation), but has a particular expertise in the subject matter of the claim, may be considered to have sufficient standing if the claim is brought in the public interest.[56] An association or non-governmental organisation claiming standing on this basis will normally have to demonstrate genuine involvement in a specific subject area. The court will not necessarily accept that a corporate entity with very widely drawn objects will have standing

54 Section 31(3) of the Senior Courts Act 1981.

55 This principle has been confirmed in a number of other cases – for example, R v Secretary of State for Social Services ex parte Child Poverty Action Group [1990] 2 QB 540, 556.

56 See R v Secretary of State for Foreign and Commonwealth Affairs ex p. World Development Movement [1994] EWHC Admin 1, [1995] 1 WLR 386, 392-396. See also R (McCourt) v Parole Board [2020] EWHC 2320 (Admin), [31]-[32].

to pursue claims in every case whose subject matter falls within those objects.[57]

6.3.2.5 What counts as a sufficient interest depends on the circumstances of the particular claim.[58] In some contexts a narrower test of standing applies.[59] A claimant who alleges that a public authority has acted in a way which is made unlawful by section 6(1) of the Human Rights Act 1998 or who relies on a right under the European Convention of Human Rights must be a "victim" of the unlawful act.[60]

6.3.2.6 An individual who lacks the relevant expertise or is not representing the public interest may lack standing if he or she would not be personally affected by the relief sought. This is judged at the time when the Court considers whether to grant permission to apply for judicial review.[61]

6.3.2.7 If one or more claimants are directly affected or otherwise well placed to bring the claim that may mean that others who are not directly affected, or are less well-placed to bring the claim, will lack standing.[62]

6.3.2.8 It is not appropriate to add parties (particularly politicians or other public figures) simply in order to raise the profile of the litigation or assist in raising funds.[63]

57 See R (Good Law Project Ltd) v Prime Minister [2022] EWHC 298 (Admin), [53]-[59]. See also R (AB) v A County Council [2022] EWHC 2707 (Admin), [2]-[8], where a teacher was held to lack standing to challenge a decision about a child whom she did not teach and whose interests she could not claim to represent.

58 Inland Revenue Commissioners v National Federation of Self-Employed and Small Businesses Ltd [1982] AC 617.

59 As to standing in procurement cases, see R (Good Law Project Ltd) v Secretary of State for Health and Social Care [2021] EWHC 346 (Admin), [2021] PTSR 1251. But see also R (Good Law Project Ltd) v Minister for the Cabinet Office [2022] EWCA Civ 21, [6].

60 Section 7(1) of the Human Rights Act 1998. By section 7(7), a person is a victim of an unlawful act if and only if he would be a victim for the purposes of Article 34 of the Convention if proceedings were brought in the European Court of Human Rights in respect of that act. The "victim" requirement is discussed in R (Pitt) v General Pharmaceutical Council [2017] EWHC 809 (Admin), (2017) 156 BMLR 222, [52]-[67].

61 See R (JS) v Secretary of State for the Home Department [2021] EWHC 234 (Admin), [33].

62 See R (Jones) v Commissioner of Police of the Metropolis [2019] EWHC 2957 (Admin), [2020] 1 WLR 519, [62]. R (Good Law Project Ltd) v Prime Minister [2022] EWHC 298 (Admin), [59]. R (AAA) v Secretary of State for the Home Department [2022] EWHC 3230 (Admin), [2023] HRLR 4, [432]. R (AA) v National Health Service Commissioning Board [2023] EWHC 43 (Admin), [2023] PTSR 608, [175].

63 See R (Good Law Project) v Secretary of State for Health and Social Care [2021] EWHC 346 (Admin), [2021] PTSR 1251, [106]-[108].

6.3.3 Adequate alternative remedy[64]

6.3.3.1 Judicial review is a remedy of last resort.[65] If there is another route by which the decision can be challenged, which provides an adequate remedy for the claimant, that alternative remedy should generally be used before applying for judicial review.

6.3.3.2 Examples of alternative remedies include internal complaints procedures, review mechanisms and appeals (statutory or non-statutory).[66]

6.3.3.3 If the Court finds that the claimant has (or had) an adequate alternative remedy, it will generally refuse permission to apply for judicial review.

6.3.4 The claim is academic

6.3.4.1 Where a claim is academic, i.e. there is no longer a case to be decided which will directly affect the rights and obligations of the parties to the claim,[67] it will generally not be appropriate to bring judicial review proceedings. An example is the situation where the defendant has agreed to reconsider the decision challenged. Where the claim has become academic since it was issued, it is generally inappropriate to pursue the claim.[68]

64 This section in the 2022 edition of the Guide was approved in R (Ramage) v Newcastle upon Tyne NHS Trust [2023] EWHC 974, [17].

65 See R (Archer) v Commissioner for HM Revenue and Customs [2019] EWCA Civ 1021, [2019] 1 WLR 6355, [68].

66 A statutory appeal under section 289 of the Town and Country Planning Act 1990 will normally be an adequate alternative remedy: R (Ibrar) v Secretary of State for Levelling Up, Housing and Communities [2022] EWHC 3425 (Admin), [2023] JPL 668. A statutory appeal from a decision of the Competition Appeal Tribunal under section 49(1A) of the Competition Act 1998 will normally be an adequate alternative remedy: Evans v Barclays Bank Plc [2023] EWCA Civ 876.

67 R v Secretary of State for the Home Department ex parte Salem [1999] 1 AC 450. R (L) v Devon County Council [2021] EWCA Civ 358, [2021] ELR 420, [38] and [64].

68 However, in some circumstances the public interest may justify hearing a claim where the only relief sought is declaratory relief and an acknowledgement of past wrong. See R (Gardner) v Secretary of State for Health and Social Care [2022] EWHC 967 (Admin), [139].

6.3.4.2 In exceptional circumstances, the Court may decide to proceed with a claim even though the outcome has become academic for the claimant. The Court may do so if, for example, a large number of similar cases exist or are anticipated, or at least some other similar cases exist or are anticipated and the decision will not be fact-sensitive.[69]

6.3.5 The error is highly unlikely to make a substantial difference to the outcome

6.3.5.1 Section 31(3C)-(3F) of the Senior Court Act 1981 provides that the Court must refuse permission to apply for judicial review if it appears to the Court to be highly likely that the outcome for the claimant would not have been substantially different even if the conduct complained of had not occurred.

6.3.5.2 The conduct complained of is the conduct (or alleged conduct) of the defendant that the applicant claims justifies the High Court in granting relief.

6.3.5.3 Where this threshold is reached, the Court has a discretion to allow the claim to proceed if there is an exceptional public interest in doing so.

6.3.6 The claim challenges a superior court decision that is not subject to judicial review

6.3.6.1 Decisions of the High Court,[70] the Court of Appeal and the Supreme Court cannot be challenged by judicial review.

6.3.6.2 Where the Crown Court is dealing with a trial on indictment, its conduct is not subject to judicial review.[71] Otherwise, decisions of the Crown Court are subject to judicial review.

6.3.7 The decision challenged is not justiciable.[72]

69 R (Zoolife International Ltd) v The Secretary of State for Environment, Food and Rural Affairs [2007] EWHC 2995 (Admin), [2008] ACD 44, [36].

70 This includes a refusal to grant permission to appeal by the Court of Protection: SM v Court of Protection [2021] EWHC 2046 (Admin).

71 Section 29(3) of the Senior Courts Act 1981, and section 46(1) of the Senior Courts Act 1981.

72 For a recent example, see R (Campbell) v Attorney General [2025] EWHC 1653 (Admin), where it was held that a refusal by the Attorney General of consent to bring a claim seeking an order under section 13(1) of the Coroners Act 1988 is not justiciable.

6.4 Time limits

6.4.1 Claims for judicial review must be started promptly and in any event not later than 3 months after the grounds for making the claim first arose.[73] Claims are started by filing a Claim Form that meets the requirements set out in CPR Part 54. The primary requirement is to start the claim promptly. Even if the claim has been commenced within 3 months from the date of the conduct challenged, it may still be out of time if the claimant did not start the claim promptly.[74]

6.4.2 When considering whether a claim is within time a claimant should also be aware of two important points:

6.4.2.1 The time limit may not be extended by agreement between the parties.[75] However, it can be extended by the Court in its discretion and a prior agreement not to take a time point can be relevant to the exercise of that discretion.[76] For further detail on applications for extensions of time, see paras 6.4.4 and 7.3.1.5 of this Guide.

6.4.2.2 Where the claim challenges a decision, the time limit begins to run from the date the decision to be challenged was made (not the date when the claimant was informed about the decision).[77]

6.4.3 There are exceptions to the general time limit rule discussed above. These include the following:

6.4.3.1 Planning cases:[78] Where the claim relates to a decision made under planning legislation the claim must be filed not later than six weeks after the decision. Planning legislation means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990. The six week period starts from the date of the

73 CPR 54.5(1).

74 See R v Cotswold District Council ex parte Barrington Parish Council [1998] 75 P & CR 515.

75 CPR 54.5(2).

76 See R (Zahid) v University Of Manchester [2017] EWHC 188 (Admin), [73]-[78]. See also Armstrongs Aggregates Ltd v Natural England [2022] EWHC 2009 (Admin), [18], citing Court of Appeal authority approving the use of "shield letters" (letters from public authority defendants agreeing not to argue that a claim is out of time).

77 R v Department of Transport ex parte Presvac Engineering [1992] 4 Admin LR 121.

78 CPR 54.5(5).

decision (for example, the grant of planning permission), not the date on which the claimant came to know of the decision.

6.4.3.2 In addition, statutory reviews and appeals (and some judicial review procedures) in planning cases are subject to strict and short time limits for starting proceedings. In some cases, the relevant legislation does not permit the period to be extended. Claimants need to check the provisions in relevant statutes with care.

6.4.3.3 As from 24 February 2025, the Procurement Act 2023 governs the procedure by which public bodies may outsource public services (sometimes referred to as "procurement"). Where the claim relates to a decision under the Act, the claim must be started within the time specified by section 106: 30 days from the date when the claimant first knew or ought to have known that grounds for starting the proceedings had arisen. The Court may extend time if there is good reason for doing so, but the extension cannot go beyond 3 months from the day when the claimant first knew, or ought to have known, about the circumstances giving rise to the claim. For further guidance on judicial review of procurement decisions, see para 6.7 of this Guide.

6.4.3.4 Utilities Contracts: Similar provisions apply where the challenge is made under The Utilities Contracts Regulations 2016 (SI 2016/274) or The Concession Contracts Regulations 2016 (SI 2016/273). However, note that these time limits do not apply to private law claims for damages in respect of public procurement exercises that are not governed by these Regulations.[79] Further, these Regulations are replaced by the Procurement Act 2023 in respect of procurements which would otherwise be governed by them, which commenced on or after 24 February 2025. For further guidance on judicial review of public contract decisions, see para 6.7 of this Guide.

6.4.3.5 Judicial Review of the Upper Tribunal:[80] Where the defendant is the Upper Tribunal the claim must be started no later than 16 days after the date on which notice of the

79 Secretary of State for Transport v Arriva Rail East Midlands Ltd [2019] EWCA Civ 2259.

80 CPR 54.7A(2).

Upper Tribunal's decision was sent to the applicant. Again, note the difference from the general rule: here the time limit is calculated from the date the decision was sent, not the date it was made.

6.4.3.6 Judicial Review of a decision of a Minister in relation to a public inquiry, or a member of an inquiry panel.[81] The time limit for these challenges is 14 days unless extended by the Court. That shorter time limit does not apply to any challenge to the contents of the inquiry report, or to a decision of which the claimant could not have become aware until publication of the report.[82]

6.4.4 Extensions of time

6.4.4.1 CPR 3.1(2)(a) allows the Court to extend or shorten the time limit even if the time for compliance has already expired. Where the time limit has already expired, the claimant must apply for an extension of time. The application must be set out in section 9 of the Claim Form (Form N461). The application for an extension of time will be considered by the judge at the same time as deciding whether to grant permission to apply for judicial review.

6.4.4.2 In considering whether to grant an extension of time, the Court must first determine the date from which the relevant time period started to run so that the period of delay can be calculated correctly. The Court will then consider all the circumstances, including whether an adequate explanation has been given for the delay, the importance of the issues, the prospects of success and whether an extension will cause substantial hardship or prejudice to the defendant or any other party or be detrimental to good administration.[83]

81 Section 38(1) of the Inquiries Act 2005.

82 Section 38(3) of the Inquiries Act 2005.

83 See Maharaj v National Energy Corporation of Trinidad and Tobago [2019] UKPC 5, [2019] 1 WLR 983, [38]: "Here it is important to emphasise that the statutory test is not one of good reason for delay but the broader test of good reason for extending time. This will be likely to bring in many considerations beyond those relevant to an objectively good reason for the delay, including the importance of the issues, the prospect of success, the presence or absence of prejudice or detriment to good administration, and the public interest." See also R (Dean Dobson) v Secretary of State for Justice [2023] EWHC 50 (Admin), [31], approving para 6.4.4.2 in the 2022 edition of the Guide.

6.4.4.3 Where a judge has, either on the papers or at an oral hearing, granted permission to apply for judicial review and determined that the claim has been brought promptly and within 3 months, it is not open to the Defendant to later challenge that grant of permission on the basis that it is out of time at the substantive hearing. However, it is open to the Defendant to argue that relief should be refused because of delay under section 31(6) of the Senior Courts Act 1981 (para 12.9.2 of this Guide).[84]

6.4.4.4 If the claimant is unaware of the decision that they wish to challenge, that may amount to a good reason for delay, but only if the claimant acts expeditiously once they become aware of the decision.[85] A claimant cannot seek to justify their delay on the basis that further information was or might be available from the respondent which would improve or affect their grounds of challenge.[86]

6.4.4.5 In certain types of planning cases (para 6.4.3.1 of this Guide) and public contract cases (para 6.4.3.3), extensions of time cannot be granted.

6.5 Judicial review of immigration decisions and decisions on claims for asylum

6.5.1 Since 1 November 2013, the Upper Tribunal (Immigration and Asylum Chamber) ("UTIAC"), and not the Administrative Court, has been the appropriate jurisdiction for starting a judicial review in the majority of decisions relating to immigration and asylum (see Annex 1 for UTIAC contact details).

6.5.2 The Lord Chief Justice's Direction requires that any application for permission to apply for judicial review and any substantive application

84 R (Karmakar) v Royal College of General Practitioners [2024] EWHC 2211 (Admin), [38]-[39].

85 Surrey County Council v R(BC) [2025] EWCA Civ 719, [17].

86 Surrey County Council v R(BC) [2025] EWCA Civ 719, [42].

for judicial review must be started in UTIAC (or if started in the Administrative Court must be transferred to UTIAC) if it challenges:[87]

6.5.2.1 a decision made under the Immigration Acts or any instrument having effect, whether wholly or partly, under an enactment within the Immigration Acts, or otherwise relating to leave to enter or remain in the UK. The Immigration Acts are Immigration Act 1971, Immigration Act 1988, Asylum and Immigration Appeals Act 1993, Asylum and Immigration Act 1996, Immigration and Asylum Act 1999, Nationality, Immigration and Asylum Act 2002, Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Immigration, Asylum and Nationality Act 2006, UK Borders Act 2007, Immigration Act 2014 and Immigration Act 2016; or

6.5.2.2 a decision of the Immigration and Asylum Chamber of the First-tier Tribunal, from which no appeal lies to the Upper Tribunal.

6.5.3 All other immigration and asylum matters remain within the jurisdiction of the Administrative Court.[88] Further, even where an application comes within the classes of claim outlined at para 6.5.2 above, an application which comprises or includes any of the following must be brought in the Administrative Court:

6.5.3.1 a challenge to the validity of primary or subordinate legislation (or of immigration rules);

6.5.3.2 a challenge to the lawfulness of detention;

6.5.3.3 a challenge to a decision concerning inclusion on the register of licensed Sponsors maintained by the UKBA;

87 Courts and Tribunals Judiciary, Lord Chief Justice's Direction Regarding the Transfer of Immigration and Asylum Judicial Review Cases to the Upper Tribunal (Immigration and Asylum Chamber). Available at: www.judiciary.uk/guidance-and-resources/lord-chief-justices-direction-regarding-the-transfer-of-immigration-and-asylum-judicial-review-cases-to-the-upper-tribunal-immigration-and-asylum-chamber. See, however, ABW v Secretary of State for the Home Department [2024] EWHC 3205 (Admin). Where the question of transfer to UTIAC is being considered, it is necessary for a more nuanced approach to be adopted rather than simply adopting a literal approach to the Transfer Direction. There should be careful examination of the nature and subject matter of the decision under consideration so as to enable the correct application of the Transfer Direction and ensure that the matters identified for mandatory transfer are those which properly demand the specialist skills of the Upper Tribunal.

88 See para 6.5.4 of this Guide for an example.

6.5.3.4 a challenge to a decision which determines British citizenship;

6.5.3.5 a challenge to a decision relating to asylum support or accommodation;

6.5.3.6 a challenge to the decision of the Upper Tribunal;

6.5.3.7 a challenge to a decision of the Special Immigration Appeals Commission;

6.5.3.8 an application for a declaration of incompatibility under section 4 of the Human Rights Act 1998; and

6.5.3.9 a challenge to a decision which is certified (or otherwise stated in writing) to have been taken by the Secretary of State wholly or partly in reliance on information which it is considered should not be made public in the interests of national security.

6.5.4 Challenges to decisions made under the National Referral Mechanism for identifying victims of human trafficking or modern slavery[89] are not immigration decisions. They fall within the jurisdiction of the Administrative Court.

6.5.5 Annex 8 contains further information about judicial review in the Upper Tribunal and the UTIAC in particular.

6.5.6 Whether, pursuant to the Direction made by the Lord Chief Justice, a claim falls within the jurisdiction of UTIAC or the Administrative Court is determined as a matter of substance, not form. For example, issuing a claim in the Administrative Court on the basis that it falls within the unlawful detention exception to UTIAC's jurisdiction may amount to an abuse of process where there is no obvious merit to the detention claim.[90]

89 Home Office, National referral mechanism guidance: adult (England and Wales), 2025. Available at: www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales

90 See R (Ashraf) v Secretary of State for the Home Department [2013] EWHC 4028 (Admin).

6.6 Judicial review of First-tier Tribunal decisions

6.6.1 Since 3 November 2008, the Upper Tribunal (Administrative Appeals Chamber) ("UTAAC"), not the Administrative Court, has been the appropriate jurisdiction for starting a judicial review that challenges certain decisions of the First-tier Tribunal (see Annex 1 for UTAAC contact details).

6.6.2 The Lord Chief Justice's Direction[91] requires filing in, or mandatory transfer to, the UTAAC of any application for permission to apply for judicial review and any substantive application for judicial review if it calls into question the following:

6.6.2.1 any decision of the First-tier Tribunal on an appeal made in the exercise of a right conferred by the Criminal Injuries Compensation Scheme in compliance with section 5(1) of the Criminal Injuries Compensation Act 1995 (appeals against decisions on reviews); and

6.6.2.2 any decision of the First-tier Tribunal where there is no right of appeal to the Upper Tribunal and that decision is not an excluded decision within para (b), (c), or (f) of s.11(5) of the 2007 Act (appeals against national security certificates).

6.6.3 The direction does not have effect where a claimant seeks a declaration of incompatibility. In that case, the Administrative Court retains jurisdiction to hear the claim.

91 Courts and Tribunals Judiciary, Consolidated Direction given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005 and section 18 of the Tribunals, Courts and Enforcement Act 2007. Available at: www.judiciary.uk/wp-content/uploads/2013/10/lcj-direction-jr-iac-21-08-2013-updated-2.pdf. Pursuant to section 18(6) of the Tribunals, Courts and Enforcement Act 2007.

6.7 Judicial review of decisions taken under the Procurement Act 2023

6.7.1 Where a decision made under The Public Contracts Regulations 2015 or the Procurement Act 2023 is challenged, claimants may consider it necessary to bring proceedings for judicial review in the Administrative Court as well as issuing a claim in the Technology and Construction Court ("TCC"). Where this happens, the claim will, unless otherwise directed by the Judge in Charge of the Administrative Court or the Judge in Charge of the TCC, proceed in the TCC before a judge who is also authorised to sit both in the TCC and in the Administrative Court.

6.7.2 If this occurs, the claimant must:

6.7.2.1 at the time of issuing the Claim Form in the ACO, by letter to the ACO, copied to the Judge in Charge of the Administrative Court and of the TCC respectively, request transfer of the judicial review claim to the TCC;

6.7.2.2 mark that letter clearly: "URGENT REQUEST FOR TRANSFER OF A PUBLIC PROCUREMENT CLAIM TO THE TCC";

6.7.2.3 if not notified within 3 days of the issue of the Claim Form that the case will be transferred to the TCC, contact the ACO and thereafter keep the TCC informed of its position.

6.7.3 This procedure applies only when claim forms are issued by the same claimant against the same defendant in both the Administrative Court and the TCC simultaneously (i.e. within 48 hours of each other).

6.7.4 When the papers are transferred to the TCC by the ACO under this procedure, the Judge in Charge of the TCC will review the papers as soon as reasonably practicable and notify the claimant and the ACO whether the two claims should be case managed and/or heard together in the TCC.

6.7.5 If so, the claim for judicial review will be case managed and determined in the TCC.

6.7.6 If the Judge in Charge of the TCC decides that the judicial review claim should not proceed in the TCC, the judicial review claim will be transferred back to the Administrative Court. Reasons will be given. The claim for judicial review will then be case managed and determined in the Administrative Court.

Part B: The Claim

7 Starting the Claim

7.1 Overview of judicial review procedure

7.1.1 Judicial review is a two-stage process. The first stage is that the claimant must obtain permission (formerly referred to as "leave"[92]) to apply for judicial review from the Court. If permission is granted, the second stage is the substantive determination of the claim.

7.1.2 Unlike a number of other civil and criminal proceedings, the judicial review process does not automatically incorporate a case management hearing (although one may be ordered by a judge if considered necessary). The Court expects the parties to liaise with each other and the ACO to ensure that the claim is ready for determination by the Court. An open dialogue between the parties and the staff of the ACO is essential to the smooth running of any case.

7.1.3 The flow diagram on on page 42 may be used as a quick guide to the judicial review process. The flow diagram depicts stages in the High Court: the Court of Appeal's jurisdiction in relation to the permission stage is discussed later in this guide. Full details of each stage are outlined later in this Guide.

7.2 Filing the Claim Form

7.2.1 All judicial review claims must be started by filing a Claim Form in the ACO. The date of filing, usually written on the Claim Form in manuscript by the ACO staff when the Claim Form is received at the ACO, is to be distinguished from the date of issue which is the date shown by the Court seal which is applied when the Claim Form is issued by the ACO. A claim for judicial review is made on the date on which it is filed.

7.2.2 The Claim Form should be filed separately from the other documents that are being lodged with the ACO, and should be included in the accompanying bundle of documents. This will allow court staff to process the Claim Form quickly and efficiently.

92 "Leave" is still used in section 31 of the Senior Courts Act 1981.

7.2.3 The claimant is required to apply for permission to apply for judicial review in the Claim Form: see section 4 of the Form. The claimant must also specify the judicial review remedies sought (see Chapter 12 of this Guide). There is space for this in the Claim Form at section 8.

7.2.4 If the claimant has filed the claim in the ACO in Cardiff, the claim may be lodged in Welsh or English.

7.2.5 When the Claim Form is filed, it must be accompanied by the relevant fee. If the relevant fee is not paid, the Claim Form will be returned unissued together with any accompanying documentation.

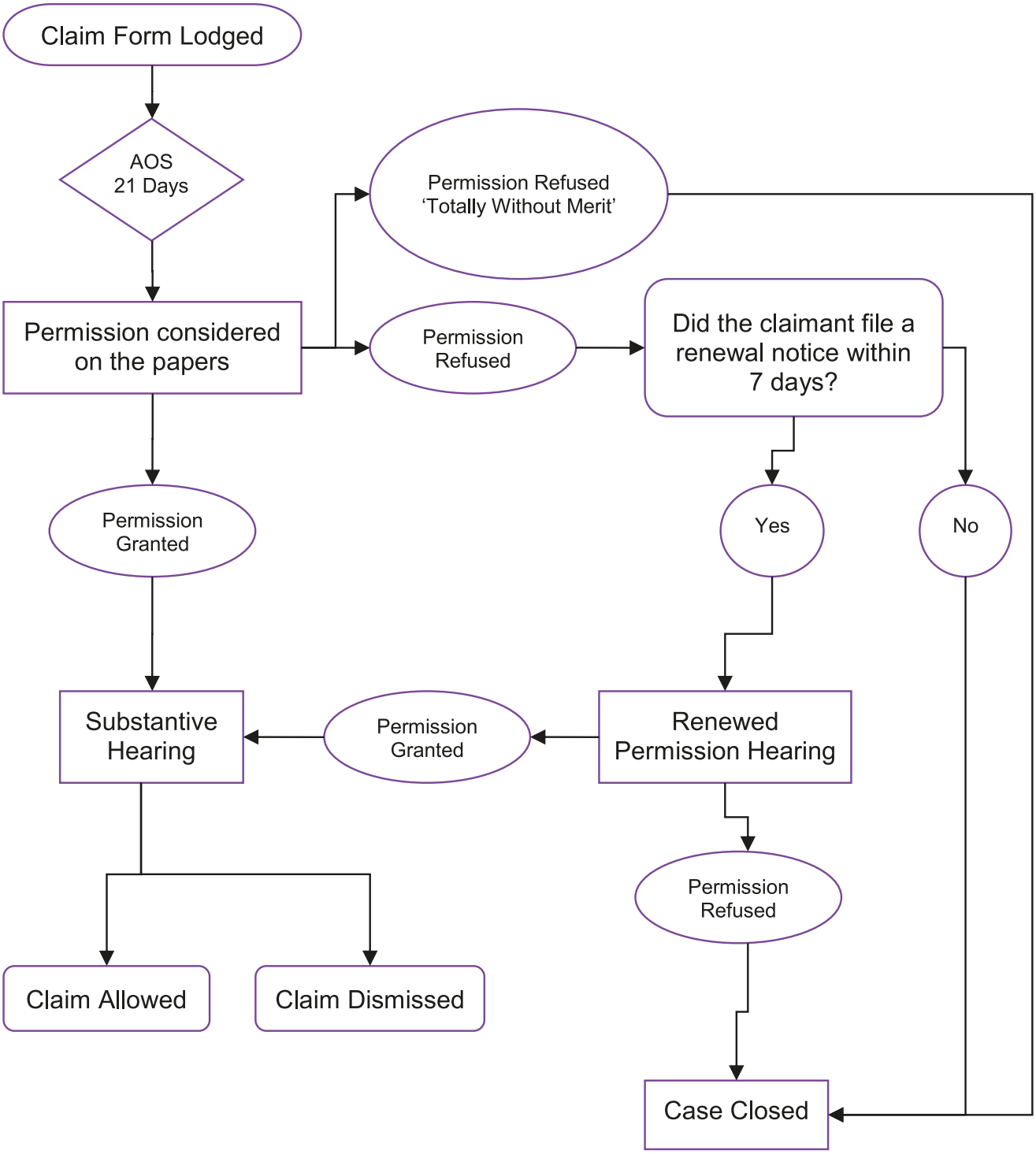
7.2.6 The claimant must file one copy of the completed judicial review Claim Form to be retained by the ACO. (If the claim is later listed before a Divisional Court, a second/third copy will be required.) The claimant must also file an additional copy of the Claim Form for every defendant and interested party in the claim. The additional copies will be sealed and returned to the claimant to serve on the defendant(s) and interested parties (see para 7.9 of this Guide for guidance about service and Annex 3 for addresses for service on government departments).

7.2.7 On the Claim Form and/or in a document accompanying the Claim Form (see below) the claimant should refer to any statutory provision which excludes the jurisdiction of the Court to entertain the application, or to grant the relief sought, and any alternative appeal mechanism that could be or could have been used prior to seeking judicial review.[93]

7.2.8 Any person who is an interested party must be named in and served with the Claim Form. For further guidance as to who is an interested party, see para 3.2.3 of this Guide.

93 CPR 54A PD para 4.1(2).

Judicial Review Process



7.3 Required documentation

7.3.1 When the Claim Form is filed, certain particulars must be provided.[94] These can be included in the Claim Form itself or on a separate document or documents accompanying it. The required particulars are:

7.3.1.1 a statement of the facts relied on, set out in numbered paras (in section 5 of the Claim Form or a separate document);

7.3.1.2 a clear and concise[95] statement of the grounds for bringing the claim, again set out in numbered paras (in section 6 of the Claim Form or a separate document);

7.3.1.3 where the claim includes a claim for damages under the Human Rights Act 1998, the claim for damages must be properly pleaded and particularised (in section 4 of the Claim Form or on a separate document);[96]

7.3.1.4 where the claimant intends to raise a devolution issue, the claimant must identify the relevant provisions of the Government of Wales Act 2006, the Northern Ireland Act 1998 or the Scotland Act 1998; and the Claim Form must contain a summary of the facts, circumstances and legal points which give rise to the devolution issue;

7.3.1.5 any application for an extension of time for filing the Claim Form (which can be made in section 9 of the Claim Form or in an attached document);

7.3.1.6 any application for directions (which can be made in section 9 of the Claim Form or in an attached document).

7.3.2 The statement of material facts and the statement of the grounds for bringing the claim can be included in a single document called a "Statement of Facts and Grounds",[97] which can also be used to give details of any claim for damages, set out any devolution issues and provide grounds for any application made.

94 CPR 54A PD paras 4.2-4.3.

95 For the importance of concision, see R (Dolan) v Secretary of State for Health and Social Care [2020] EWCA Civ 1605, [119]-[120].

96 R (Nazem Fayad) v Secretary of State for the Home Department [2018] EWCA Civ 54, [54]-[56]. Claims for damages that are not adequately particularised may have costs consequences for the claimant.

97 CPR 54A PD para 4.2(2).

7.3.3 The statement of facts and the statement of grounds, taken together, must not exceed 40 pages.[98] In many cases the Court will expect the documents to be significantly shorter. The Court may grant permission to exceed the 40-page limit, an application for such permission should be made either before the document is filed, or at the latest at the same time as it is filed. However, parties should bear in mind that the Court of Appeal has noted that "excessively long documents conceal rather than illuminate the essence of the case being advanced" and "make the task of the court more difficult".[99] The purpose of the Statement of Facts and Grounds is to provide a clear and concise statement of the facts relied on in support of the claim and of the grounds on which the claim is brought. The grounds should explain the claimant's case succinctly by reference to the facts relied on.[100]

7.3.4 The statement of grounds should identify each ground of challenge; identify the relevant provision or principle of law said to have been breached; and concisely provide sufficient detail of the alleged breach to enable the parties and the Court to identify the essential issues.[101] Each ground should raise a distinct issue in relation to the decision under challenge.[102] Arguments and submissions in support of the grounds should be set out separately in relation to each ground.

7.3.5 Certain other documents must also be filed with the Claim Form:[103]

7.3.5.1 written evidence in support of the claim and (if applicable) any other application contained in the Claim Form;

7.3.5.2 a copy of any decision letter or order that the claimant challenges in the claim;

7.3.5.3 where the claim challenges a decision of a Court or tribunal, an approved copy of the reasons of the Court or tribunal for reaching the decision;

7.3.5.4 where the claim challenges the decision of any other public authority, a copy of any record of the decision;

98 CPR 54A PD para 4.2(3).

99 R (Dolan) v Secretary of State for Health and Social Care [2020] EWCA Civ 1605, [120].

100 R (SSE Generation Ltd) v Competition and Markets Authority [2022] EWHC 865 (Admin), [75].

101 CPR 54A PD para 4.2(1)(b).

102 R (Talpada) v Secretary of State for the Home Department [2018] EWCA Civ 841 emphasised the need for a clear and succinct statement of the grounds, in the context of appeals, [68]. See also Hickey v Secretary of State for Work and Pensions [2018] EWCA Civ 851, [74].

103 CPR 54A PD para 4.4.

7.3.5.5 copies of any documents on which the claimant proposes to rely;

7.3.5.6 copies of any relevant statutory material; and

7.3.5.7 a list of essential documents for advance reading by the Court (with page references to the passages relied on).

7.3.6 The documentation must be provided in an indexed and paginated claim bundle. (Where the claim is to be heard by a Divisional Court, one hard copy claim bundle is required for each judge.) An electronic version of the bundle must also be prepared in accordance with the Guidance at Annex 9 of this Guide. Both the hard copy and electronic copy bundles must be lodged with the Court (unless otherwise requested by the Court).[104]

7.3.7 One copy of the claim bundle must be provided to be retained by the Court.

7.3.8 The ACO retains one copy of the Claim Form, claim bundle and any other documentation filed with the Claim Form. This copy of the claim documentation cannot be returned after the claim has finished. The parties should ensure they have made their own copies of the claim documentation for their reference. The exception to this is where a party has been required to file an original document (such as a deed or identification document). When returning this document, the ACO may copy the document before returning it and retain the copy on the court file.

7.3.9 Where it is not possible to file all of the documents outlined at para 7.3.5 above, the claimant must indicate which documents have not been filed and the reasons why they are not currently available.[105] If the Claim Form is not accompanied by the required documentation without explanation as to why and detail of when it will be provided, the ACO may return the Claim Form without issuing it.

7.3.10 If the Claim Form is returned in accordance with para 7.3.9 above, it is not considered to have been filed for the purposes of the judicial review time limits (see para 6.4 of this Guide).

104 CPR 54A PD para 4.5.

105 CPR 54A PD para 4.4(2).

7.3.11 If the documentation required as outlined at para 7.3.1 above is not filed with the Claim Form, but at a later date, it will have been filed out of time. It must therefore be accompanied by an application to extend time to file the documentation. Such an application must be made in an Application Notice with the relevant fee (see para 13.7 of this Guide).

7.4 Duty of inquiry

7.4.1 A claimant must make proper and necessary inquiries before seeking permission to apply for judicial review, urgent consideration or interim relief to ensure so far as reasonably possible that all relevant facts are known.[106]

7.5 Duty of candour and cooperation with the Court

7.5.1 There is a special duty – the duty of candour and cooperation with the Court – which applies to all parties to judicial review claims. Parties are obliged to ensure that all relevant information and all material facts are put before the Court. This means that parties must disclose relevant information or material facts which either support or undermine their case. The duty of candour may require a party to disclose a document rather than simply summarising it.

7.5.2 It is very important that parties comply with the duty of candour. The duty is explained in more detail below at para 15.1 of this Guide.

7.6 Disclosure and requests for further information

7.6.1 The duty of candour should ensure that all relevant information is before the Court. The general rules governing the disclosure of documents in civil claims do not apply to judicial review claims.

7.6.2 A party may apply for an order that another party provide further information under CPR 18.1[107] or disclose specific documents or

106 CPR 54A PD para 4.1(1).

107 Requests under CPR Part 18 should remain exceptional and a court should direct that information be provided only when it is necessary to do so in order to resolve the matter fairly and justly. In deciding what is reasonably necessary and proportionate, the court may properly have regard to the fact that, in judicial review proceedings, the duty of candour applies: R (JZ) v Secretary of State for the Home Department [2022] EWHC 1708 (Admin), [26]-[28].

documents of a particular class under CPR 31.12(1).[108] An application for disclosure against a non-party may be made under CPR 31.17.[109] Applications for these orders should be made in accordance with para 13.7 of this Guide.

7.6.3 In practice, orders for the provision of information or disclosure of documents are rarely necessary in judicial review claims. The provision of information or disclosure of documents may not be necessary to allow the Court to consider a particular issue. Furthermore, a defendant may have disclosed the relevant documents either before the beginning of proceedings or may be expected to do so as part of its evidence provided during proceedings: see para 15.1 of this Guide on the duty of candour.

7.7 Where to file the claim (appropriate venue)

7.7.1 There are 5 ACOs in England and Wales where a claim may be filed. They are at the Birmingham Civil Justice Centre, the Cardiff Civil Justice Centre, the Leeds Combined Court Centre, the Manchester Civil Justice Centre, and in the Royal Courts of Justice in London. Contact details for the ACOs can be found in Annex 1 and Annex 9 to this Guide.

7.7.2 Where a claim seeks to challenge the lawfulness of a Welsh public body's decision, it must be issued in the Cardiff ACO and all hearings will take place in Wales.[110]

7.7.3 In addition to the above, the general expectation is that proceedings will be administered and determined in the region with which the claim has the closest connection.[111] The claim should therefore be filed in the ACO with which the claim has the closest connection. Where the claim has the closest connection to the area covered by the Western Circuit it should be issued in the ACO in Cardiff Civil Justice

108 Disclosure will not be ordered unless it is necessary to deal fairly and justly with a particular issue: R v Secretary of State for Foreign and Commonwealth Affairs ex p. World Development Movement Ltd [1994] EWHC Admin 1, [1995] 1 WLR 386, 396-397.

109 In an application against a non-party, the applicant must establish, first, that disclosure is necessary for the fair determination of the issues in the case and, additionally, that there is no further reason relevant to the position or circumstances of the non-party which might provide a bar to disclosure. Given that claims for judicial review generally focus on what the decision-maker did with the materials available to him or her, successful applications for disclosure against a non-party are likely to be "rare… indeed": R (AB) v Secretary of State for Health and Social Care [2022] EWHC 87 (Admin), [9]-[11].

110 CPR 7.1A.

111 CPR 54C PD paras 2.1 and 2.5. See, for example, R (Ladybill Ltd) v Rotherham City Council [2024] EWHC 1851 (Admin), [2].

Centre. The administration of the claim will take place in Cardiff, but all hearings will (unless there are exceptional circumstances) take place at Courts on the Western Circuit (principally in Bristol).

7.7.4 Any claim started in Birmingham will normally be determined at an appropriate Court in the Midlands; in Cardiff, a Court either in Wales or on the Western Circuit; in Leeds, a Court in the North-East of England; in Manchester, at a Court in the North-West of England; and in London, at the Royal Courts of Justice. Although this is not encouraged, the claimant may issue a claim in a different region from the one with which the claim has the closest connection. The claimant should outline why the claim has been lodged in a different region in section 4 of the Claim Form. The decision should be justified in accordance with the following considerations:[112]

7.7.4.1 any reason expressed by any party for preferring a particular venue;

7.7.4.2 the ease and cost of travel to a hearing;

7.7.4.3 the availability and suitability of alternative means of attending a hearing (for example, by video-link);

7.7.4.4 the extent and nature of any public interest that the proceedings be heard in any particular locality;

7.7.4.5 the time within which it is appropriate for the proceedings to be determined;

7.7.4.6 whether it is desirable to administer or determine the claim in another region in the light of the volume of claims issued at, and the capacity, resources and workload of, the Court at which it is issued;[113]

7.7.4.7 whether the claim raises issues sufficiently similar to those in another outstanding claim to make it desirable that it should be determined together with, or immediately following, that other claim;

7.7.4.8 whether the claim raises devolution issues and for that reason whether it should more appropriately be determined in London or Cardiff; and

112 CPR 54C PD para 2.5.

113 See R (Bartosik) v Office of the Police & Crime Commissioner of Norfolk [2024] EWHC 932 (Admin).

7.7.4.9 the region in which the legal representative of the parties are based.

7.7.5 If the claim is issued in an ACO considered not to be the most appropriate, it may be transferred by judicial order. The Court will usually invite the views of the parties before transferring a claim.[114] If the defendant or any interested party considers that the claim has been commenced in the wrong ACO, and the Court has not raised the point of its own motion, he or she may raise the issue of venue in their summary grounds of defence. Neither the importance of the issues, nor the fact that London counsel and/or solicitors are instructed will necessarily be sufficient to justify retaining a claim in London if other factors point in favour of another centre.[115]

7.8 Filing documents with the Court

7.8.1 The London ACO counters remain closed to the public, save for the Fees Office Counter, which is open by appointment only. The Cardiff and Manchester counters are open by appointment only. The Leeds and Birmingham counters are open.

7.8.2 In London, hard copy documents may be filed by leaving them in the drop box in the main hall of the Royal Courts of Justice, marked "Administrative Court" (Monday to Friday only). The drop box is emptied each day at 9.30am and 2.30pm. Documents deposited after 2.30pm will not be collected until the next day. If a document needs to be collected urgently (for example, because it is needed for a hearing), parties should email the Administrative Court general office at administrativecourtoffice.generaloffice@justice.gov.uk to make arrangements for the document to be retrieved. Mark your email as high priority and put "Urgent" in the subject line.

7.8.3 Functions previously dealt with at the counters are now being dealt with electronically, including filing documents with the Court. The process for electronic filing is set out in the Administrative Court: Information For Court Users, reproduced at Annex 9 to this Guide. The Court expects all parties to familiarise themselves with the guidance and to follow it.

114 For examples of a decision transferring a claim to an ACO outside London, see R (Fortt) v Financial Services Compensation Scheme Ltd [2022] EWHC 152 (Admin) and R (Khyam) v Secretary of State for Justice [2022] EWHC 993 (Admin). See also R (Bale) v Commissioners for His Majesty's Revenue and Customs [2023] EWHC 3216 (Admin) for further discussion of the approach to transfer decisions.

115 R (Thakor) v Secretary of State for the Home Department [2022] EWHC 2556 (Admin).

7.8.4 The ACO will accept the service of documents by email provided that:

7.8.4.1 the document being filed either does not require a fee, or is accompanied with a PBA number, receipt of payment by debit/credit card or a fee remission certificate;

7.8.4.2 the document, including attachments, does not exceed the maximum which the appropriate court office has indicated it can accept by email;[116]

7.8.4.3 the email, including any attachments, is under 10MB in size.

7.8.5 Where a document may be emailed it must be emailed to the appropriate ACO general inbox (see the contacts list at Annex 1 and Annex 9).[117] Any party filing a document by email should not also file a hard copy unless instructed to do so.

7.8.6 Skeleton arguments must be sent to the dedicated skeleton arguments email address for the relevant ACO (see the contacts list at Annex 1 and Annex 9). See Chapter 20 of this Guide on skeleton arguments generally.

7.8.7 Any document filed email after 4pm will be treated as filed on the next day on which the ACO is open.[118]

7.8.8 An email sent to the Court must include the name, telephone number and address or email address for contacting the sender and it (including attachments) must be in plain or rich text format rather than HTML. Where proceedings have been started, an email must also state the case reference number in the subject line, and must include the names of the parties and the date and time of any hearing to which the email relates.

7.8.9 The ACO or a judge may give instructions or order that a document is to be filed by email or fax in circumstances other than those outlined above.

116 In many instances, 50 pages, but parties should check with the appropriate court office.

117 CPR 5B PD para 2.1 and 2.2.

118 CPR 5A PD para 5.3.(6) and CPR 5B PD para 4.2.

7.8.10 E-filing was be introduced to the Administrative Court in September 2024. E-filing allows court users to issue and file documents, pay court fees and review and track their cases online. E-filing cannot be used for applications in which urgent consideration is sought and these applications should be lodged using the procedure as set out at Section 17 of the ACO Guide. The ACO website will provide E-filing guidance for court users and should be referred to by court users when filing claims using this method.

7.9 Serving the Claim Form

7.9.1 The claimant must serve a sealed copy of the Claim Form together with a copy of the bundle of the documentation filed with it, on the defendant(s) and any interested parties within 7 days of the claim being issued. This must be actual, not deemed, service.[119] In the event that the claim form has not been served within 7 days, an application must be made for an extension of time for service (see para 13.7 of this guide).[120] If the claimant fails to serve a valid claim form on the defendants in time and fails to obtain an extension of time to effect valid service, the claim form has to be set aside and the Court has no jurisdiction to hear the claim.[121]

7.9.2 All Government Departments should be served at the office as stipulated under the Crown Proceedings Act 1947 (reproduced at Annex 3 of this Guide).[122] Local authorities should be served at their main offices with a note that papers should be directed to the authority's legal department.

7.9.3 If the party to be served is outside the UK or the claimant wishes to apply to dispense with service of the Claim Form, there are separate provisions governing service. The claimant should consider CPR 6.23(6) and CPR 6A PD para 4.1 (service by email etc.), CPR 6.16 (dispensing with service) and CPR 6.30-6.34, CPR 6.36-6.37, and CPR 6B PD (serving outside the UK).

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119 R (Good Law Project Ltd) v Secretary of State for Health and Social Care) [2022] EWCA Civ 355, [2022] 1 WLR 2339, [24].

120 CPR 7.6 does not apply to extensions of time for service of a judicial review claim form, but its principles should be followed on an application under CPR 3.1(2)(a) to extend time for service of a judicial review claim. Therefore, unless a claimant had taken all reasonable steps to comply with CPR 54.7 but had been unable to do so, time for service should not be extended. The same approach applies to extensions of time for service of planning statutory review claims beyond the time limits in PD 54D para 4.11: Secretary of State for Levelling Up, Housing and Communities v Rogers [2024] EWCA Civ 1554.

121 R (Randall) v Clergy Discipline Commission [2024] EWHC 2924 (Admin), [27].

122 CPR 54A PD para 5.2(b).

7.9.4 Once the claimant has served the papers on the defendant(s) and any interested party or parties, the claimant must confirm this with the ACO by filing a certificate of service (Form N215) within 21 days of service of the Claim Form. If, after 28 days from lodging the Claim Form, the ACO has not received a certificate of service or an acknowledgment of service from the defendant, the case will be closed.

7.9.5 If a claim is closed because the claimant fails to file a certificate of service within time, the claim will only be reopened by judicial order. An application for such an order must be made in an application notice, which must be filed with the relevant fee (see para 13.7 of this Guide). In the application the claimant must explain why the certificate of service was not filed in time and whether the failure caused any prejudice to any party or any delay to the judicial review process and outline the reasons why the claim should be reopened.

7.9.6 CPR 39.8 provides that any communication between a party to proceedings and the Court must be disclosed to, and if in writing (whether in paper or electronic format) copied to, the other party or parties or their representatives (with some exceptions).[123] If a party fails to comply with the rule, the Court may impose sanctions or return the communication to the sender without consideration of its content.

With respect to removals of persons from the United Kingdom, where proceedings have been filed or threatened, any communication to the Administrative Court about a removal which is not copied to the other party or parties should:

(a) make clear in the subject line that it has not been copied to other parties;

(b) indicate whether this is because the communication is "routine, uncontentious and administrative" in nature (CPR 39.8(2)) or because there is a compelling reason not to copy it to the other party (CPR 39.8(3));

(c) if CPR 39.8(3) is relied on, set out the "compelling reason" why it has not been so copied and record that the author considers that the reason applies to the whole content of the communication;

(d) explain what the claimant has been told about the matters being communicated to the court; and

123 The exceptions are if the communication is purely routine, uncontentious or administrative, or if there is a compelling reason not to disclose.

(e) record that the author is satisfied that this complies with the defendant's duty of candour, with a brief explanation of the reasons why.[124]

7.10 Additional provisions for persons subject to a Civil Proceedings Order or a Civil Restraint Order

7.10.1 If a claimant is subject to a civil proceedings order made under section 42 of the Senior Courts Act 1981 or is subject to a civil restraint order made under CPR 3.11, the claimant must apply for permission to start proceedings before he or she files an application for permission to apply or judicial review.

7.10.2 Such an application must be made on Form N244 and be accompanied by the relevant fee. This fee is not subject to fee remission, but it can be refunded if permission to start proceedings is granted.

7.10.3 The requirements for persons subject to a civil proceedings order or a civil restraint order are discussed in greater detail in Chapter 5 of this Guide.

7.11 Amending the claim or grounds for judicial review before the Court considers permission

7.11.1 If the claimant wishes to file further evidence, amend or substitute the Claim Form or claim bundle, or rely on further grounds after they have been served, he or she must apply for an order allowing them to do so.[125] The interim applications procedure discussed at para 13.7 of this Guide applies.

7.11.2 The Court has a discretion whether to permit amendments and will take into account any prejudice that would be caused to the other parties or to good administration.

7.11.3 Where the defendant has agreed to reconsider the original decision challenged (thus effectively agreeing to withdraw the decision challenged without the intervention of the Court), it may be more

124 R (Jasseh) v Secretary of State for the Home Department [2025] EWHC 47 (Admin), [23].

125 See CPR 54A PD paras 11.1-11.4 for amendment of grounds. See also R (AB) Chief Constable of Hampshire Constabulary [2019] EWHC 3461 (Admin) [112]-[114].

appropriate to end the claim (see Chapter 24 of this Guide), rather than to stay or seek to amend it. One exception is where the case raises a point of general public importance and the point which was at issue in relation to the original decision remains an important issue in relation to the subsequent decision.[126]

7.11.4 If the defendant has made a new decision superseding the decision under challenge, and the claimant wishes to challenge the fresh decision, in most cases the appropriate course will be to end the claim and file a new one. Although there is no hard and fast rule, it will usually be better for all parties if judicial review proceedings are not treated as "rolling" or "evolving".[127] An exception to this rule may be justified where, for instance, a new decision is taken at a late stage of the proceedings and the public interest demands an authoritative determination of the legality of the new decision on an expedited basis.[128]

7.11.5 If an application is made to amend to challenge a later decision, there are a number of matters to note:[129]

7.11.5.1 The Court can impose a condition requiring the re-formulation of the claim and the re-preparation of any bundles of material, so as to eliminate any irrelevant surplus material and to work from a single set of papers. Any draft order or draft consent order seeking amendment of the claim in these circumstances should typically include a provision allowing for a new, amended claim bundle to be filed or, ideally, be accompanied by a copy of the proposed amended claim bundle.

7.11.5.2 The Court has a discretion to permit amendments and may make an assessment that the proper conduct of proceedings will best be promoted by refusing permission to amend and requiring a fresh claim to be brought.

7.11.5.3 The Court will be astute to check that a claimant is not seeking to avoid complying with any time limits by seeking to amend rather than commence a fresh claim.

126 R (Bhatti) v Bury Metropolitan Borough Council [2013] EWHC 3093 and R (Yousuf) v Secretary of State for the Home Department [2016] EWHC 663 (Admin).

127 R (Dolan) v Secretary of State for Health and Social Care [2020] EWCA Civ 1605, [2021] 1 WLR 2326, [118]. R (Spahiu) v Secretary of State for the Home Department [2018] EWCA Civ 2604, [2019] 1 WLR 1297, [62]-[63].

128 Al-Haq v Secretary of State for Business and Trade [2025] EWHC 173 (Admin), [36].

129 R (Hussain) v Secretary of State for Justice [2016] EWCA Civ 1111, [2017] 1 WLR 761.

7.11.5.4 A claimant seeking permission to amend will also be expected to have given proper notice to all relevant persons, including interested parties.

7.12 Anonymity, orders for non disclosure and open justice

7.12.1 The guiding principle is the principle of open justice[130]. The administration of justice takes place in public.[131] The public have the right to attend all court hearings; the media is able to report those proceedings fully and contemporaneously. Consistent with this principle, the general rule is that the names of the parties to an action are made public when matters come before the court and included in orders and judgments of the court.[132]

7.12.2 CPR 16 PD requires that the Claim Form must include an address at which each party resides or carries on business[133] and must be headed with the title of the proceedings, including the full name of each party and the title by which he or she is known.[134] Statements of case must also include the title of the proceedings.[135] Unless the Court makes a different order, statements of case will become available for inspection by a non-party under CPR 5.4C(1). When a case is heard, the parties' names are listed in public.

7.12.3 Notwithstanding the general position, the Court has powers: (a) to permit a Claim Form to be issued without the claimant's name or address ("a withholding order"); (b) to prevent disclosure of the identity of a claimant or other person ("a restricted reporting order"); and (c) to prevent or restrict public access to documents on the court file, including statements of case ("access to court file orders").[136] Where the court has permitted a name or other matter to be withheld from the public, the court can impose reporting restrictions under s.11 Contempt of Court Act 1981 prohibiting the publication of that name in connection with the proceedings.

130 Scott v Scott [1913] AC 463. R (Mohammed) v Secretary of State for Foreign and Commonwealth Affairs [2010] EWCA Civ 65, [2011] QB 218, [38].

131 CVB -v- MGN Ltd [2012] EWHC 1148 (QB), [2012] EMLR 29, [47]-[48]. Lupu v Rakoff [2019] EWHC 2525 (QB), [2020] EMLR 6, [21].

132 JIH v News Group [2011] EWCA Civ 42, [2011] 1 WLR 1645, [21(1)]. In re Guardian News and Media Ltd [2010] UKSC 1, [2010] 2 AC 697, [63].

133 CPR 16 PD paras 2.1-2.2.

134 CPR 16 PD para 2.4.

135 CPR 16 PD para 3.3(3).

136 CPR 39.2(4) and CPR 5.4C(4).

7.12.4 Careful consideration must be given to the issue of anonymity at the earliest opportunity. Applications for withholding orders are made before filing the Claim Form (see paras 16.2.2 and 16.2.3 of this Guide). Applications for any other order should be made either before the Claim Form is filed, or within the Claim Form (using Section 9 of Form N461), or later by Application Notice: see para 13.7.

7.12.5 Any derogation from open justice will be exceptional and will be based on necessity. The party seeking to restrict the operation of the open justice principle bears the burden of establishing that restriction is necessary on the basis of clear and cogent evidence.[137] The principles to be applied include these:[138]

1) The general rule is that the names of the parties to an action are included in orders and judgments of the court.

2) There is no general exception for cases where private matters are in issue or where the parties are public figures.

3) An order for anonymity or any other order restraining the publication of the normally reportable details of a case is a derogation from the principle of open justice.

4) An order for anonymity or for reporting restrictions will not be made simply because the parties consent: in all cases any derogation from the open justice principle is a decision for the court.

5) Orders that derogate from open justice are exceptional, require clear justification and should be made only when they are strictly necessary to secure the proper administration of justice. The need for derogation must be established by clear and cogent evidence. Accordingly, where the court is asked to make any such order, it will only do so on close scrutiny of the application and consideration of whether, assuming any restraint on publication is necessary, there is any less restrictive or more acceptable alternative than the order sought.

6) Where the court is asked to restrain the publication of the names of the parties and/or the subject matter of the claim, on the ground that such restraint is necessary under Article 8, the

137 R (Marandi) v Westminster Magistrates' Court [2023] EWHC 587 (Admin), [16].

138 JIH v News Group [2011] EWCA Civ 42, [2011] 1 WLR 1645, [21]. In re British Broadcasting Corporation (R v Sarker) [2018] EWCA Crim 1341, [2018] 1 WLR 6023, [2018] EMLR 23, [29(vi)-(vii)].

question is whether there is sufficient general, public interest in publishing a report of the proceedings which identifies a party and/or the normally reportable details to justify any resulting curtailment of his right and his family's right to respect for their private and family life.

7.12.6 In most cases, the Court will not permit a party to issue a Claim Form anonymously unless the grounds for making an order restricting publication of his or her name are made out.[139] This is not, however, an invariable rule.[140]

7.12.7 In considering whether to make an order restricting publication of the identity of any person, the Court will bear in mind the importance of the open justice principle. There are exceptions to that principle in CPR 39.2 (including in cases relating to national security, cases involving confidential information and cases where privacy is necessary to protect the interests of any child or protected person) and other automatic reporting restrictions (including in relation to the victims of sexual offences and family law proceedings) but the Court should be wary of extending these by analogy.[141]

7.12.8 Before restricting access by non-parties to documents on the court file, such as statements of case, the Court must be satisfied that any restriction imposed represents the minimum necessary derogation from the default position. When called on to exercise the power under CPR 5.4C(4), the court must strike a balance between the public interest in open justice and any particular interests of the parties or others that might weigh in favour of more limited access to information.[142]

7.12.9 In applications where anonymity is sought, the Court will apply a neutral cipher to the case.[143] The parties will be notified of this when an order is made. The precise form of order will vary from case to case. However, the following are examples of orders which may be considered appropriate:

139 Lupu v Rakoff [2019] EWHC 2525 (QB), [2020] EMLR 6, [41].

140 AEP v Labour Party [2021] EWHC 3821 (QB) and Taylor v Evans [2023] EWHC 935 (KB).

141 XXX v Camden London Borough Council [2020] EWCA Civ 1468, [2020] 4 WLR 165, [17]-[21].

142 R (Duke of Sussex) v Secretary of State for the Home Department [2022] EWHC 682 (Admin), [7].

143 This is the normal practice for cases filed in London. Outside of London, parties should suggest appropriate anonymisation, using three letters but avoiding the relevant person's initials. The anonymisation may be changed subsequently by the Court where necessary.

7.12.9.1 Withholding order permitting the issue of the Claim Form omitting the claimant's name and/or address:

1) *The claimant's name is to be withheld from the public and must not to be disclosed in any proceedings in open court.*

2) *The claimant is permitted to issue these proceedings naming the claimant as [cipher applied by the Court] and giving an address c/o the claimant's solicitors.*

3) *There is to be substituted for all purposes in these proceedings in place of references to the claimant by name, and whether orally or in writing, references to the cipher.*

7.12.9.2 Reporting restriction order prohibiting publication[144] of the name of the claimant:

Pursuant to s.11 Contempt of Court Act 1981, there must be no publication of the identity of the claimant or of any matter likely to lead to the identification of the claimant in any report of, or otherwise in connection with, these proceedings.[145]

7.12.9.3 Order restricting access by a non-party to documents on the court file where the claimant has been anonymised:

Pursuant to CPR 5.4C(4):

(a) *The parties must, when filing any statement of case, also file a redacted copy of that statement of case omitting the name, address and any other information which could lead to the identification of the claimant.*

(b) *Unless the Court grants permission under CPR 5.4(C)(6), no non-party may obtain an unredacted copy of any statement of case.*

144 "Publication" includes any speech, writing, programme included in a cable programme service or other communication in whatever form, which is addressed to the public at large or any section of the public: ss. 2(1) and 19 Contempt of Court Act 1981. See also Birmingham City Council v Afsar [2019] EWHC 1560 (QB) [60].

145 The phrase "likely to lead to" refers to "the real risk, the real danger, the real chance" that the individual will be identified. See Attorney General v British Broadcasting Corporation [2022] EWHC 1189 (QB), [19] and the case law cited there.

7.12.10 Whenever an order is made which derogates from the open justice principle, the Order will normally include a general liberty to apply, for example:

Any person wishing to apply to vary or discharge this Order must make an Application to the Court, served on each party.

An application to vary or discharge the Order should be made as soon as reasonably practicable.[146]

7.12.11 Unless the Court otherwise directs, anonymity orders are required to be published on the Judiciary website.[147]

146 BSW v Crown Court at Birmingham [2024] EWHC 3307 (Admin), [60].

147 CPR 39.2(5).

8 The Acknowledgment of Service

8.1 Filing an Acknowledgment of Service

8.1.1 Any defendant or interested party served with the Claim Form who wishes to take part in the permission stage of the judicial review claim must file and serve an Acknowledgment of Service.[148]

8.1.2 Form N462 must be used. If the claim was started in or has been transferred to the ACO in Cardiff, the Acknowledgment of Service and any evidence may be lodged in Welsh or English.

8.1.3 It is wise for any defendant or interested party to file an Acknowledgment of Service. It lets the Court know whether a defendant or interested party wishes to contest the claim. The filing of an Acknowledgment of Service is not however, mandatory unless ordered by the Court.

8.1.4 If a party fails to file an Acknowledgment of Service within the relevant time limit (see para 8.2 below), this will have 3 consequences:

8.1.4.1 the papers will be sent to a judge to consider whether to grant permission to apply for judicial review without any indication of the party's position;

8.1.4.2 if the judge directs that permission is to be considered at an oral hearing (see para 9.2.1.4 of this Guide) or if the judge refuses permission and the claimant applies for reconsideration at an oral hearing (see para 9.4 of this Guide), the party may not take part in the permission hearing without the permission of the Court;[149] and

8.1.4.3 the judge may take into account the failure to file an Acknowledgment of Service when considering costs (see Chapter 25 of this Guide).[150]

8.1.5 If a party does not file an Acknowledgment of Service and permission is subsequently granted, that party may still take part in the substantive determination of the claim for judicial review (see para 9.2.1.1 and Chapter 11 of this Guide).[151]

148 CPR 54.8(1)-(2).
149 CPR 54.9(1)(a).
150 CPR 54.9(2).
151 CPR 54.9(1)(b).

8.2 Time for filing the Acknowledgment of Service

8.2.1 The Acknowledgment of Service must be filed at the ACO within 21 days after service of the Claim Form.[152] The 21-day period may be extended or shortened by judicial order. A judge may also consider permission to apply for judicial review without waiting for an Acknowledgment of Service to be filed.

8.2.2 The parties cannot agree between themselves to extend the time for filing;[153] an order of the Court is required. An application for an extension of time must be made in accordance with the interim applications procedure and on payment of the relevant fee (see para 13.7 of this Guide). Alternatively, the application can be made retrospectively in the Acknowledgment of Service in section D, provided that the decision on the application for permission to apply for judicial review has not already been made.

8.2.3 The Acknowledgment of Service must be served on all other parties no later than 7 days after it was filed with the ACO.

8.2.4 As soon as an Acknowledgment of Service has been filed by each party to the claim, or upon the expiry of the permitted time, the papers may be sent to a judge to consider whether to grant permission to apply for judicial review by considering the papers alone (see Chapter 9 of this Guide).

8.3 Contents of the Acknowledgment of Service

8.3.1 The Acknowledgment of Service must:

8.3.1.1 set out the summary grounds for contesting the claim (or summary grounds of defence), the legal basis of the defendant's response to the claimant's case and any relevant facts (including any material matters of factual dispute), if the party does contest it. The summary grounds should provide a brief summary of the reasoning underlying the decision or conduct challenged, or reasons why the application for permission can be determined without that information.[154] The summary grounds may

152 CPR 54.8(2)(a).
153 CPR 54.8(3).
154 CPR 54.8(4)(a)(i). CPR 54A PD para 6.2.

be set out in section C of the Acknowledgment of Service or attached in a separate document;

8.3.1.2 be as concise as possible and not exceed 30 pages. In many cases the Court will expect the summary grounds to be significantly shorter. The Court may grant permission to exceed the 30-page limit. This requires an application, which should be made before the document is filed, or at the latest at the same time as it is filed;[155]

8.3.1.3 state by ticking the appropriate box in Section A if the party is intending to contest the application for permission on the basis that it is highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred. If so, the summary grounds must explain why;[156]

8.3.1.4 state in section B the name and address of any person believed to be an interested party;[157]

8.3.1.5 state in section E if the party contests the claimant's application for an automatic costs limit under the Aarhus Convention (see para 25.15 of this Guide), if such an application was made.

8.3.2 Evidence may be filed with the Acknowledgment of Service but it is not generally required.

8.3.3 Where the Acknowledgement of Service is accompanied by other documents, it is best practice to prepare a bundle, which should be indexed and paginated. Where the Acknowledgement of Service is filed by email with multiple or poorly-labelled attachments, the Court may direct the preparation of such a bundle. Any electronic bundle should be prepared in accordance with the Guidance at Annex 9.

8.3.4 Where a party does not intend to contest the claim, it should be made clear in section C of the Acknowledgment of Service whether the party intends to remain neutral or would in principle agree to the decision being quashed. This information will allow the Court to manage the claim properly. If the party does agree in principle to the decision being quashed, the parties should attempt to agree settlement of the claim at the earliest opportunity.

155 CPR 54A PD para 6.2.

156 CPR 54.8(4)(a)(ia).

157 CPR 54.8(4)(a)(ii). For more detail on who is an interested party, see para 3.2.3 of this Guide.

8.3.5 Where a court or tribunal is a party to a claim, there is generally no expectation that they will participate in proceedings. However, should a court or tribunal wish to make observations on matters of facts, it is preferable that these are set out within Section 3 of the Acknowledgement of Service (N462) rather than in separate correspondence or documents, despite the heading of Section 3 referring to reasons for "contesting" the claim.[158]

8.3.6 The purpose of the Acknowledgment of Service (and in particular the summary grounds of defence) is to assist the Court in deciding whether permission to apply for judicial review should be granted and, if so, on what terms. Defendants and interested parties must not oppose permission reflexively or unthinkingly. In appropriate cases, they can and should assist the Court by indicating in the Acknowledgment of Service that permission is not opposed.

8.4 Defendant's applications

8.4.1 When lodging the Acknowledgment of Service, a defendant or interested party may request further directions or an interim order from the Court in section D.[159] Examples of applications that may be made at this stage are for the party's costs of preparing the acknowledgment of service and for the discharge of any previously made injunctions.

8.4.2 If the defendant wishes to argue that the Court does not have jurisdiction to entertain the claim or should not exercise its jurisdiction, it will only rarely be appropriate for the defendant to make an application under CPR Pt 11. The preferable course of action is for a defendant to raise that issue in the acknowledgment of service and to invite the Court to refuse permission to apply for judicial review for that reason.[160]

158 R (Sumal) v Leicester Crown Court [2024] EWHC 1982 (Admin), [26].

159 CPR 54.8(4)(b).

160 R. (Amalgamated Smart Metering Ltd) v Rotherham MBC [2025] EWHC 97 (Admin), [34].

8.5 Reply to the Acknowledgment of Service

8.5.1 CPR 54.8A permits a Claimant to file a reply to an acknowledgment of service. A reply must be filed within 7 days of service of the acknowledgment of service. The parties cannot agree between themselves to an extension of time.[161] A reply should only be filed where it is considered necessary to assist the court in determining permission where, for example, the acknowledgment of service raised a discrete point that was not addressed in the claim form. A reply should not be used to rehearse matters already referred to in the claim form. A reply should be as concise as possible and should not exceed 5 pages. If a Claimant seeks to file a reply which exceeds 5 pages, the court's permission will be required. The application must be made by application notice. If a party files a reply which the court considers to be unnecessary then the court may make any order it considers appropriate, including costs against the Claimant.[162]

161 CPR 54.8A.

162 CPR 54A PD paras 7.1-7.2.

9 The Permission Stage of the Judicial Review Procedure

9.1 The application

9.1.1 The claimant must obtain permission from the Court to apply for judicial review. If permission is granted on some or all of the grounds advanced, the claim will usually proceed to a full hearing on those grounds for which permission has been granted. (This is referred to as the substantive hearing – see Chapter 11 of this Guide.)

9.1.2 In the first instance, the claim papers (comprising the papers filed by the claimant, any Acknowledgment of Service and any reply received by the time the papers are collated) are sent to a judge. The judge will then consider the papers and determine whether to grant permission to apply for judicial review.

(The judge can make other orders before determining permission: see paras 9.2.1.4 – 9.2.1.6 of this Guide.)

9.1.3 The judge will refuse permission to apply for judicial review unless satisfied that there is an arguable ground for judicial review which has a realistic prospect of success.[163]

9.1.4 Even if a claim is arguable, the judge must refuse permission:

9.1.4.1 unless he or she considers that the applicant has a sufficient interest in the matter to which the application relates (see para 6.3.2 of this Guide); and

9.1.4.2 if it appears to be highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred.[164]

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163 See Sharma v Brown-Antoine [2006] UKPC 57, [2007] 1 WLR 780, [14(4)]. Attorney General of Trinidad and Tobago v Ayers-Caesar [2019] UKPC 44, [2]. Maharaj v Petroleum Company of Trinidad and Tobago Ltd [2019] UKPC 21. Simone v Chancellor of the Exchequer [2019] EWHC 2609 (Admin), [112]. In an age assessment case where the claimant invites the court to determine that his age is different from that assessed by a local authority or the Secretary of State, the court should ask "whether the material before the court raises a factual case which, taken at its highest, could not properly succeed in a contested factual hearing. If so, permission should be refused. If not, permission should normally be granted, subject to other discretionary factors, such as delay": R (Z) v Croydon London Borough Council [2011] EWCA Civ 59, [2011] PTSR 748, [9].

164 Section 31(3C)-(3F) of the Senior Courts Act 1981.

9.1.5 If the Court considers that there has been undue delay in bringing the claim, the Court may refuse permission.[165] Delay is discussed further at para 6.4 of this Guide.

9.1.6 Other reasons for refusing permission include an adequate alternative remedy (para 6.3.3) and that the claim is or has become academic (para 6.3.4).

9.2 Court orders at the permission stage

9.2.1 A number of different orders may be made following consideration of the papers. The following are the most common.

9.2.1.1 Permission granted

The judge has determined that there is an arguable case on all grounds. The case will proceed to a substantive hearing. In this event, the judge will usually give directions for the substantive hearing.

9.2.1.2 Permission refused

The judge has determined that none of the grounds advanced by the claimant are arguable, so the claim should not proceed to a substantive hearing. The judge will record brief reasons in the order.[166] The claimant may be ordered to pay the defendant's costs of preparing the Acknowledgment of Service (see para 25.4 of this Guide).

9.2.1.3 Permission granted in part

In some cases, the judge may decide that some of the grounds advanced by the claimant are suitable for permission but others are not. The judge will direct the matter to proceed to a substantive hearing only on the grounds for which permission has been granted. The claimant can request that the application for permission on the refused grounds is reconsidered at an oral hearing (see para 9.4 of this Guide). The claimant may not raise or renew grounds at the substantive hearing where permission has not already been granted unless (unusually) the Court allows it.[167]

165 Section 31(6)(a) of the Senior Courts Act 1981.

166 CPR 54.12(2).

167 R (Talpada) v SSHD [2018] EWCA Civ 841, [23] and [68].

9.2.1.4 Permission adjourned to an oral hearing on notice

The judge has made no determination on the application for permission. Instead, the application for permission will be considered at an oral hearing with the claimant and any other parties who wish to make representations attending. The form of the hearing will be similar to a renewed permission hearing (see para 9.4 of this Guide).

9.2.1.5 Permission adjourned to a "rolled-up" hearing

In the vast majority of cases judicial review is a two-stage procedure Rolled-up hearings may, however, be appropriate exceptionally where, for example where the defendant asserts that permission should be refused on the ground of delay or for a jurisdictional reason, but the court considers that for case management reasons this point should be considered together with the substance. More generally, when deciding whether to order a rolled-up hearing, the Court has to balance a number of factors. These will typically include (a) the importance of a quick, final decision; (b) whether a rolled-up hearing would be likely to result in a final decision more quickly than a separate permission stage; (c) whether rolled-up hearing will be substantially longer than a permission hearing; and (d) whether a rolled-up hearing would impose a greater burden on the defendant and if so how much greater.[168]

When preparing documentation for a rolled-up hearing, the parties should follow the same rules as apply when preparing for a substantive hearing (see Chapter 11 of this Guide). The documentation before the Court should be the same as if the hearing was the substantive hearing.

Where a rolled-up hearing is ordered the claimant will be asked by the ACO to sign an undertaking to pay the fee for the substantive application for judicial review which would then become payable if the judge later grants permission.

9.2.1.6 Application for permission to be resubmitted

The judge has made no determination on the application for permission. Instead the judge will request the parties perform some act (such as file additional documents or representations) or await some other event (such as the outcome of a similar case). Once the act or event has been performed, or when the time limit for doing so has expired, the papers will be resubmitted to the judge to consider permission on the papers.

168 Al-Haq v Secretary of State for Business and Trade [2025] EWHC 173 (Admin), [34]-[35].

9.3 Totally without merit orders

9.3.1 If the judge considers that the application for permission is totally without merit then he/she may refuse permission and record the claim as being totally without merit.

9.3.2 The term "totally without merit" applies to a case that is bound to fail; the case does not have to be abusive or vexatious.[169]

9.3.3 Where a case is certified as totally without merit, there is no right to a renewed oral hearing[170] (see para 9.4 of this Guide) and the claim is concluded in the Administrative Court, although there is a right of appeal (see para 26.3 and para 26.7 of this Guide).

9.4 Reconsideration at an oral hearing

9.4.1 If permission is refused the claimant should consider the judge's reasons for refusing permission on the papers before taking any further action.

9.4.2 If the claimant takes no further action, 7 days after service of the order refusing permission, the ACO will close the case. If the Court has directed the parties to file written submissions on costs or has given directions in relation to any other aspect of the case, the claim will remain open until the costs or that other aspect is resolved. If there is an interim costs order in place at that time, and unless the Court has directed otherwise, it will continue in effect (even though the case is closed administratively) and the parties will have to apply to set aside that order (see para 13.7 of this Guide).

9.4.3 If, having considered the reasons, the claimant wishes to continue to contest the matter, there is no appeal, but there is a right to request that the application for permission to apply for judicial review be reconsidered at an oral hearing (often referred to as a renewal hearing).[171]

9.4.4 When the ACO serves an order refusing permission to apply for judicial review on the papers it will also include a renewal notice (Form 86b). If the claimant wishes to have their application for permission to apply for judicial review reconsidered at an oral hearing he or she must

169 R (Wasif) v Secretary of State for the Home Department (Practice Note) [2016] EWCA Civ 82, [2016] 1 WLR 2793.

170 CPR 54.12(7).

171 CPR 54.12(3).

complete and send this form back to the ACO within 7 days[172] of the date upon which it is served. A fee is payable. Failure to obtain a fee remission or pay this fee can result in the claim being struck out.[173] The claimant should send a copy of the Form 86b to any party that filed an Acknowledgment of Service.

9.4.5 The claimant must provide grounds for renewing the application for permission and must in those grounds address the judge's reasons for refusing permission by explaining in brief terms why the claimant maintains those reasons are wrong.[174] It is not sufficient simply to state that renewal is sought on the original grounds, without seeking to explain the scope of the renewed application and the asserted error in the refusing judge's reasons. If the refusing judge's reasons are not addressed, the judge may make a costs order against the claimant at the renewal hearing and/or impose any other sanction which he or she considers to be appropriate.

9.4.6 On receipt of the renewal notice, the Court will generally give directions in standard form which provide for the listing of an oral hearing and other matters. Alternatively, the Court may list an oral hearing without giving directions (see para 14.2.1 of this Guide on listing). Absent a judicial order, the hearing cannot take place without all parties being given at least 2 days' notice of the hearing.[175] The ACO will send notice to all parties of the date of the hearing.

9.4.7 The renewal hearing is normally a public hearing that anyone may attend and observe and will usually take place in Court.

9.5 Time estimate for renewed application

9.5.1 Renewal hearings are expected to be short, with the parties making succinct submissions. The standard time estimate for a renewed permission application is 30 minutes. This includes the time needed for the judge to give an oral judgment, if appropriate, at the end of the hearing.

9.5.2 Any request for a longer listing must be included in the application. If any party believes the renewed application is likely to last more than 30 minutes, he or she must inform the ACO as soon as possible. In any event, within 7 days following the date when the application was

172 CPR 54.12(4).
173 CPR 3.7. See also para 1.5.5 of this Guide.
174 CPR 54A PD para 7.6.
175 CPR 54.12(5).

filed, the parties must tell the Court the agreed time estimate for the hearing.[176]

9.5.3 Failure to inform the ACO may result in the hearing having to be adjourned on the hearing day for lack of Court time, in which event the Court will consider making a costs order against the party or parties who should have notified the Court of the longer time estimate.

9.5.4 Even where a party informs the Court that the renewed application is likely to take more than 30 minutes, the Court will only allocate such Court time as it considers appropriate, bearing in mind the pressure on Court time from other cases. In any event, it is rare that permission hearings will be allocated more than two hours.[177]

9.6 Procedure at renewal hearings

9.6.1 The defendant and/or any interested party may attend the oral hearing. Unless the Court directs otherwise, there is no need to attend.[178] If an Acknowledgment of Service has not been filed, there will be no right to be heard, though the Court may permit the party to make representations (see para 8.1.4 of this Guide).[179]

9.6.2 Where there are a number of cases listed before a judge in any day, a time marking may be given for each case. This may be shown on the daily cause list or the judge's clerk may contact the parties and/or their representatives. Alternatively, at the start of the day's list, the judge may release the parties and/or their representatives until a specific time later in the day.

9.6.3 The judge has a discretion as to how the hearing will proceed. Generally, and subject to the judge's discretion, hearings follow a set pattern:

9.6.3.1 The claimant will speak first setting out their grounds and why those grounds are arguable.

9.6.3.2 The defendant(s) will speak second setting out why the grounds are not arguable or other reasons why permission should not be granted.

176 CPR 54A PD para 7.7.

177 See R (Hogan) v Financial Ombudsman Service Ltd [2023] EWHC 1061 (Admin), [13], where the Court rejected the submission that 4 hours should be allocated for a permission hearing.

178 CPR 54A PD para 7.4.

179 CPR 54.9(1)(a).

9.6.3.3 Any interested parties will speak third to support or contest the application for permission.

9.6.3.4 The claimant is given the opportunity to reply briefly.

9.6.3.5 The decision refusing or granting permission, and, if appropriate, making any further directions or orders will usually be announced after the hearing.

9.6.4 In a hearing in the Administrative Court in Wales, any party has the right to speak Welsh or English.[180] The guidance outlined at para 10.3 of this Guide also applies to permission hearings.

9.6.5 The test for granting permission at an oral hearing is the same as the one applied by the judge considering permission on the papers (see para 9.1.3 of this Guide).

9.6.6 If permission is refused at the renewal hearing, the claim ends (subject to any appeal – see para 26.3 of this Guide). If permission is granted on one or more grounds, the case proceeds to the substantive hearing, which will take place on a later date (unless the hearing was "rolled up", in which case the substantive hearing will follow immediately: see para of this Guide). The date for the hearing may be set by the judge or left to be determined by the ACO (see para 14.2.3 of this Guide for listing).

9.7 Procedure where the Upper Tribunal is the defendant

9.7.1 In most cases, decisions of the Upper Tribunal are subject to appeal. Decisions subject to appeal should not be challenged in judicial review proceedings because the appeal is an adequate alternative remedy. However, where the Upper Tribunal decision is one refusing permission to appeal from the First tier Tribunal, there is no further right of appeal. In that case, a claim by way of judicial review is available, but only in the circumstances set out in section 11A of the Tribunals, Courts and Enforcement Act 2007 and CPR 54.7A.[181]

180 Any party, or their legal representative, intending to use the Welsh language (orally or in written form) must inform the Court of that fact so that appropriate arrangements can be made for the management and listing of the case: Practice Direction relating to the use of the Welsh language in the civil courts in or having a connection with Wales, para 1.3.

181 Section 2 of the Judicial Review and Courts Act 2022 inserted section 11A(1)-(4) into the Tribunals, Courts and Enforcement Act 2007 with effect from 14 July 2022. The ouster has been held to be effective: see R (Oceana) v Upper Tribunal [2023] EWHC 791 (Admin), [45]-[54].
See also R (LA (Albania)) v Upper Tribunal [2023] EWCA Civ 1337.

9.7.2 An application for judicial review may only be made if the challenge concerns:

9.7.2.1 whether the application for permission to appeal was validly made to the Upper Tribunal;

9.7.2.2 whether the Upper Tribunal when refusing permission to appeal was properly constituted; or

9.7.2.3 whether the Upper Tribunal is acting or has acted in bad faith or in such a procedurally defective way as amounts to a fundamental breach of the principles of natural justice.[182]

It is not sufficient merely to assert that one of the exceptions apply. It is necessary to show a genuinely arguable question that the exception applies.[183] If it does, the Court must consider whether it has sufficient merit to satisfy the arguability threshold in the ordinary way.[184] This will include, for instance, whether the Claimant should have pursued an alternative remedy.[185]

9.7.3 In addition, CPR 54.7A requires that the Claim Form and the supporting documents be filed no later than 16 days after the date on which notice of the Upper Tribunal's decision was sent to the applicant. The normal long-stop period of 3 months does not apply.[186]

9.7.4 There is no right to request reconsideration at an oral hearing where the application for permission to apply for judicial review is refused on the papers.[187]

182 CPR 54.7A.

183 R (LA (Albania)) v Upper Tribunal [2023] EWCA Civ 1337, [2024] 1 WLR 1673, [37]-[38].

184 R (Oceana) v Upper Tribunal [2023] EWHC 791, [2023] Imm AR 1030, [30].

185 R (Chowdhury) v Upper Tribunal [2025] EWCA Civ 656, [56].

186 CPR 54.7A(2).

187 R (Karim) v Upper Tribunal [2024] EWHC 1368 (Admin). But see Chowdhury, where CA did not comment on the fact that reconsideration had occurred.

9.8 Judicial Review Costs Capping Orders: general[188]

9.8.1 Section 88(1) of the Criminal Justice and Courts Act 2015 provides that a cost capping order ("CCO") [189] may not be made in connection with judicial review proceedings except in accordance with ss. 88-90 of that Act. These provisions therefore form a "complete code" and there is no jurisdiction to grant a CCO other than in accordance with it.[190] A CCO may take a number of forms. Usually, the order will specify a limit on the amount that a claimant can be ordered to pay in respect of other side's costs if the claimant loses (e.g. the claimant's liability for costs will be capped at £5,000). Where a CCO is granted, the order must be coupled with an order placing a limit on the amount that a claimant who is successful can recover from a defendant if the claimant ultimately wins the case (sometimes called a reciprocal costs capping order).[191] There is no requirement that the reciprocal cap should be set at the same level as the costs liability of the claimant.[192]

9.8.2 A CCO may only be granted after permission to apply for judicial review has been granted.[193]

9.8.3 An application for a CCO may only be made by a claimant, not a defendant, interested party, or intervener.[194]

9.8.4 The Court may only make a CCO if it is satisfied that:[195]

9.8.4.1 the proceedings are public interest proceedings; and

188 This section of the Administrative Court Judicial Review Guide 2023 was cited in R (The All-Party Parliamentary Group On Fair Business Banking) v The Financial Conduct Authority [2023] EWHC 1662 (Admin), [2].

189 Defined in section 88(2) of the Criminal Justice and Courts Act 2015 as "an order limiting or removing the liability of a party to judicial review proceedings to pay another party's costs in connection with any stage of the proceedings". See R (Elan-Cane) v Secretary of State for the Home Department [2020] EWCA Civ 363, [2020] QB 929.

190 R (Ullah) v Secretaries of State for Defence and Foreign, Commonwealth and Development Affairs [2023] EWHC 371, [21].

191 Section 89(2) of the Criminal Justice and Courts Act 2015.

192 R (Elan-Cane) v Secretary of State for the Home Department [2020] EWCA Civ 363. For a summary of the principles applicable when setting the reciprocal cap, see R (Western Sahara Campaign UK) v Secretary of State for International Trade [2021] EWHC 1756 (Admin), [43].

193 Section 88(3) of the Criminal Justice and Courts Act 2015.

194 Section 88(4) of the Criminal Justice and Courts Act 2015.

195 Section 88(6) of the Criminal Justice and Courts Act 2015.

9.8.4.2 in the absence of the order, the claimant would discontinue the application for judicial review or cease to participate in the proceedings; and

9.8.4.3 it would be reasonable to do so.

9.8.5 Public interest proceedings are those where:[196]

9.8.5.1 the subject of the proceedings is of general public importance;

9.8.5.2 the public interest requires the issue to be resolved; and

9.8.5.3 the proceedings are likely to provide an appropriate means of resolving it.

9.8.6 When determining whether proceedings are public interest proceedings, the Court must have regard to:[197]

9.8.6.1 the number of people likely to be directly affected if relief is granted;

9.8.6.2 how significant the effect on those people is likely to be; and

9.8.6.3 whether the proceedings involve consideration of a point of law of general public importance.[198]

9.8.7 When considering whether to make a CCO, the Court must have regard to:[199]

9.8.7.1 the financial resources of the parties to the proceedings, including the financial resources of any person who provides, or may provide, financial support to the parties;

9.8.7.2 the extent to which the claimant is likely to benefit if relief is granted;

196 Section 88(7) of the Criminal Justice and Courts Act 2015.

197 Section 89(1) of the Criminal Justice and Courts Act 2015.

198 R (All-Party Parliamentary Group On Fair Business Banking) v Financial Conduct Authority [2023] EWHC 1662 (Admin), [2023] Costs LR 999, [6].

199 Section 88(8) of the Criminal Justice and Courts Act 2015. These are not "determining criteria", but "criteria which have to be considered": R (Beety) v Nursing and Midwifery Council [2017] EWHC 3579 (Admin), [8]. R (Good Law Project Ltd) v Minister for the Cabinet Office [2021] EWHC 1083 (TCC), [9].

9.8.7.3 the extent to which any person who has provided, or may provide, the applicant with financial support is likely to benefit if relief is granted;

9.8.7.4 whether legal representatives for the applicant for the order are acting free of charge; and

9.8.7.5 whether the claimant is an appropriate person to represent the interests of other persons or the public interest generally

9.9 CCOs: procedure[200]

9.9.1 An application for a CCO must normally be contained in the Claim Form at section 8 or in a separate document accompanying the Claim Form.[201]

9.9.2 The application must be supported by evidence setting out:[202]

9.9.2.1 why a CCO should be made, having regard, in particular, to the matters at paras 9.8.4 – 9.8.7 above;

9.9.2.2 a summary of the claimant's financial resources, unless the Court has dispensed with this requirement;[203]

9.9.2.3 the costs (and disbursements) which the claimant considers the parties are likely to incur in the future conduct of the proceedings;

9.9.2.4 if the claimant is a body corporate, whether it is able to demonstrate that it is likely to have financial resources available to meet liabilities arising in connection with the proceedings. Where it cannot, the Court must consider giving directions for the provision of information about the body's members and their ability to provide financial support for the purpose of the proceedings.[204]

200 The relevant procedure in this section of the Guide is found in the Criminal Justice and Courts Act 2015 and supplemented where appropriate by the guidance on protective costs order procedure in R (Corner House Research) v Trade and Industry Secretary [2005] EWCA civ 192, [2005] 1 WLR 2600 and R (Buglife) v Thurrock Thames Gateway Development Corp [2008] EWCA Civ 1209, [2009] CP Rep 8 at [29]–[31].

201 CPR 46 PD para 10.2 and R (Corner House Research) v Trade and Industry Secretary [2005] EWCA Civ 192, [2005] 1 WLR 2600, [78].

202 CPR 46.17(1)(b).

203 CPR 46.17(3).

204 CPR 46.18.

9.9.3 If the defendant wishes to resist the making of the CCO, the reasons should be set out in the Acknowledgment of Service. Similarly, any representations in support of a reciprocal costs capping order (capping both parties' costs) should be made in the Acknowledgment of Service.

9.9.4 The claimant will usually be liable for the costs incurred by the defendant in successfully resisting an application for a CCO, but it would normally be expected that it would be proportionate to incur no more than £1,000 in doing so.[205]

9.9.5 If permission to apply for judicial review is granted on the papers, the judge will normally consider at the same time whether to make the CCO and if so, in what terms. If permission to apply for judicial review is not granted, the judge cannot make a CCO (see para 9.8.2 above)

9.9.6 If the judge grants permission to apply for judicial review, but refuses to grant the CCO, and the claimant requests that the decision is reconsidered at a hearing, that hearing should generally be limited to an hour and the claimant will face liability for costs if the CCO is again refused.

9.9.7 When the Court reconsiders at a hearing whether or not to make a CCO, the paper decision should only be revisited in exceptional circumstances.[206]

9.9.8 An application for a CCO should normally be made in the Claim Form (see para 9.9.1 of this Guide). If it is necessary to make the application at some other time, the procedure outlined at para 13.7 of this Guide should be used. Any application for a CCO must, however, be made as soon as it becomes clear that a CCO is required.

205 R (Corner House Research) v Trade and Industry Secretary [2005] EWCA Civ 193, [2005] 1 WLR 2600, [78].

206 R (Buglife) v Thurrock Thames Gateway Development Corp [2008] EWCA Civ 1209, [2009] CP Rep 8, [31].

10 After Permission

10.1 Directions for substantive hearing

10.1.1 When permission to apply for judicial review is granted, the claim will proceed to the substantive hearing on a later date. A fee is payable. Failure to obtain a fee remission or pay this fee can result in the claim being struck out.[207]

10.1.2 Unless the judge orders a particular date for the hearing, the ACO will list the substantive hearing as soon as practicable (see para 14.2 of this Guide for listing; see also Annex 4 for the Administrative Court Listing Policy).

10.1.3 When granting permission, a judge will usually give directions as to how the case will progress to the substantive hearing, including:

10.1.3.1 the time within which the defendant or interested party or parties should file Detailed Grounds of Resistance and any evidence on which it is intended to rely at the hearing;

10.1.3.2 which kind of judge should hear the case, and specifically whether it is suitable to be heard by a deputy judge or should be heard by a Divisional Court (a court with two or more judges), as to which see para 14.3 of this Guide;

10.1.3.3 other case management directions including a timetable for skeleton arguments, trial bundles and authorities bundles to be lodged.

10.1.4 Judicial directions will supersede any standard directions. If the judge does not make any directions, the following standard directions apply:

10.1.4.1 The claimant must pay the relevant fee to continue the application for judicial review. Failure to do so within 7 days of permission being granted will result in the ACO sending the claimant a notice requiring payment within a set time frame (normally 7 more days). Further failure will result in the claim being struck out without further order.[208]

10.1.4.2 Any party who wishes to contest or support the claim must file and serve any Detailed Grounds and any written

207 CPR 3.7. See also paras 1.5.5 and 10.1.4.1 of this Guide.

208 CPR 3.7(1)(d), (2), (3) and (4).

evidence or documents not already filed in a paginated and indexed bundle (in both hard copy and electronic copy)[209] within 35 days of permission being granted.[210] Detailed Grounds should be as concise as possible and must not exceed 40 pages without the Court's permission.[211] The fact that the claimant's Statement of Facts and Grounds is prolix is not necessarily a good reason for the defendant's Detailed Grounds to exceed the 40-page limit.[212]

10.1.4.3 If all relevant matters have already been addressed in the Summary Grounds, a party may elect not to file separate Detailed Grounds and instead inform the court and the parties that the Summary Grounds are to stand as Detailed Grounds.[213] However, before doing so, the party should consider carefully whether the material in the Summary Grounds is sufficient to discharge the duty of candour and cooperation with the court. In this regard, it is important to note that what is required to discharge that duty at the substantive stage may be more extensive than what is required before permission has been granted (see para 15.3.2 of this Guide).

10.1.4.4 The claimant must file and serve a skeleton argument no less than 21 days before the substantive hearing (see para 20.2 of this Guide for the contents of the skeleton argument).[214]

10.1.4.5 The defendant and any other party wishing to make representations at the substantive hearing must file and serve a skeleton argument no less than 14 days before the substantive hearing (see para 20.4).[215]

10.1.4.6 The parties must agree the contents of a paginated and indexed bundle containing all relevant documents

209 CPR 54A PD para 9.1(3) and 9.2.

210 CPR 54.14(1).

211 CPR 54A PD para 9.1(2).

212 R (SSE Generation Ltd) v Competition and Markets Authority [2022] EWHC 865 (Admin).

213 CPR 54A PD para 9.1(1).

214 Previous versions of the PDs required skeleton arguments to be filed 21 working days before the date of the hearing. The new CPR 54A PD para 14.5 refers simply to "21 days before the date of the hearing". This means "calendar" days: see CPR 2.8.

215 CPR 54A PD para 14.6. "14 days" means 14 calendar days.

required for the hearing of the judicial review (see para 21.2). This bundle must be lodged with the Court in both electronic and hard copy form by the parties not less than 21 days before the date of hearing unless judicial order provides otherwise.[216]

10.1.4.7 The parties must agree the contents of a bundle containing the authorities to be referred to at the hearing (see paras 22.2 and 22.4). This bundle must be lodged by the parties with the Court in both electronic and hard copy form no later than 7 days before the date of hearing.[217]

10.1.4.8 In Divisional Court cases, one set of the hearing bundle and one set of the authorities bundle should be provided for each judge hearing the case (see paras 21.2.4 and 22.2.1 for further details).

10.1.5 A defendant or interested party who has not filed Detailed Grounds (or informed the court and the parties that the Summary Grounds are to stand as Detailed Grounds) within the time specified in CPR 54.14 (as varied by any order of the Court) requires permission to be heard at the substantive hearing. Although the Court is generally assisted by submissions from the defendant and interested party, this should not be regarded as a "late entry pass". Where a defendant in default is given permission to participate, the Court may nonetheless impose a costs sanction, even in cases where the lateness does not cause identifiable prejudice.[218]

10.1.6 Pursuant to CPR 32.1, the Court has power to give directions to control evidence. This includes the power to direct that a witness statement or evidence be re-served omitting irrelevant or duplicative material. Legal proceedings do not exist for the purpose of permitting parties to put irrelevant matters in the public domain, and the court must be astute to ensure that proceedings, legitimately pursued, do not become the occasion to publicise irrelevant material.[219]

216 CPR 54A PD paras 15.1, 15.2 and 15.3.

217 CPR 54A PD paras 15.4 and 15.5.

218 R (Dobson) v Secretary of State for Justice [2023] EWHC 50 (Admin), [26].

219 R (Duke of Sussex) v Secretary of State for the Home Department [2022] EWHC 682 (Admin), [21], [28].

10.2 Amending the claim

10.2.1 The Claim Form and Statement of Grounds may be amended at any time before it has been served on any other party. However, once the Statement of Grounds has been served, amendment requires the permission of the Court in accordance with CPR Part 23.[220]

10.2.2 The application to amend must be made promptly and should include, or be accompanied by, a draft of the amended grounds and be supported by evidence explaining the need for the proposed amendment and any delay in making the application. The application, proposed additional grounds and any written evidence, must be served on the defendant and any interested party named in the Claim Form or Acknowledgment of Service.[221]

10.2.3 The Court may deal with an application without a hearing if the parties agree to the terms of the order sought, the parties agree that the Court should dispose of the application without a hearing or the Court does not consider that a hearing would be appropriate.[222]

10.2.4 Where permission to rely on additional grounds is given, the Court may give directions as to amendments to be made to the defendant's Grounds or Detailed Grounds and/or such other case management directions as appropriate.[223] A party may apply to the Court for an order disallowing an amendment within 7 days of service of a copy of an amended statement of case.[224]

10.2.4.1 If the claimant wishes to file further evidence, he or she must ask for the Court's permission to do so.[225] To seek permission, the claimant must make an application in accordance with the interim applications procedure discussed at para 13.7 of this Guide.[226]

220 CPR 54A PD para 12.1.

221 CPR 54A PD paras 12.2 and 12.3. See R (AB) v Chief Constable of Hampshire Constabulary [2019] EWHC 3461 (Admin) [112]-[114].

222 CPR 23.8.

223 CPR 54A PD para 12.4.

224 CPR 23.8(3). The Court may also, when granting permission to amend, provide a longer time in which an application to disallow the amendment may be made.

225 CPR 54.16(2).

226 See Hickey v Secretary of State for Work and Pensions [2018] EWCA CIV 851, [73]-[74].

10.2.4.2 This rule also applies to other parties who are filing documents. Outside the 35-day time limit (see para 10.1.4.2 of this Guide).

10.2.4.3 The position where the defendant intends to reconsider the original decision challenged is discussed at para 7.11.3 of this Guide. The position where the defendant has made a new decision which the claimant seeks to challenge is discussed at para 7.11.4.

10.3 Action if an interpreter is required

10.3.1 If a party or witness requires an interpreter, it is generally the responsibility of that party or the party calling the witness to arrange for the attendance of and to pay for the interpreter.

10.3.2 The ACO can arrange for an interpreter to attend free of charge to the party seeking an interpreter's assistance where:

10.3.2.1 the party is a litigant in person who cannot address the Court in English (or Welsh if the case is proceeding in Wales) and the party cannot afford to pay for an interpreter, does not qualify for legal aid and does not have a friend or family member who the judge agrees can act as an interpreter; and

10.3.2.2 the judge agrees that an interpreter should be arranged free of charge to that party; or

10.3.2.3 this has been ordered by the Court.

10.3.3 It is the responsibility of any party requesting an interpreter free of charge to make the request in writing as soon as it becomes clear that a hearing will have to be listed and an interpreter is required.

10.3.4 The party requesting an interpreter free of charge must inform the ACO in writing that an interpreter is required and which language is required.

10.3.5 Where the party does not notify the Court that an interpreter is required and a hearing has to be adjourned to arrange for an interpreter to attend on another occasion, the Court may make a costs order against the party requiring an interpreter (see para 25.1 of this Guide).

10.4 Responsibility for production of serving prisoners and detained persons

10.4.1 Where a serving prisoner or a detained person is represented by counsel it is generally not expected that the serving prisoner or detained person will be produced at Court, unless the Court orders otherwise.

10.4.2 A serving prisoner or detained person acting without legal representation must request the prison or detention centre authorities to produce him or her at Court or to arrange a video-link between the Court and prison or detention centre. The serving prisoner or detained person must make the request as soon as he or she receives notice of the hearing. The prison or detention centre authorities are responsible for considering requests for production, arranging production of a detained person at Court and arranging video-links.

10.4.3 Failure by prison or detention centre authorities to produce a prisoner or detained person or arrange a video-link where requested to do so and without good cause may be a ground for an adjournment, even where the detained party is represented.[227]

10.4.4 The refusal of a claimant in prison or a detention centre to attend the video link room to participate in a hearing will generally not be a basis for an adjournment and the Court may proceed in the claimant's absence in those circumstances.[228]

227 See Rae v United States of America [2022] EWHC 3095 (Admin), [4] (an extradition appeal).

228 Huzniak v Polish Judicial Authority [2024] EWHC 1355 (Admin), [1].

11 Substantive Hearing

11.1 Format of the hearing

11.1.1 The general rule is that hearings are held in public, unless the court makes a specific direction under CPR 39.2 that the hearing should take place in private. Where a hearing takes place in public, any member of the public may attend and observe. (Different rules apply to hearings in cases where a declaration under section 6 of the Justice and Security Act 2013 is sought or has been made: see para 19.3 of this Guide.)

11.1.2 The Court will decide how the hearing should proceed. Most hearings follow the following sequence:

11.1.2.1 The claimant speaks first, setting out the arguments in support of the grounds of claim.

11.1.2.2 The defendant speaks second, setting out the arguments in support of the grounds of defence.

11.1.2.3 Any interested parties and/or interveners speak third to support, contest, or clarify anything that has been said.

11.1.2.4 The claimant will have a right to reply to the other parties' submissions.

11.1.3 When there is a danger of an important and difficult point of law being decided without the Court hearing relevant argument on one or more aspects of the law, the Attorney General may be invited by the Court to appoint an Advocate to the Court (previously known as an amicus curiae).[229] In cases where an Advocate to the Court is appointed, the Court will hear submissions from the Advocate at an appropriate point in the hearing. See CPR 3F PD.

229 See CPR 3FG PD.

11.2 Evidence

11.2.1 Evidence before the Court will nearly always be given exclusively in writing.

11.2.2 The Court has an inherent power to hear from witnesses orally.[230] If a party seeks to call or cross-examine a witness, an application should be made using the interim applications procedure outlined in para 13.7 of this Guide. Oral evidence is permitted at a judicial review hearing only exceptionally. Permission will be given only where oral evidence is necessary to dispose of the claim fairly and justly.[231]

11.2.3 The principles applicable when a dispute of fact arises have been summarised as follows:[232]

11.2.3.1 If invited to resolve a dispute of primary fact, the court should consider carefully whether any pleaded ground of challenge really requires resolution of the dispute. In most cases, the answer will be that the resolution of the dispute was for the decision-maker, not the court: the court's supervisory function does not require it to step into the shoes of the decision-maker and therefore does not require it to resolve the issue for itself.

11.2.3.2 Where the resolution of a dispute of primary fact is necessary, the court usually proceeds on written evidence.[233] The court will generally do so if no application to cross-examine has been made before the start of the substantive hearing.

11.2.3.3 There is no absolute rule that the court must accept in full every part of the statement of a witness who has not been cross-examined, whether the statement is adduced for the claimant or the defendant. The court can reject

230 See the comments of Munby J in R (PG) v London Borough of Ealing [2002] EWHC 250 (Admin), [20]-[21].

231 R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs [2012] EWHC 2115, [14]. An example of permission for cross-examination being given is Jedwell v Denbighshire CC v DH and Dr Jones [2015] EWCA Civ 1232. The Court of Appeal has since reaffirmed that this should be viewed as an exceptional course: see R (Talpada) v Secretary of State for the Home Department [2018] EWCA Civ 841, [2] and [54].

232 R (F) v Surrey County Council [2023] EWHC 980 (Admin), [2023] 4 WLR 45, [50].

233 See R (Talpada) v Secretary of State for the Home Department [2018] EWCA Civ 841, [2].

evidence in a witness statement if it "cannot be correct".[234] That might be so if it is contradicted by "undisputed objective evidence… that cannot sensibly be explained away".[235] Courts have also rejected evidence given in witness statements as, on balance, inconsistent with other written evidence.[236]

11.2.3.4 In some cases, the court may be unable to resolve a conflict of written evidence on a question of primary fact. In that situation, "the court will proceed on the basis that the fact has not been proved".[237] This will be to the disadvantage of whichever party must prove the fact.

11.2.4 Defendants to judicial review proceedings should consider carefully whether it is appropriate for factual evidence to be given in the form of a "corporate witness statement", i.e. a statement conveying the collective evidence of a company or other body. If evidence is to be given in this way, the requirements of CPR 32 PD para 18.2 must be complied with. This requires the witness to indicate (1) which of the statements in it are made from the witness's own knowledge and which are matters of information or belief and (2) the source for any matters of information or belief. This requirement is not satisfied merely by saying that the source is a government department or agency.[238]

234 R (Safeer) v Secretary of State for the Home Department [2018] EWCA Civ 2518, [16]-[19]. R (Singh) v Secretary of State for the Home Department, [2018] EWCA Civ 2861, [16].

235 R (S) v Airedale NHS Trust [2002] EWHC 1780 (Admin), [2003] Lloyd's Rep Med 21, [18]. See also R (Good Law Project) v Minister for the Cabinet Office [2022] EWCA Civ 21, [2022] PTSR 933, [86]: "The general rule is that the evidence of a witness is accepted unless given the opportunity to rebut the allegation made against them, or there is undisputed objective evidence inconsistent with that of the witness that cannot sensibly be explained away so that the witness's testimony is manifestly wrong."

236 See R (Talpada) v Secretary of State for the Home Department [2018] EWCA Civ 841, [48]. See also R (Good Law Project) v Secretary of State for Health and Social Care [2022] EWHC 46 (TCC), [2022] PTSR 644, [277]: "It is always open to a party to challenge the written evidence of another party, by analysis of the facts and law, by reference to the documents and/or other witness statements in its written and oral submissions". See also R (Gardner) v Secretary of State for Health and Social Care [2022] EWHC 967 (Admin), [2022] PTSR 1338, [259]: "It is not enough for the Defendants to rely on a general proposition that where there are disputes of fact between the evidence for the Claimant and the evidence for the Defendants in judicial review the dispute must always be resolved in favour of the Defendants. In judicial review claims evidence of the Defendant's witnesses, particularly if it is in generalised terms, may be contradicted by contemporaneous documents or, where appropriate, by the absence of contemporaneous documents."

237 R (Talpada) v Secretary of State for the Home Department [2018] EWCA Civ 841, [2].

238 HM Attorney General v BBC [2025] EWHC 1669 (KB), [97]-[106].

11.2.5 The court will in general consider any admissible evidence filed in accordance with the CPR and any applicable directions, unless it has excluded that evidence under CPR 32.1(2). Any application to exclude evidence under that provision, or for a ruling that evidence is not admissible, should be made as soon as possible and in any event well in advance of the substantive hearing.[239]

11.2.6 Where permission has been granted on some of the grounds originally advanced, but not others, the parties should ensure that the documents included within the hearing bundle pertain only to the issues which remain to be considered by the court or those which are necessary for the court to consider in order to determine the issues in the case.[240]

11.3 Use of the Welsh language

11.3.1 Under section 22 of the Welsh Language Act 1993, any person addressing the Court may exercise their right to speak in Welsh. This right applies only to hearings in Wales. If a party seeks to exercise this right, the claim should be started in the ACO in Cardiff or the party should seek transfer of the claim to the ACO in Cardiff.

11.3.2 Under the Practice Direction Relating to the Use of the Welsh Language in Cases in the Civil Courts in or Having a Connection with Wales, a hearing in Wales may be conducted entirely in Welsh without notice, providing all parties and witnesses directly involved consent.[241]

11.3.3 The parties must, however, inform the Court if any person in a case in Wales intends to speak in Welsh.[242] This should be done as soon as possible, preferably when lodging the claim papers, so that appropriate arrangements can be made for the management and listing of the case.

11.3.4 There are bilingual judges in Wales who can consider claims and hold hearings in Welsh. However, it is likely that an order will be made for

239 R (Medical Justice) v Secretary of State for the Home Department [2024] EWHC 38 (Admin).

240 R (All Saints Academy, Dunstable) v Office for Standards in Education, Children's Services and Skills [2024] EWHC 1792 (Admin), [36].

241 Para 1.2 of the Practice Direction Relating to the Use of the Welsh Language in Cases in the Civil Courts in or Having a Connection with Wales.

242 Para 1.3 of the Practice Direction Relating to the Use of the Welsh Language in Cases in the Civil Courts in or Having a Connection with Wales.

simultaneous interpretation, where an interpreter appears in Court interpreting into English and Welsh.[243]

11.3.5 Documents in Welsh may be placed before the Court where the case is being dealt with in Wales or has a connection with Wales. In such a case, the parties must inform the Court as soon as practicable where a document in Welsh may feature in the proceedings so that appropriate arrangements can be made.[244]

11.4 Judicial review without a hearing

11.4.1 If all parties agree, the substantive consideration may take place without a hearing and the judge will decide the claim by considering the papers alone.[245] The parties should inform the ACO in writing if all parties have agreed to this course of action. On consideration of the papers, the judge may refuse to make a decision on the papers and order an oral hearing. The open justice principle applies to a determination made on the papers and the court may have to give consideration to the question whether there should be public access to documents.[246]

11.5 Threshold for relief

11.5.1 To succeed in the claim, the claimant must show that the defendant's conduct is unlawful.

11.5.2 Even if a claimant establishes that the defendant's conduct is unlawful, the Court has a discretion whether to grant a remedy or not: see paras 12.9 and 12.10 below.

11.6 Judgment and orders

11.6.1 When the hearing is concluded, the Court will usually give judgment either:

11.6.1.1 orally, straight away or after a short adjournment (an ex tempore judgment); or

243 This was ordered in R (Welsh Language Commissioner) v National Savings and Investments [2014] EWHC 488 (Admin), [2014] PTSR D8 and in R (Rhieni Dros Addsyg Gymraeg) v Neath Port Talbot County Borough Council [2022] EWHC 2674 (Admin).

244 Para 1.4 of the Practice Direction Relating to the Use of the Welsh Language in Cases in the Civil Courts in or Having a Connection with Wales.

245 CPR 54.18.

246 UXA v Merseycare NHS Foundation Trust [2021] EWHC 3455, [2022] 4 WLR 30.

11.6.1.2 in writing, sometime after the hearing (a reserved judgment).

11.6.2 A reserved judgment will be "handed down" by the Court at a later date. The procedure is governed by CPR 40E PD. Unless the Court otherwise directs, at least two working days before the hand down date the judge will provide a draft of the judgment to legal representatives in the case.[247] The sole purpose of doing so is to enable the parties to make suggestions for the correction of errors, prepare submissions on consequential matters and to prepare themselves for the publication of the judgment.[248]

11.6.3 The standard form of embargo provides that a copy of the judgment may be supplied, in confidence, to the parties, provided that (a) neither the draft judgment nor its substance is disclosed to any other person or used in the public domain; and (b) no action is taken (other than internally) in response to the draft judgment, before the judgment is handed down. The court may decide to depart from this standard form where there is good reason to do so, for example by stipulating that the draft judgment is confidential to counsel and solicitors only and may be shown to parties at a specified time before the judgment is handed down.[249]

11.6.4 Legal representatives receiving draft judgments must be aware of the limited purposes for which the draft had been transmitted to them. It is not appropriate for draft judgments or summaries of them to be given to persons in clerks' rooms or offices of barristers' chamber, or to be shared with journalists. Drafting press releases is not a legitimate activity to undertake within the embargo. It should be sufficient for a single named clerk to provide the link between the court and the barrister(s). Nobody else in chambers should need access to the draft judgment or any document created in relation to it without there being a good reason connected to one of the permitted purposes. Counsel and solicitors are personally responsible for ensuring that reasonable steps are taken for maintaining the confidentiality of the draft judgment and for explaining the confidentiality obligations to their clients.[250]

247 CPR 40E PD para 2.3.

248 R (Counsel General for Wales) v Secretary of State for Business, Energy and Industrial Strategy [2022] EWCA Civ 181, [2022] 1 WLR 1915, [18] and [24].

249 CPR 40E PD para 2.4.

250 R (Counsel General for Wales) v Secretary of State for Business, Energy and Industrial Strategy [2022] EWCA Civ 181, [2022] 1 WLR 1915, [25]-[28].

11.6.5 If a party to whom a copy of the draft judgment is supplied is a partnership, company, government department, local authority or other organisation of a similar nature, additional copies may be distributed in confidence within the organisation, provided that all reasonable steps are taken to preserve its confidential nature and the requirements set out in para 11.6.3 are adhered to.[251] This is not a licence to distribute the draft judgment beyond those who need to see it for the purposes for which it has been distributed in draft.[252]

11.6.6 Where the party receiving a draft judgment is a Minister responsible for a government department, the judgment may be shown in confidence to other Ministers and officials in the same department. If the Minister wishes to show the draft judgment to Ministers or officials outside the department, the written permission of the judge must be sought, identifying (normally by name) the Ministers or officials to whom the draft judgment is to be shown and the reason why those individuals need to see it.

11.6.7 If in doubt about whether a draft judgment may be disclosed to any person, it is best to seek the permission of the judge.[253]

11.6.8 Breach of the confidentiality obligations or restrictions in para 11.6.3 or failure to take reasonable steps as required in para 11.6.4 may be treated as a contempt of court.[254] In future, those who break embargos can expect to find themselves the subject of contempt proceedings.[255]

11.6.9 Unless the parties or their legal representatives are told otherwise when the draft judgment is circulated, any proposed corrections to the draft judgment should be sent to the clerk of the judge who prepared the draft with a copy to any other party.[256]

11.6.10 The circulation of a draft judgment should not be taken as a pretext to reargue the case. The corrections which may be appropriate are generally typographical and other minor corrections. Parties and

251 CPR 40E PD para 2.6.

252 R (Counsel General for Wales) v Secretary of State for Business, Energy and Industrial Strategy [2022] EWCA Civ 181, [2022] 1 WLR 1915, [23].

253 CPR 40E PD para 2.7.

254 CPR 40E PD para 2.8.

255 R (Counsel General for Wales) v Secretary of State for Business, Energy and Industrial Strategy [2022] EWCA Civ 181, [2022] 1 WLR 1915, [31].

256 CPR 40E PD para 3.1.

their legal representatives should go beyond this only in the most exceptional circumstances.[257]

11.6.11 The parties must seek to agree the form of the final order and any consequential orders[258] (usually costs and permission to appeal – see Chapters 25 and 26 of this Guide). The parties should submit any agreed order, which should include the terms of any orders made by the judge in Court and the terms of any agreed consequential orders, by 12 noon on the working day before handing down.[259]

11.6.12 Most judgments are now handed down without a hearing by email circulation of the approved judgment to the parties or their representatives and release to the National Archives. See Annex 5 of this Guide. If the judge decides that the judgment should be handed down in open court, there will be a short hearing (normally lasting about 5 minutes), at which the judge makes the final copy of the judgment available and endorses it. The judge will not read the judgment verbatim. If the judge decides to hold such a hearing, the judge's clerk or ACO will inform the parties or their representatives whether attendance is required. If the judgment is being handed down at a hearing and the parties agree the terms of the order, the parties need not attend the hand down hearing.[260]

11.6.13 If consequential matters cannot be agreed, the Court will decide them by considering representations. This may be done:

11.6.13.1 by written representations in advance of the time at which the judgment is handed down (in which case the Court may give reasons for resolving the consequential matters in the handed-down judgment or in the order made at the time of hand-down);

11.6.13.2 by the parties attending Court on the date of handing down and making representations orally; or

11.6.13.3 by the parties agreeing a final order that allows them to make written representations on consequential orders within a set time period.

11.6.14 If there is a hand-down hearing, and the parties wish to attend to make oral submissions, they should inform the ACO as soon as

257 Michael Wilson & Partners Ltd v Sinclair [2020] EWHC 1017 (QB), [12].
258 CPR 40E PD para 4.1.
259 CPR 40E PD para 4.2.
260 CPR 40E PD para 5.1.

possible, as time will need to be allocated for the judge to hear representations. Such a hearing would usually last for 30 minutes. The judge will normally make a decision on consequential matters there and then.

11.6.15 If there are no oral submissions, and the parties make submissions in writing, the Court will consider these at a later date, decide what orders to make and give notice of the decision in writing.

11.6.16 The Judge in Charge of the Administrative Court has approved the arrangements for handing down judgments in Wales at Annex 6 of this Guide, which should be followed.

11.6.17 The ACO will send sealed copies of any orders approved by the judge to the parties. Until an order has been approved and sealed the parties should not assume that any agreed orders are approved. It is the order (not the judgment) that gives rise to legal effects and it is the order that can be enforced if a party fails to comply with its terms.

11.6.18 All judgments following substantive hearings and some judgments made on interlocutory applications are made publicly available at caselaw.nationalarchives.gov.uk. Judgments are also available at www.bailii.org. These sites do not charge for access.

12 Remedies

12.1 Introduction

12.1.1 A claimant must state in section 7 of the Claim Form what remedy is sought in the event that the claim succeeds. This section of the Guide discusses the remedies available.

12.2 Mandatory order

12.2.1 A mandatory order is an order the Court can make to compel a public body to act in a particular way.

12.3 Quashing order

12.3.1 In proceedings commenced before 14 July 2022, only one form of quashing order is available. The effect of this is the same as the old prerogative remedy of certiorari. It quashes, or sets aside, a challenged decision. The consequence of a quashing order is that the challenged decision does not have legal force or effect. It is also treated as if it never had such force or effect. It is sometimes said that a quashed decision is void ab initio (i.e. from the beginning).

12.3.2 After making a quashing order the Court will generally remit the matter to the public body decision maker and direct it to reconsider the matter and reach a fresh decision in accordance with the judgment of the Court.[261]

12.3.3 The Court has power to substitute its own decision for the decision which has been quashed. But this power applies only where (a) the decision in question was made by a Court or tribunal, (b) the decision is quashed on the ground that there has been an error of law and (c) without the error there would have been only one decision which the Court or tribunal could have reached.[262]

12.3.4 In proceedings commenced on or after 14 July 2022, a quashing order may include provision (a) for the quashing not to take effect until a date specified in the order, or (b) removing or limiting any

261 See section 31(5)(a) of the Senior Courts Act 1981 and CPR 54.19(2)(a).

262 See section 31(5)(b) and 31(5A) of the Senior Courts Act 1981 and CPR 54.19(2)(b).

retrospective effect of the quashing.[263] In either case, the provision may be subject to conditions.[264]

12.3.5 Where provision is made for the quashing not to take effect until a specified date, the impugned act is (subject to any conditions imposed) upheld (i.e. treated for all purposes as if its validity and force were, and always had been, unimpaired by the relevant defect) until the quashing takes effect.[265] However, once the quashing takes effect, the impugned act is treated as if it never had force or effect.[266]

12.3.6 Where provision is made for removing or limiting any retrospective effect of the quashing, the impugned act is (subject to any conditions imposed) upheld (i.e. treated for all purposes as if its validity and force were, and always had been, unimpaired by the relevant defect) in any respect in which the provision prevents it from being quashed.[267]

12.3.7 In deciding whether to exercise the power to make the provision described in para 12.3.4 above, the Court must have regard to:

(a) "the nature and circumstances of the relevant defect;

(b) any detriment to good administration that would result from exercising or failing to exercise the power;

(c) the interests or expectations of persons who would benefit from the quashing of the impugned act;

(d) the interests or expectations of persons who have relied on the impugned act;

(e) so far as appears to the court to be relevant, any action taken or proposed to be taken, or undertaking given, by a person with responsibility in connection with the impugned act;

263 Section 29A(1) of the Senior Courts Act 1981, as inserted by section 1 of the Judicial Review and Courts Act 2022.

264 Section 29A(2) of the Senior Courts Act 1981.

265 Section 29A(3) and (5) of the Senior Courts Act 1981.

266 Section 29A(6) of the Senior Courts Act 1981. or an example of a case in which a suspended quashing order was made, see R (ECPAT UK) v Kent County Council [2023] EWHC 2199 (Admin). At [6], it was said: "These provisions provide a remedial flexibility that was previously unavailable. They enable the court to deal with situations where one or more public authorities are engaged in conduct that is unlawful, but real harm would be caused if that conduct had to stop immediately. The court can set a date by which the unlawful conduct must be brought to an end while providing, subject to conditions under section 29A(2), that the conduct may continue in the meantime.

267 Section 29A(4) and (5) of the Senior Courts Act 1981.

(f) any other matter that appears to the court to be relevant."[268]

12.4 Prohibiting order

12.4.1 A prohibiting order prohibits a public body from doing something that the public body has indicated an intention to do but has not yet done.

12.5 Declaration

12.5.1 A declaration is a statement by the Court about how the law applies in a particular case or class of case. It is one way in which the Court can authoritatively declare the conduct or proposed conduct of a public body lawful or unlawful.

12.5.2 A declaration does not have any coercive effect. This means that it cannot be enforced. Failure to comply with the law as set out in a declaration is not a contempt of court. Public bodies are, however, expected to comply with the law as declared by the Court.[269]

12.5.3 A declaration can be a remedy on its own,[270] or can be granted in combination with other remedies. A claimant who has established that a public body has acted unlawfully will normally be entitled to a declaration to mark the illegality in cases where no other relief is appropriate, unless s. 31(2A) of the Senior Courts Act 1981 applies. However, the decision whether to grant a declaration is always discretionary.[271]

12.5.4 A declaration will generally not be granted where the question under consideration is hypothetical, nor where the person seeking the declaration has no real interest in it, nor where the declaration is sought without proper argument (e.g. in default of defence or on admissions or by consent).[272]

268 Section 29A(8) of the Senior Courts Act 1981.

269 See Craig v HM Advocate [2022] UKSC 6, [2022] 1 WLR 1270, [46].

270 CPR 40.20.

271 R (Good Law Project) v Secretary of State for Health and Social Care [2021] EWHC 346 (Admin), [2021] PTSR 2051, [152]. R (Good Law Project) v Secretary of State for Health and Social Care [2022] EWHC 46 (TCC), [2022] PTSR 644.

272 Re F [1990] 2 AC 1.

12.6 Declaration of incompatibility

12.6.1 If the Court determines that a provision in an Act of Parliament is incompatible with a Convention right, i.e. one of the rights from the European Convention of Human Rights scheduled to the Human Rights Act 1998, it may make a declaration of incompatibility.[273]

12.6.2 A declaration of incompatibility may be made in relation to other kinds of primary legislation[274] and subordinate legislation (for example an order, rules or regulations made under an Act of Parliament) if the Court is satisfied that (disregarding any possibility of revocation) the Act of Parliament concerned prevents removal of the incompatibility.[275]

12.6.3 The principles that relate to ordinary declarations (see para 12.5 of this Guide above), such as the requirement that a declaration will not be made in hypothetical circumstances, apply.[276]

12.6.4 A declaration of incompatibility does not affect the validity, continuing operation or enforcement of the provision in respect of which it is given and it is not binding on the parties to the proceedings in which it is made.[277] The declaration informs Parliament of the incompatibility of that provision with a Convention right.

12.6.5 The claimant must state in the remedies section of the Claim Form (section 7) if he or she is applying for a declaration of incompatibility, giving precise details of the Convention right said to have been infringed and the domestic law provision said to be incompatible with that right.[278]

12.6.6 The claimant should also ensure that the relevant Secretary of State (representing the Crown) is named as an interested party if a declaration of incompatibility is sought. In any event, where an application for a declaration of incompatibility has been made the Court may order that notice should be given to the Crown.[279] If the Court is considering making a declaration of incompatibility and the Crown is not already a party, the Court must inform the relevant

273 Sections 4(1) and 4(2) of the Human Rights Act 1998.
274 This is defined in section 21(1) of the Human Rights Act 1998.
275 Sections 4(3) and 4(4) of the Human Rights Act 1998.
276 See, for example, Taylor v Lancashire County Council [2005] 1 WLR 2668.
277 Section 4(6) of the Human Rights Act 1998.
278 CPR 54A PD para 4.7. CPR 16 PD para 14.1.
279 CPR 19.5(3). CPR 54A PD para 7.2.

Secretary of State and allow at least 21 days[280] to permit the Secretary of State to consider whether to intervene and make representations.[281]

12.7 Injunction

12.7.1 Injunctions are available in many different types of proceedings. In judicial review proceedings, an injunction is an order requiring a public body to act in a particular way (a positive or "mandatory" injunction) or prohibiting it from acting in a particular way (a negative or "prohibitory" injunction).

12.8 Damages

12.8.1 The Administrative Court has power to award damages and other monetary remedies (restitution and money due as a debt).[282] But this power can only be exercised if:

12.8.1.1 the claimant is also seeking another remedy;[283] and

12.8.1.2 the Court is satisfied that such an award would have been made if the claim had been made in an action begun by the applicant at the time of making the application.[284]

12.8.2 This latter condition reflects the principle that there is no general right to a monetary remedy flowing from unlawful conduct by a public body. A claimant who seeks a monetary remedy must identify a legal basis for that remedy (known as a "cause of action") in addition to establishing that the conduct challenged is unlawful. Causes of action commonly relied on in judicial review proceedings include false imprisonment, breach of statutory duty (including under the the Human Rights Act 1998), restitution of money paid pursuant to an unlawful statutory demand and conversion.[285]

12.8.3 Where the claim includes a claim for damages under the Human Rights Act 1998 it must be properly pleaded and particularised.[286]

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280 CPR 19.5(1).

281 Section 5(1) of the Human Rights Act 1998.

282 Section 31(4) of the Senior Courts Act 1981.

283 CPR 54.3(2).

284 Section 31(4)(b) of the Senior Courts Act 1981.

285 As to conversion, see Dalston Projects Ltd v Secretary of State for Transport [2023] EWHC 1106 (Admin), [6].

286 R (Nazem Fayad) v Secretary of State for the Home Department [2018] EWCA Civ 54, [54]-[56]. Claims for damages that are not adequately particularised may have costs consequences for the claimant.

12.8.4 Where the assessment and award of damages is likely to be a lengthy procedure, the general practice of the Court is to determine the judicial review claim, award the other remedy sought (if appropriate) and then transfer the claim either to the County Court or to an appropriate division of the High Court to determine the question of damages. All parties must address their minds to the possibility of transfer as soon as it becomes apparent that issues other than damages have been resolved.[287]

12.9 The grant of remedies

12.9.1 Remedies in judicial review proceedings are in the discretion of the Court.

12.9.2 Even where a claimant shows that a defendant has acted unlawfully, the Court may refuse to grant a remedy, in particular where:[288]

12.9.2.1 the claimant has delayed in filing the application for judicial review and the Court considers that the granting of the remedy sought would be likely to cause substantial hardship to, or would substantially prejudice the rights of any person, or would be detrimental to good administration;[289]

12.9.2.2 the error of law made by the public body was immaterial to its decision;

12.9.2.3 the remedy would serve no useful practical purpose; or

12.9.2.4 the claimant has suffered no harm or prejudice.

12.9.3 Whether damages or other monetary remedies are awarded can give rise to different considerations.

12.9.4 The Court may grant more than one remedy where appropriate.

287 See R (ZA (Pakistan)) v Secretary of State for the Home Department [2020] EWCA Civ 146, [72].

288 See R (Baker) v Police Appeals Tribunal [2013] EWHC 718 (Admin).

289 Section 31(6)(b) of the Senior Courts Act 1981.

12.10 Remedies where the outcome would not have been substantially different if the conduct complained of had not occurred

12.10.1 If the claimant is successful in judicial review proceedings, but the Court considers that it is highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred, then the Court must refuse to grant any form of relief, and may not award damages, unless the Court considers it appropriate to do so for reasons of exceptional public interest.[290]

290 Sections 31(2A) and (2B) Senior Courts Act 1981.

13 Case Management

13.1 Case management in the Administrative Court

13.1.1 All proceedings in the Administrative Court are conducted in accordance with the principles listed in the overriding objective at CPR 1.1.

13.1.2 The overriding objective requires all cases to be dealt with justly and at proportionate cost. Dealing with a case justly and at proportionate cost includes:[291]

13.1.2.1 ensuring that the parties are on an equal footing;

13.1.2.2 saving expense;

13.1.2.3 dealing with it in ways which are proportionate to the amount of money involved, to the importance of the case, to the complexity of the issues and to the financial position of each party;

13.1.2.4 ensuring that it is dealt with expeditiously and fairly;

13.1.2.5 allotting to it an appropriate share of the Court's resources, while taking into account the need to allot resources to other cases; and

13.1.2.6 ensuring compliance with rules, Practice Directions and orders.

13.1.3 In ensuring that the overriding objective is complied with, the Court must actively manage cases,[292] which includes (but is not limited to) the following:

13.1.3.1 encouraging the parties to co-operate with each other in the conduct of the proceedings;

13.1.3.2 identifying the issues at an early stage;

13.1.3.3 deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;

291 CPR 1.1(2).

292 CPR 1.4.

13.1.3.4 deciding the order in which issues are to be resolved;

13.1.3.5 encouraging the parties to use an alternative dispute resolution use of such procedure;

13.1.3.6 helping the parties to settle the whole or part of the case;

13.1.3.7 fixing timetables or otherwise controlling the progress of the case;

13.1.3.8 considering whether the likely benefits of taking a particular step justify the cost of taking it;

13.1.3.9 dealing with as many aspects of the case as it can on the same occasion;

13.1.3.10 dealing with the case without the parties needing to attend at Court;

13.1.3.11 making use of technology; and

13.1.3.12 giving directions to ensure that the trial of a case proceeds quickly and efficiently.

13.1.4 The parties are required to help the Court to further the overriding objective.[293]

13.1.5 This Chapter of the Guide is intended to provide more detail on what is expected from the Court, the ACO, and the parties in order to further the overriding objective.

13.2 Duties of the parties

13.2.1 The parties must make efforts to settle the claim without requiring the intervention of the Court. It is preferable to settle the claim before it is started. However, even after the claim has started, the parties must continue to evaluate their positions, especially after any indication from the Court (such as the refusal or grant of permission to apply for judicial review). The parties should consider using alternative dispute resolution (for example, mediation) to explore settlement of the case, or at least to narrow the issues in the case.

13.2.2 CPR Part 54 does not provide for a formal case management hearing in judicial review proceedings. However, the parties may apply for an interim order or the Court may make case management orders

293 CPR 1.3.

with or without a hearing. It is not uncommon that the first time the parties appear in Court before the judge is at the final hearing of the claim. The parties therefore have a duty to ensure that they maintain effective, constructive and regular communication with each other and with the ACO.

13.2.3 The parties must comply with the procedural provisions in the CPR, the relevant Practice Directions and orders of the Court (including orders by ACO lawyers). If a party knows he that or she will not be able to comply with directions or orders the ACO and the other parties should be informed as soon as possible. An application to extend time for any particular step to be taken should be made as soon as it becomes apparent that the extension is required. The application should be made in accordance with the interim applications procedure in para 13.7 of this Guide.

13.2.4 If a party is aware that there may be a need to apply for an interim order, the agreement of the other parties to the claim should be sought. In default of agreement, the ACO should be informed. The application should then be made as quickly as possible. Delay in making an application, especially where it requires urgent consideration, is a factor which may weigh against the granting of the order sought.

13.2.5 If the parties are able to agree the form of any case management order and/or interim relief, an agreed draft order (known as a draft consent order) should be filed, which will be subject to the Court's approval. A fee is payable when submitting a draft consent order and the reasons for requesting the order should be included in an accompanying application notice (N244). A draft order (even if is agreed by the parties) does not have the status of an order until it has been approved by the Court.

13.2.6 The parties should also comply with any requests from ACO staff members (such as requests for documents or information). Whilst these requests do not have the force of an order of the Court, failure to comply with such a request may be a factor considered by a judge or ACO lawyer that weighs against granting an interim order, permission to apply for judicial review, substantive relief or costs.

13.2.7 If the parties are aware that a case is likely to settle without the further involvement of the Court the ACO should be informed as soon as possible.

13.3 Role of the Administrative Court Office staff

13.3.1 The staff members in the ACO handle the day to day running of cases.

13.3.2 ACO staff members are not legally qualified and cannot give legal advice on the merits of the claim. Staff members may be able to assist with the basic judicial review procedure. However, any advice from a member of staff as to procedure must not be considered to circumvent any legal provision (be that provision in statute, case law, the CPR, or a Court order) or the provisions of this Guide. Parties and the Court are responsible for the conduct of proceedings and the parties will not be able to rely on advice from the ACO as a reason for not complying with legal provisions.

13.3.3 ACO staff may contact the parties to request information or specific documents if that information or document is required under the CPR or is thought to be necessary to allow the Court to properly consider or case manage the claim. The parties should comply with any requests unless they are unable to do so, when written reasons should be given for the failure.

13.3.4 ACO staff have a duty to ensure that cases are being conducted by the parties in accordance with the overriding objective. Where it appears that a case is not being conducted in accordance with the overriding objective they have a duty to either make enquiries of the parties to establish the proper further course of action and/or to refer the case to an ACO lawyer or judge to consider further case management.

13.4 Role of the Administrative Court Office lawyers

13.4.1 An ACO lawyer must be a qualified solicitor or barrister or a Fellow of the Chartered Institute of Legal Executives.

13.4.2 ACO lawyers are independent of the parties. They do not give advice on the merits of the claim. An ACO lawyer may draw the parties' attention to provisions or precedents that may have an impact on the claim. If this is done the parties should consider what is said, but this should not be considered to be formal legal advice or a determination on the law. The parties have responsibility for the conduct of their own claim and the decision on the law is the preserve of the judge who considers the claim.

13.4.3 The role of the ACO lawyer is to provide advice on practice and procedure in the Administrative Court to whoever requires it; be that judges, ACO staff, practitioners, or litigants; to undertake legal research for the judges of the Administrative Court; and to communicate with the parties and exercise delegated judicial powers to ensure that cases in the Administrative Court are managed properly.

13.4.4 An ACO lawyer has a duty to ensure that the case is managed in accordance with the overriding objective and may enter into discussions with the parties or make case management orders (when applied for, when a case is referred to them by an ACO staff member, or of his/her own volition) to further the overriding objective and properly manage the case. Any order of an ACO lawyer will always be made after consideration of the papers without a hearing.

13.4.5 The specific powers that the ACO lawyer may exercise are delegated by the President of the King's Bench Division[294] and include:

13.4.5.1 determining when an urgent application should be referred to a judge;

13.4.5.2 adding, removing, or correcting parties other than interveners;

13.4.5.3 extending or abridging the time for the filing of any document required by the CPR, Practice Direction or court order;

13.4.5.4 extending the time of any procedural step required of a party;

13.4.5.5 directing the filing of any document required for the proper disposal of the case;

13.4.5.6 dismissing a claim or application when a party has failed to comply with any order, rule or Practice Direction;

13.4.5.7 determining applications for relief from sanctions;

13.4.5.8 determining applications to stay proceedings by consent or otherwise;

13.4.5.9 mandatory transfer of claims to the Upper Tribunal;

294 CPR 54.1A(1).

13.4.5.10 ordering that the Court is minded to transfer the claim to a different region, which order will result in transfer if no objection is received;[295]

13.4.5.11 determining applications by solicitors to come off record;

13.4.5.12 determining applications to vacate or adjourn hearings;

13.4.5.13 determining any application for an agreed judgment or order for the disposal of the proceedings.[296]

13.4.6 If a party is not content with an order of the ACO lawyer the party may request that the order is reviewed by a judge.[297] The review may take place on the papers or, if the party requesting the review asks for one, by way of an oral hearing.[298] The request for a review must be made by filing the request in writing (a letter or application notice may be used) within 7 days of the date on which the party was served with the ACO lawyer's order.[299] If the request is filed in time, there is no fee. If not, an application notice (N244) must be filed with the relevant fee.

13.5 The Master of the Administrative Court

13.5.1 The Master has the power to make any order unless the CPR provides otherwise. In judicial review proceedings this means that the Master may deal with interim applications that do not come within the powers delegated to the ACO lawyers. This includes determining liability for costs and making summary assessments of costs (see Chapter 25 of this Guide for costs). The Master may make orders with or without a hearing.[300]

13.5.2 Any challenge to the terms of an order made by the Master without a hearing must be made by applying for reconsideration of the order at an oral hearing.[301] The application must be made on Form N244 and the relevant fee is payable. The hearing will be listed before a judge.

295 Where an objection is received the final decision on transfer will be taken by a judge.

296 ACO lawyers will only be able to approve if permission has already been granted as they are subject to the restriction under CPR 54.1A(3)(a).

297 CPR 54.1A(5).

298 CPR 54.1A(5)-(6). See also: Courts and Tribunals Judiciary, Administrative Court User Group meeting minutes. Available at: www.judiciary.uk/courts-and-tribunals/high-court/administrative-court/administrative-court-user-group-meeting-minutes

299 CPR 54.1A(7).

300 CPR 23.8.

301 R (MD (Afghanistan)) v Secretary of State for the Home Department [2012] EWCA Civ 194, 1 WLR 2422.

13.5.3 A challenge to an order made by the Master at an oral hearing must be made by appealing to a High Court judge (see para 26.5 of this Guide).[302]

13.6 Role of the judiciary

13.6.1 Judges of the Administrative Court have all the powers of the High Court under statute, the CPR and the inherent jurisdiction of the Court.

13.6.2 Case management orders made without a hearing can (on the application of a party) be reconsidered at oral hearings (see para 16.7 of this Guide). If a party wishes to challenge an order made following an oral hearing, the challenge is made by appeal to the Court of Appeal (see para 26.4 of this Guide).

13.7 Applications once a claim has commenced

13.7.1 An application for directions or an interim order can be made at any time after commencement of the claim.[303] For pre-commencement applications, see para 16.2 of this Guide. For applications for interim relief, see Chapter 16 of this Guide.

13.7.2 To make such an application:

13.7.2.1 the application must be filed with the ACO on an application notice. If the application needs to be decided within 7 days, it should be made on Form N463. Any other application should be made on Form N244;

13.7.2.2 the application must be accompanied by payment of the relevant fee;

13.7.2.3 the application must be accompanied by evidence stating why the direction or order is required; and

13.7.2.4 a draft order should be enclosed with the application.

13.7.3 When making an application, it is best practice to prepare an application bundle which should be indexed and paginated.[304] Where the application notice is filed by email with multiple or poorly-labelled

302 CPR 52A PD para 4.3.

303 CPR 23.

304 When making an application for urgent consideration (Form N463), an indexed and paginated application bundle must be filed at the same time in accordance with CPR 54B PD para 1.3. See Chapter 17 of this Guide.

attachments, the Court may direct the preparation of such a bundle. Any electronic bundle should be prepared in accordance with the Guidance at Annex 9.

13.7.4 A copy of the application, evidence and accompanying draft order should be sent to the other parties to the claim to give them notice that the application is being made. Where the application has been made without giving notice to the other parties, the evidence supporting the application should explain why.

13.7.5 In the application notice the applicant may request that the application be considered at a hearing or by a judge on the papers. In either case, the ACO will send the papers to a judge, Master, or ACO lawyer to consider in the first instance. An order may be made on the papers alone if a hearing is not appropriate. Otherwise, a hearing may be listed, usually at short notice (see para 14.2.2 of this Guide).

13.7.6 It is the responsibility of each party to indicate a time estimate for any hearing to determine the application. This should include time for giving judgment.

13.7.7 The parties should agree any case management order if possible. If so, the application may be made by consent, although the Court has a discretion whether to grant or refuse or vary the agreed order. Applications made by consent in this way are made in accordance with the procedure outlined at para 24.4 of this Guide. (This deals with consent orders to end the claim, but the procedure is identical.)

13.7.8 Where a rule or court order expressly states that the parties may make an "application" (e.g. "the claimant may make an application for permission to adduce further evidence within 21 days"), the procedure outlined in this paragraph will be applicable:

13.7.8.1 If the application is made within any applicable time limit, the relief from sanction principles (see para 13.9 of this Guide) do not apply.

13.7.8.2 Where a rule or court order allows for "representations" (for example, "the claimant may make representations on costs within 7 days"), it is permissible to file the written representations without the need for a formal application.

13.7.8.3 If they are emailed, the representations should be in the form of an attached Word document.

13.7.8.4 If the representations are not received within any applicable time limit then an application must be made, in accordance with this paragraph and para 13.9, to extend the time limit.

13.7.8.5 The Court may make an order of its own initiative, without hearing the parties or giving them an opportunity to make representations.[305] Where the Court makes such an order, a party may apply to have it set aside, varied or stayed.[306]

13.8 Applications for a claim to be stayed

13.8.1 If any party wishes to stay a claim (i.e. to suspend or freeze the progress of the claim), an application must be made to the Court (see para 13.7 of this Guide for the procedure). Save in exceptional circumstances, the party should seek the agreement of other parties to a stay and the application should be made on notice to them.

13.8.2 The duration of the proposed stay must be made clear in the application notice. Usually, a stay is sought pending the outcome of a particular event (for example, the conclusion of a related Tribunal appeal or a lead case in the Court of Appeal) or for a specific period of time (not usually exceeding a few weeks or months).

13.8.3 A stay will not normally be permitted to enable the defendant to reconsider the decision under challenge in the claim. Where the defendant agrees to reconsider, the judicial review claim should generally be withdrawn. A fresh claim can then be brought if the claimant wishes to challenge the reconsideration.[307] In any event, the Court's permission will be required to amend the Claim Form in light of any subsequent decision: see para 7.11 (pre-permission) and 10.2 (post-permission) of this Guide for further guidance on this principle).

305 CPR 3.3(4).

306 CPR 3.3(5).

307 See R (Bhatti) v Bury Metropolitan Borough Council [2013] EWHC 3093, and R (Yousuf) v Secretary of State for the Home Department [2016] EWHC 663 (Admin).

13.9 Relief from sanctions

13.9.1 Where a party has failed to comply with a provision under the CPR, a Practice Direction or an order of the Court which specifies a sanction for non-compliance, or a sanction can otherwise be implied, and the party wishes to set aside the sanction, that party must apply for relief from sanction.[308] If this is not done, the Court may refuse to consider that party's case[309] and/or make an adverse costs order against the party.[310] An implied sanction is a sanction that is not expressly imposed by a rule or direction but the consequence of a failure to comply would be the same as if the rule expressly imposed a sanction for non-compliance (for example, if a party fails to file an appeal notice or renewal notice within the relevant time period, and does not obtain an extension of time from the Court, the claim cannot proceed; the implied sanction is therefore one of striking out).[311]

13.9.2 An application for relief from sanction must be made using the interim applications procedure (see para 13.7 of this Guide). The application for relief from sanction may be considered by an ACO lawyer, the Master, or a judge.

13.9.3 When considering whether to grant an application for relief from sanction, the ACO lawyer, the Master, or a judge, must consider the principles outlined in Denton v T.H. White Ltd [2014] EWCA Civ 906, [2014] 1 WLR 3926. The three stages set out in Denton at [25]-[38] should be considered if making such an application.

308 CPR 3.8(1) and R (Hysaj) v Secretary of State for the Home Department [2014] EWCA Civ 1633. In Hysaj a failure to file an appellant's notice in time required an application to extend time to file the notice retrospectively or the appeal could not progress. The Court of Appeal held that the relief from sanctions provisions applied as the lack of ability to appeal unless an extension of time was granted was an implied sanction. In R (Fayad) v SSHD [2018] EWCA Civ 54, the Court of Appeal confirmed at [22] that the approach to be adopted to applications for extension of time in judicial review cases was that set out in Denton v TH White Ltd [2014] EWCA Civ 906, citing Hysaj. See also R (Liberty) v SSHD and SSFCO (Procedural Matters) [2018] EWHC 976 (Admin), [3].

309 CPR 3.4(2)(c).

310 CPR 44.2(4)(a), CPR 44.2(5)(c) and CPR 44.4(3)(a)(i).

311 See Sayers v Clarke Walker [2002] EWCA Civ 645 and Altomart Ltd v Salford Estates (No.2) Ltd [2014] EWCA Civ 1408.

13.10 Abuse of the Court's process

13.10.1 The Court will ensure that its process is not abused. If a party, a legal representative, or any other person acts in a way thought to be inappropriate the Court may:

13.10.1.1 strike out a statement of case;[312]

13.10.1.2 make an adverse costs order requiring the person to pay a party's costs (see para 25.1 of this Guide);[313]

13.10.1.3 make a wasted costs order requiring a legal representative to pay a party's costs (see para 25.13 of this Guide);[314]

13.10.1.4 refer a legal representative to their regulatory body to consider further sanctions (see Chapter 18 of this Guide);[315]

13.10.1.5 make a civil restraint order (see Chapter 5 of this Guide).[316]

13.10.2 Before making any of these orders, the Court will usually give the relevant party, legal representative, or third party the opportunity to make representations.

13.10.3 Abuse of process includes (but is not limited to) acting in bad faith or with an improper purpose, attempting to re-litigate a decided issue and/or persistent failure to comply with rules or orders of the Court.[317]

13.11 Communications which are abusive or otherwise improper

13.11.1 The ACO is generally in a position to communicate with the parties by telephone, email, or post (see para 7.8 of this Guide, Annex 1 and Annex 9 for details) and will respond to communications if the communication so requires. The exception is where a person is subject to a notification of restricted communication.

312 CPR 3.4(2).

313 CPR 44.2(4)(a), CPR 44.2(5) and CPR 44.4(3)(a)(i).

314 Section 51(6) of the Senior Courts Act 1981 and CPR 46.8.

315 R (Hamid) v SSHD [2012] EWHC 3070 (Admin).

316 CPR 3.11, CPR 3C PD, and CPR 23.12.

317 Examples taken from Halsbury's Laws of England, Volume 11, Civil Procedure (2015), Part 19, §1044, and from R (Ashraf) v Secretary of State for the Home Department [2013] EWHC 4028 (Admin).

13.11.2 Such a notification will be sent by the manager of the ACO if it is considered that the person has been communicating with the ACO in a manner which is:

13.11.2.1 aggressive, intimidating, or harassing; or

13.11.2.2 persistent, time-consuming, and without proper purpose.

13.11.3 Its purpose is to inform the person that the form in which communication with the ACO is permitted is restricted to the manner outlined in the notice, that all other forms of communication will be ignored and that a communication in the permitted form will be responded to only if the communication raises a new issue that requires a response from the ACO.

13.11.4 Notifications of restricted communication will be sent in writing to the last known address for the person subject to the notification.

13.11.5 The person subject to the notification may request in writing at any time that the ACO manager rescinds the notification at his/her discretion. Such a request should include reasons for the request and will be responded to in writing.

13.11.6 A notification of restricted communication is made by the manager of the ACO as an employee of HMCTS. Any complaint against such a notification must be made in accordance with the HMCTS complaints policy.

13.11.7 The Court, under its inherent jurisdiction to control its own proceedings, may also make, rescind, or vary a notification of restricted communication.

13.11.8 Communications with the Court in which any representation is made on a matter of substance or procedure – and which is not purely routine, uncontentious or administrative – must, absent an identified compelling reason, be copied to all other parties and their representatives.[318] This applies even where a party to the claim is in custody or otherwise detained.[319]

318 CPR 39.8.

319 R (Paul Black) v Secretary of State for Justice [2024] EWHC 1376 (Admin), [6].

13.12 Communications about removal decisions

13.12.1 From now on, where proceedings have been filed or threatened, any communication to the Administrative Court about a removal which is not copied to the other party or parties should: (a) make clear in the subject line that it has not been copied to other parties; (b) indicate whether this is because the communication is "routine, uncontentious and administrative" in nature (CPR 39.8(2)) or because there is a compelling reason not to copy it to the other party (CPR 39.8(3)); (c) if CPR 39.8(3) is relied on, set out the "compelling reason" why it has not been so copied and record that the author considers that the reason applies to the whole content of the communication; (d) explain what the claimant has been told about the matters being communicated to the court; and (e) record that the author is satisfied that this complies with the defendant's duty of candour, with a brief explanation of the reasons why.[320]

320 R (Jasseh) v Secretary of State for the Home Department [2025] EWHC 47 (Admin), [23].

14 Listing

14.1 Listing policy

14.1.1 The Administrative Court Listing Policy is at Annex 4 to this Guide. This section of the Guide will summarise the procedure in the policy, but the policy itself should be referred to for full details.

14.1.2 The policy is intended to be applied flexibly. The ACO may, where it considers it appropriate to do so, list cases otherwise than in accordance with the policy.

14.1.3 A particular case may be listed in a particular way by reason of a judicial order.

14.2 Listing procedure

14.2.1 Permission hearings will usually be fixed for a date without seeking the views of representatives. Several weeks' notice of the hearing will normally be given.

14.2.2 Interim relief hearings are usually listed in the same way as permission hearings. If interim relief is required urgently the hearing may be listed at short notice with little or no consultation as to the availability of the parties. The application will usually be fixed on the basis that it will take no longer than 30 minutes to hear, unless a different time estimate is required by a judge, master, or ACO lawyer. If a party considers that the application will require a longer hearing, the suggested time estimate must be confirmed as soon as possible, in writing with reasons, and is subject to the Court's approval.

14.2.3 For substantive hearings, the ACO will usually attempt to agree a suitable date for the hearing. In cases where counsel is involved, this will generally occur in one of two ways:

14.2.3.1 In the ACO in London, the ACO will telephone or email counsel's clerks and/or solicitors to arrange an appointment to fix the hearing. Five working days' notice will be given of the appointment. At the appointment, if parties are unable to agree a date that is also acceptable to the Court, the ACO will list the matter for first available date convenient to the Court.

14.2.3.2 In ACOs outside London, the ACO will either email or telephone counsel's clerks or solicitors for all sides to request the dates of availability for counsel on the Court record (that is to say the Court has been informed counsel is/are acting). Unless availability is provided over the telephone at the time of the initial contact the clerk will be informed that details of availability must be provided within 48 hours, otherwise the ACO will list the matter for first available date convenient to the Court. If the availability of all counsel corresponds, the ACO will check for judicial availability and list accordingly; alternatively, if parties are unable to agree a date that is also acceptable to the Court, the ACO will list the matter for first available date convenient to the Court.

14.2.4 In some planning cases, it may be necessary for dates to be imposed so that cases are heard within an appropriate timescale.[321]

14.2.5 Due to limited judicial time the ACO is unable routinely to take into account the availability of instructing solicitors.

14.2.6 If there are good reasons why a litigant in person is unable to attend on particular dates, the ACO will take this into account when listing.

14.2.7 A substantive hearing will be allocated a hearing time estimate either by the judge granting permission or by the ACO. If a party considers that the application will require a longer hearing, the suggested time estimate must be confirmed as soon as possible, in writing with reasons, and is subject to the Court's approval.

14.2.8 Once the hearing has been listed, all parties will be sent a listing notice by the ACO which confirms the date, location, and time estimate for the hearing. The start time of the hearing will not be in the listing notice. Generally, Administrative Court hearings start at 10.30 am, but this may be changed up to 2 pm on the day before the hearing. The parties should check the start time on the day before the hearing by telephoning the ACO or visiting www.gov.uk/government/collections/royal-courts-of-justice-and-rolls-building-daily-court-lists.

321 Westminster City Council v Secretary of State for Housing, Communities and Local Government [2020] EWHC 1472 (Admin), [61].

14.3 Divisional Courts

14.3.1 A Divisional Court consists of two or more judges sitting together.

14.3.2 Divisional Courts may be convened for any case in the High Court.[322] They are generally convened for cases that raise issues of general public importance or criminal cases where there is no right of appeal to the Court of Appeal[323] which are not straightforward or are likely to set a precedent. A direction that the substantive hearing will be before a Divisional Court may be given by the judge granting permission[324] or at any time thereafter. Before making such a direction, the judge should seek the approval of the President of the King's Bench Division.

14.3.3 If a judicial review claim is allocated to the Divisional Court, the listing arrangements may differ, particularly if the case is urgent. The ACO will not be able to offer as many available dates for a hearing and will not generally take account of the availability of counsel when listing the hearing.

14.4 Applying to adjourn a hearing that has been listed

14.4.1 If a party wishes to apply to adjourn a listed hearing the application must be made in one of the following ways:

14.4.1.1 By agreeing with all other parties that the hearing should be adjourned and filing a draft consent order for the approval of the Court.[325] The order must be signed by all parties and accompanied by the relevant fee (although see para 14.4.1.2 below). The parties may also include further directions in such a draft order. The parties should not assume that a hearing has been adjourned unless they have been informed by the ACO that the consent order has been approved. Reasons for the hearing being adjourned should be provided.

322 Section 66 of the Senior Courts Act 1981.

323 See para 25.7 of this Guide.

324 CPR 54.10(2)(b).

325 See para 24.4 of this Guide for the procedure for filing a consent order in the context of ending a claim – the procedure is identical.

14.4.1.2 If the parties agree a consent order to adjourn the hearing, which does not seek other directions, and they file the draft consent order with the ACO more than 14 days before the hearing, then no fee is payable. The request should be made on form AC001. The other provisions noted at paras 14.4.1.1 and 24.4 of this Guide will still apply.

14.4.1.3 If the parties cannot agree a consent order, a party may make an application to adjourn the hearing (see the interim applications procedure at para 13.7 of this Guide). Such an application must be made on Form N244 and be accompanied by the relevant fee. The application notice should include the reasons for the request, any attempts made to agree the request with the other parties and any responses from the other parties to that request. A draft of the order sought should also be attached to the application.

14.4.2 The decision to adjourn a listed hearing is made by a judge, not the ACO. Even if all parties agree, an adjournment will not be granted without good reason. Where the sole reason is the unavailability of counsel, the application is unlikely to be granted.

14.5 Applying to attend a hearing remotely

14.5.1 The default position is that hearings take place in a court room, with all parties attending in person, unless the Court otherwise directs.

14.5.2 If a party wishes to apply to attend a hearing remotely, an application must be made. Any such application must be made in accordance with the interim applications procedure (see para 13.7 of this Guide).

Part C: Specific Practice Points

15 The duty of candour and co-operation with the Court

15.1 The duty

15.1.1 In most civil claims, the parties are required to give standard disclosure pursuant to CPR Part 31. In judicial review claims, disclosure is not required unless the Court orders otherwise.[326]

15.1.2 However, in judicial review proceedings there is a special duty which applies to all parties: the "duty of candour". This requires the parties to assist the Court by ensuring that information relevant to the issues in the claim is drawn to the Court's attention, whether it supports or undermines their case.

15.1.3 Where a party relies on a document, and the document is significant to the decision under challenge, it will be good practice to disclose the document rather than merely summarise it, because the document is the best evidence of what it says.[327] The same may be true in other situations, for example where the precise terms of a document are relevant to an issue in the case. In such situations, it may in practice be difficult to comply with the duty of candour without disclosing the document.

15.1.4 However, this may not be enough. The duty of candour may also require the party in its statements of case to identify and explain the significance of information and/or documents adverse to that party's case.[328]

326 CPR 54A PD para 11.2.

327 Tweed v Parades Commission for Northern Ireland [2006] UKHL 53, [2007] 1 AC, 650, [4] and [39].

328 See R (Hoareau) v Secretary of State for Foreign and Commonwealth Affairs [2018] EWHC 1508 (Admin), [19]-[20]. R (Citizens UK) v Secretary of State for the Home Department [2018] EWCA Civ 1812, [2018] 4 WLR 123, [105]-[106]. R (Police Superintendent's Association) v The Police Remuneration Review Body [2023] EWHC 1838 (Admin), [16]-[18].

15.2 The duty as it applies to claimants and their representatives

15.2.1 A claimant is under a duty to make full disclosure to the Court of material facts and known impediments to the claim (e.g. alternative remedy, delay, adverse case law, statutory ouster, change of circumstances).[329] This duty is a continuing one: it applies throughout the judicial review procedure.

15.2.2 The fact that a defendant has a right to file an Acknowledgment of Service and summary grounds of defence does not justify a claimant in taking a more relaxed view of the duty of candour.[330]

15.2.3 The duty of candour applies to all claims and applications. However, it applies with particular force to applications made in circumstances where the other party or parties will not have the opportunity to respond (such as urgent applications). In this context, the claimant must:[331]

15.2.3.1 disclose any fact (whether it supports or undermines the application) which it is material for the Court to know when dealing with the application, including (for example) any fact which is relevant to the degree of urgency;

15.2.3.2 make the Court aware of the issues that are likely to arise and the possible difficulties in the application or underlying claim; and

15.2.3.3 present the information in a fair and even-handed manner, and in a way which is not designed simply to promote his own case.

15.2.4 The duty of co-operation with the Court means that claimants and their representatives must reassess the viability and propriety of a challenge, and review the claimant's continued compliance with the duty of candour, as the claim progresses and in particular:

329 See Sir Michael Fordham, Judicial Review Handbook (7th edition, 2020), §10.3. The equivalent passage in a previous edition was approved by Sedley LJ in R (Khan) v Secretary of State for the Home Department [2008] EWHC 1367 (Admin), [12]. See also R (Caterpillar (Xuzhou) Ltd) v Secretary of State for Business and Trade [2025] EWHC 1124 (Admin), [164].

330 R (Khan) v Secretary of State for the Home Department [2016] EWCA Civ 416, [35]-[36].

331 R (DVP) v Secretary of State for the Home Department [2021] EWHC 606 (Admin), [8]-[9], approving the 2020 edition of this section of the Guide.

15.2.4.1 in light of the defendant's Acknowledgment of Service and summary grounds of defence;[332]

15.2.4.2 in the light of the detailed grounds of defence and evidence;[333] and

15.2.4.3 in the light of any material change of circumstances.[334]

15.3 The duty as it applies to defendant public authorities and their representatives[335]

15.3.1 A public authority's duty of candour and co-operation with the Court is "self policing". There is a particular obligation on solicitors and barristers acting for public authorities to ensure that it is fulfilled. The duty arises because public authorities are engaged in a common enterprise with the Court to fulfil the public interest in upholding the rule of law. They are accordingly required to assist the Court with full and accurate explanations of all the facts relevant to the issues which the Court must decide.[336]

15.3.2 The duty of candour is owed to the Court once judicial review proceedings have been commenced, although it is good practice to demonstrate candour at the pre-action stage.[337] It should be reflected in Summary Grounds, Detailed Grounds, witness statements and in counsel's written and oral arguments. What is required to discharge the duty at the substantive stage will be more extensive than what is required before permission has been granted..[338]

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332 R (Ben Hoare Bell Solicitors) v Lord Chancellor [2015] EWHC 523 (Admin), [43].

333 R (Bateman) v Legal Services Commission [2001] EWHC 797 (Admin), [21].

334 R v Horseferry Road Magistrates' Court ex p. Prophet [1995] Env LR 104, 112. R (Ben Hoare Bell Solicitors) v Lord Chancellor [2015] EWHC 523 (Admin), [43].

335 This section in the 2022 edition of the Guide was approved by the Divisional Court as sufficiently summarising the law as it applies to defendant public authorities and their representatives: R (HM) v Secretary of State for the Home Department [2022] EWHC 2729 (Admin), [15].

336 R (Hoareau) v Secretary of State for Foreign and Commonwealth Affairs [2018] EWHC 1508 (Admin), [18]-[20]. R (Citizens UK) v Secretary of State for the Home Department [2018] EWCA Civ 1812, [2018] 4 WLR 123, [105]-[106].

337 National Bank of Anguilla (Private Banking and Trust) Ltd (in Administration) v Chief Minister of Anguilla [2025] UKPC 14, [91].

338 R (Terra Services Ltd) v National Crime Agency [2019] EWHC 1933 (Admin), [9], [14]. See also R (Batmanghelidjh) v Charity Commission [2022] EWHC 3261 (Admin), approving this part of para 15.3.2 in the 2022 edition of the Guide.

15.3.3 At the permission stage, the Summary Grounds should identify any material facts, highlight any material matters of factual dispute and provide a brief summary of the reasoning underlying the measures in respect of which permission to apply for judicial review is sought (unless the defendant gives reasons why the application for permission can be determined without that information).[339] What the Court requires at the permission stage is sufficient information to be able to decide the application on an accurate basis.[340] The Court can take into account a lack of candour in deciding whether to grant permission.[341]

15.3.4 At the substantive stage, the duty requires a defendant in the detailed grounds of defence or evidence to identify any relevant facts and the reasoning underlying the measure in respect of which permission to apply for judicial review has been granted.[342] The duty of candour is a continuing one[343] and applies after detailed grounds and evidence have been filed and served.

15.3.5 The duty of candour means that:

15.3.5.1 the process of preparing statements of case and evidence must be conducted "with all the cards face upwards on the table";[344] public authorities must not be selective in their disclosure;[345]

15.3.5.2 pleadings and evidence must be drafted in clear, unambiguous language, must not deliberately or unintentionally obscure areas of central relevance and

339 CPR 54A PD para 6.2(2).

340 National Bank of Anguilla (Private Banking and Trust) Ltd (in Administration) v Chief Minister of Anguilla [2025] UKPC 14, [92].

341 National Bank of Anguilla (Private Banking and Trust) Ltd (in Administration) v Chief Minister of Anguilla [2025] UKPC 14, [93].

342 CPR 54A PD para 10.1.

343 R (Legard) v Royal London Borough of Kensington and Chelsea [2018] EWHC 32 (Admin), [174].

344 R v Lancashire County Council ex p. Huddleston [1986] 2 All ER 941, 945. R (Hoareau) v Secretary of State for Foreign and Commonwealth Affairs [2018] EWHC 1508 (Admin), [16].

345 Lancashire County Council v Taylor [2005] 1 WLR 2668, [60]. R (National Association of Health Stores) v Secretary of State for Health [2005] EWCA Civ 154, [47]. R (Hoareau) v Secretary of State for Foreign and Commonwealth Affairs [2018] EWHC 1508 (Admin), [21].

must not be ambiguous or economical with the truth or contain "spin";[346] and

15.3.5.3 pleadings and evidence must not mislead by omission, for example by non-disclosure of a material document or fact or by failing to identify the significance of a document or fact.[347]

15.3.6 The duty of co-operation with the Court means that defendants and their representatives have an ongoing duty to consider whether their defence remains viable, particularly after the grant of permission.[348]

15.4 Interested parties

15.4.1 The duty of candour applies to interested parties.[349] The same is true of the duty to co-operate with the Court.

15.5 Redactions

15.5.1 Parts of a document which otherwise fall to be disclosed under the duty of candour may be redacted if those parts:

15.5.1.1 are confidential **and** irrelevant to the issues in the case;[350]

15.5.1.2 attract legal professional privilege;

15.5.1.3 are subject to a statutory restriction on their disclosure; or

15.5.1.4 attract public interest immunity (See Chapter 19 of this Guide).

346 In the Matter of an Application by Brenda Downes for Judicial Review [2006] NIQB 77, [31]. R (Hoareau) v Secretary of State for Foreign and Commonwealth Affairs [2018] EWHC 1508 (Admin), [22]. R (Citizens UK) v Secretary of State for the Home Department [2018] EWCA Civ 1812, [2018] 4 WLR 123, [106(4)].

347 R (Citizens UK) v Secretary of State for the Home Department [2018] EWCA Civ 1812, [2018] 4 WLR 123, [106(5)].

348 See the observations about the analogous duty on parties to appeal proceedings in R (N) v North Tyneside Borough Council [2010] EWCA Civ 135, [2010] ELR 312, [18].

349 Belize Alliance of Conservation Non-Governmental Organisations v Department of the Environment [2004] UKPC 6, [87]. R (Qualter) v Preston Crown Court [2019] EWHC 906 (Admin), [32].

350 This passage was cited without disapproval in R (IAB) v Secretary of State for the Home Department [2024] EWCA Civ 66 at [22]. In the first instance decision, the Administrative Court expressed the view that redaction on the grounds of relevance alone ought to be confined to clear situations where the information redacted does not concern the decision under challenge: [2023] EWHC 2930 (Admin) at [22].

15.5.2 However, the fact that information in a document is exempt from disclosure under the Freedom of Information Act 2000 does not, in and of itself, mean that the information is subject to a statutory restriction on its disclosure or can be properly withheld from disclosure in legal proceedings.

15.5.3 Parties should consider carefully whether the text being redacted is genuinely irrelevant. Text which explains the provenance and context of a document, such as the name of the sender, recipients or copy recipients of a document (even if these are junior officials or external contractors), and should not be redacted as a matter of course.[351] Without this information, it may be more difficult to understand the significance of the document. It will usually be permissible to redact contact details (e.g. email addresses) if that is thought to be useful.[352]

15.5.4 A party disclosing a redacted document should explain the reason for that redaction at the point of disclosure. The explanation need not be elaborate and should be such as to afford the receiving party a sensible opportunity to decide whether to apply for disclosure of the unredacted document. The provision of single word explanations, such as "relevance" or "privilege" will rarely be sufficient.[353] Documents should never be filed or served in an edited form without making clear that they have been edited.[354] When redacted documents are exhibited to a witness statement the reason for redaction may be given either in that statement or a separate witness statement. If the redaction is made on grounds of legal professional privilege the explanation should be given in a witness statement made at the solicitor with conduct of the case.[355]

15.5.5 Closed material proceedings are considered separately in Chapter 19.

351 R (IAB) v Secretary of State for the Home Department [2024] EWCA Civ 66, [24]-[27].
352 R (IAB) v Secretary of State for the Home Department [2024] EWCA Civ 66, [28].
353 R (IAB) v Secretary of State for the Home Department [2023] EWHC 2930 (Admin), [43].
354 R (GA) v Secretary of State for the Home Department [2021] EWHC 868 (Admin), [19].
355 R (IAB) v Secretary of State for the Home Department [2023] EWHC 2930 (Admin), [44].

16 Interim relief

16.1 When is interim relief appropriate?

16.1.1 A party (usually the claimant) may request an interim remedy. Examples include:

16.1.1.1 an interim injunction prohibiting the defendant from taking some action that he or she plans to take (e.g. preventing the Secretary of State for the Home Department from removing a claimant from the UK);[356] and

16.1.1.2 an interim injunction requiring the defendant to act in a certain way (e.g. requiring a local authority to provide the claimant with accommodation).

16.1.2 Interim relief is usually requested in the Claim Form, but an application for it can be made at any stage of proceedings.

16.1.3 Exceptionally, an application for interim relief may be made before starting judicial review proceedings: see para 16.2 below. The Court may only grant an interim order before the claim has been issued where the matter is urgent or it is otherwise necessary to do so in the interests of justice.[357]

16.2 Interim relief applications before starting proceedings

16.2.1 Careful thought should be given to whether it is appropriate to make an application for interim relief before starting proceedings. It is normally better to apply for interim relief at the same time as lodging the claim papers. This makes it easier for the Court to understand the issues and is likely to save costs.

16.2.2 If it is necessary to make an application before starting the claim, and no short term compromise can be reached, the applicant should file an application notice with the ACO (on Form N244 or, if the application is urgent and needs to be decided within 7 days,

356 Note that, where UTIAC has jurisdiction, it is the proper forum for such an application: see para 6.5 of this Guide.

357 CPR 25.2(2)(b).

Form N463).[358] This must be accompanied by the relevant fee and supported by evidence establishing why the order is required[359] and a copy of the draft order should be enclosed.

16.2.3 Where possible, a copy of the application, evidence, and draft order should be sent to the proposed defendants and interested parties to give them notice that the application is being made.[360] Where the application has been made without giving notice to the other parties, the evidence supporting the application should explain why the application has been made without giving notice.[361]

16.2.4 The claimant will generally be required to undertake to file a Claim Form and grounds of claim, usually within a short period, or, if no satisfactory undertaking is offered, will be directed by the Court to do so.

16.3 Interim applications made when the claim is filed

16.3.1 Applications for interim relief are normally made when the claim is filed. In this case, the application should be set out in section 8 of the Claim Form (Form N461).

16.3.2 The application for interim relief will be considered by the judge on the papers, usually at the same time as the application for permission to apply for judicial review. If the application is considered at this time, no additional fee is required. The judge considering the application for interim relief alongside permission may either make an order based on the papers alone or order that the application for interim relief be dealt with at a hearing in Court: see para 14.2.2 of this Guide.

358 CPR 23.3(1).
359 CPR 25.3(2).
360 CPR 23.4(1).
361 CPR 25.3(3).

16.4 Interim relief applications made after proceedings have been commenced

16.4.1 If it becomes necessary to make an application for interim relief after the claim has been commenced, the applicant should issue an application. If the application is time-sensitive but does not require a decision within 7 days, the party should make that clear in the Application Notice (Form N244) and any covering letter and state the period within which the Court is requested to consider the application. The application must be served on all the other parties. The Court will only rarely consider the application if the opposing party has not been given an opportunity to respond in writing. If the application needs to be decided within 7 days, it should be made on Form N463.

16.5 Procedure for determining applications for interim relief

16.5.1 The Court will rarely grant any form of interim relief without establishing what the other parties to the claim say in respect of the application. The Court will usually permit other parties the opportunity to respond to the application. In an urgent case, the time allowed for response may be short.

16.5.2 If time does not permit the defendant to be heard, then the Court will consider granting interim relief without a hearing for a very short period until other parties have been able to make submissions (either in writing or at a hearing).

16.6 Criteria for deciding applications for interim relief

16.6.1 When considering whether to grant interim relief while a judicial review claim is pending, the judge will consider whether there is a real issue to be tried (that is, whether there is a real – not fanciful – prospect that the claim will succeed at the substantive hearing) and whether the balance of convenience lies in favour of granting the

interim order.[362] Where the relief sought is a mandatory order against a public body, a strong *prima facie* case needs to be shown.[363] The consideration of the balance of convenience involves balancing the harm to the claimant that would be caused if interim relief is not granted and the claim later succeeds against the harm to the defendant, any third parties and the public interest that would be caused if interim relief is granted and the claim later fails.

16.6.2 The strength of the public interest in permitting a public authority's decision to remain in force will depend on all the circumstances. Where interim relief is sought to prevent the enforcement of primary legislation, there is a strong public interest in allowing the public authority to continue to enforce an apparently authentic law pending the determination of the challenge.[364] Where subordinate legislation[365] or policy is challenged,[366] the public interest weighing against interim relief may also be strong, albeit less so than where the target is primary legislation.

16.6.3 Where a claimant seeks to restrain publication of information by a public authority which is obliged or empowered to do so, the Court must consider the rights of those who would otherwise be entitled to receive the information. These rights are protected by Article 10 of the ECHR and section 12 of the Human Rights Act 1998.[367] This means that interim relief will only be granted for "the most compelling reasons" or in "exceptional circumstances".[368]

362 R (Medical Justice) v Secretary of State for the Home Department [2010] EWHC 1425 (Admin), [6]-[13], applying American Cyanamid Company v Ethicon Limited [1975] AC 396. In R (FTDI Holding Ltd) v Chancellor of the Duchy of Lancaster [2025] EWHC 241 (Admin), [15]-[17], it was said that the authorities do not support the proposition that a uniform higher merits threshold than "serious question to be tried" applies in public law cases. However, the underlying strength of the substantive challenge is likely to be a significant factor in the balance of considerations weighing for or against the granting of an injunction.

363 De Falco v Crawley Borough Council [1980] QB 460, 461, approved in R (RRR Manufacturing Pty Ltd) v British Standards Institution [2024] EWCA Civ 530, [87] and [112].

364 R v Secretary of State for Transport ex p. Factortame [1991] 1 AC 603, 674C-D. R (Medical Justice) v Secretary of State for the Home Department [2010] EWHC 1425 (Admin), [12]-[13]. See also R (Aomori) v Secretary of State for the Home Department [2025] EWHC 1708 (Admin), [55], and [2025] EWCA Civ 848, [32].

365 R v HM Treasury ex p. British Telecommunications plc [1994] 1 CMLR 621, [41].

366 R (Medical Justice) v Secretary of State for the Home Department [2010] EWHC 1425 (Admin), [13].

367 European Court of Human Rights, European Convention on Human Rights. Available at: www.echr.coe.int/documents/d/echr/convention_eng

368 R (Barking and Dagenham College) v Office for Students [2019] EWHC 2667 (Admin), [30]-[39]. R (Governing Body of X School) v Office for Standards in Education [2020] EWCA Civ 594, [2020] EMLR 22, [77]-[79].

16.6.4 In all cases the procedure for dealing with applications for interim relief will be controlled by the Court, and will be such as the Court deems appropriate to achieve a fair determination of issues. For example, sometimes, the Court may respond to an application for interim relief by ordering expedition of the substantive claim instead of hearing the application for interim relief separately.

16.7 Challenging a decision on an application for interim relief

16.7.1 If an application for an interim order has been decided without a hearing (and the parties did not consent to the application being determined without a hearing), either party has the right to apply to have the order set aside, varied or stayed.[369]

16.7.2 The application must be made by Application Notice (Form N244), which must be issue within 7 days of service of the order challenged (unless the order specifies a different period).[370]

16.7.3 If a hearing of the application is required within a particular period, the application must make that clear. This point should also be made in any covering letter. The application must be served on all other parties.

16.7.4 The application will be determined at a hearing. Where there is an urgent need for a hearing, and the matter cannot wait until the Court's sitting hours, the application can be made by a party's legal representative to the out of hours judge in accordance with para 17.8 of this Guide. In such circumstances the practitioner will be asked to undertake to pay the relevant fee on the next working day.

16.7.5 If the parties have consented to a decision on interim relief on the papers, or if an order has been made following a hearing, then the order will be final (subject to any appeal). A party who wishes to challenge a decision made without a hearing must apply to have it set aside, varied or stayed in the Administrative Court before an appeal can be lodged. Any appeal must be commenced within 21 days of the date on which the order appealed was made.[371] See Chapter 26 of this Guide for appeals.

369 CPR 3.3(5).

370 CPR 3.3(6).

371 R (Nolson) v Stevenage Borough Council [2020] EWCA Civ 379, [2021] HLR 2, [18].

16.8 Removal cases

16.8.1 Particular rules apply where a decision by UK Visas and Immigration ("UKVI") to remove a person from the jurisdiction is challenged before the removal takes effect. These are set out in section 2 of CPR 54A PD. Such challenges generally fall within the jurisdiction of UTIAC: see para 6.5 of this Guide.

16.8.2 A person who makes an application for permission to apply for judicial review of such a decision must:

16.8.2.1 file a Claim Form and a copy at Court;[372] and

16.8.2.2 indicate on the face of the Claim Form that section 2 of CPR 54A PD applies (which can be done by ticking the relevant box in section 4 of the Claim Form).[373]

16.8.3 The Claim Form must:

16.8.3.1 be accompanied by a copy of the removal directions, the decision to which the application relates and any document served with the removal directions (including any document which contains UK Visas and Immigration's ("UKVI") factual summary of the case);[374]

16.8.3.2 contain or be accompanied by a clear and concise statement of the claimant's grounds for bringing the claim for judicial review;[375]

16.8.3.3 state the claimant's Home Office reference number.[376]

16.8.4 If the claimant is unable to comply with any of the requirements in para 16.8.3, the Claim Form must contain or be accompanied by a statement of the reasons why.[377]

372 CPR 54A PD para 17.2(1).
373 CPR 54A PD para 17.2(1)(a).
374 CPR 54A PD para 17.2(1)(b).
375 CPR 54A PD para 17.2(1)(c).
376 CPR 54A PD para 17.2(1)(d).
377 CPR 54A PD para 17.2(1).

16.8.5 Immediately upon issue, copies of the issued Claim Form and accompanying documents must be sent to the address specified by UKVI.[378] It must also be served on the defendant within 7 days of the date of issue.[379]

16.8.6 The Court has set out certain principles to be applied when such applications are made.[380] In particular:

16.8.6.1 steps to challenge removal should be taken as early as possible, and should be taken promptly after receipt of notice of a removal window; and

16.8.6.2 applications to the Court for interim relief should be made with as much notice to the Secretary of State as is practicably feasible.

378 CPR 54A PD para 17.2(2).

379 CPR 54.7.

380 R (Madan) v Secretary of State for the Home Department (Practice Note) [2007] EWCA Civ 770, [2007] 1 WLR 2891, endorsed in R (SB (Afghanistan)) v Secretary of State for the Home Department [2018] EWCA Civ 215, [2018] 1 WLR 4457, [55]-[56].

17 Urgent cases

17.1 General

17.1.1 The Court has procedures to deal with cases that have to be considered urgently. This is an important part of the Court's work in the public interest. However, some litigants and practitioners have misused or abused these procedures. This can mean that claimants with genuinely urgent cases wait longer than they should. The Divisional Court has addressed this issue and given guidance about applications for urgent consideration.[381] This section of the Guide reflects that guidance.

17.2 Assessing whether a case is urgent and, if so, how urgent

17.2.1 It will very often be possible to point to a reason why the claimant's interests would be better served if an application for interim relief or permission to apply for judicial review were determined quickly. However, this is not enough to justify using the Court's procedures for urgent consideration. Those procedures are made available **only** for urgent cases where there is a **genuine need** for the application to be considered urgently.

17.2.2 Such a need may arise where:

17.2.2.1 the claimant seeks an interim order preventing a defendant from doing something with irreparable consequences which may be done imminently or requiring the defendant to do something immediately or within a very short period (see Chapter 16 of this Guide); or

17.2.2.2 no interim relief is sought, but there are compelling reasons for applying for abridgement of time for service of the Acknowledgment of Service or other procedural directions and, if the directions are to be effective, it is necessary for the application to be considered urgently.

381 R (DVP & Others) v SSHD [2021] EWHC 606 (Admin).

17.2.3 Litigants and their representatives should consider carefully the period within which their application needs to be considered. It is not acceptable to request consideration in a period shorter than genuinely required: see para 16.1.1 of this Guide.

17.2.4 In cases where there is a genuine need for the application to be considered within 7 days of the date after it is filed, Form N463 (Judicial Review: Application for Urgent Consideration) should be used.

17.2.5 In cases where the application needs to be considered quickly, but not within 7 days from filing, Form N244 should be used, with a cover letter explaining the required timescale for consideration by reference to the Administrative Court Listing Policy set out at Annex 4.

17.3 The application for urgent consideration

17.3.1 Any application for urgent consideration using Form N463 must clearly set out:[382]

17.3.1.1 the circumstances giving rise to the urgency. If the representative was instructed late, or the form is filed only shortly before the end of the working day, it is necessary to explain why;

17.3.1.2 the timescale sought for the consideration of the application;

17.3.1.3 the date by which any substantive hearing should take place;

17.3.1.4 that the defendant and any interested parties were put on notice of the application for urgent consideration (or if not, why not, and the efforts made to give notice to them).

17.3.2 This information must be set out on the face of the form. It is not sufficient to cross-refer to other documents.[383] All boxes must be completed. All relevant facts must be included. The beneficiary (or beneficiaries) of the intended relief and the terms of any proposed injunction must be clearly identified.[384]

382 CPR 54B PD para 1.2.

383 R (DVP & Others) v SSHD [2021] EWHC 606 (Admin), [15]-[17], [59]-[64].

384 R (KMI) v SSHD [2021] EWHC 477 (Admin), [39].

17.3.3 All parties to judicial review proceedings must comply with their duty of candour and co-operation with the Court. The duty applies with particular force to applicants for urgent consideration, because their applications are likely to be made on limited notice to the defendant and may have to be determined without giving the respondent an opportunity to respond: see para 15.2.3 of this Guide.

17.3.4 Form N463 must be signed by the Claimant's advocate and be supported by a Statement of Truth. An unsigned claim form is invalid.[385] If time is so pressing such that it is impossible to obtain full instructions, legal representatives must alert the Court to any limitations in the evidence in order to allow a proper assessment of its probative value.

17.4 The documents that must accompany the application

17.4.1 In almost all cases, Form N463 is filed together with a Claim Form and full claim papers (including supporting documentation). If an urgent application is made after proceedings have been commenced and Form N461 has already been served on the other parties, there is no need to serve From N461 with Form N463.

17.4.2 However, in some exceptionally urgent cases, it may be filed with an Application Notice (Form N244) prior to issue of the Claim Form: see para 16.2 of this Guide.

17.4.3 The application for urgent consideration must be accompanied by an indexed and paginated bundle ("the application bundle") containing:

17.4.3.1 if the application is being filed together with the Claim Form, the Claim Form and full claim papers;

17.4.3.2 if the application is being filed before issue of the claim, the Application Notice and any accompanying documents;

17.4.3.3 in any case, the pre-action communications concerning the claim and all communications with the defendant concerning the application for urgent consideration;[386] and

17.4.3.4 a draft of the order sought.

385 R (Randall) v Clergy Discipline Commission [2024] EWHC 2924 (Admin), [26].

386 CPR 54B PD para 1.3.

17.4.4 An electronic version of the bundle must also be prepared in accordance with the Guidance on the Administrative Court website (see also para 21.4.3 and Annex 9).[387]

17.5 How to file the application and application bundle

17.5.1 Applications for urgent consideration in London may be made in the Administrative Court on any working day between 10 am and 4.30 pm. During these times:

17.5.1.1 a High Court Judge authorised to sit in the Administrative Court ("the immediates judge") is available to deal with applications on paper;

17.5.1.2 accordingly, applications for interim orders should not generally be made to the King's Bench Division interim applications judge (who sits in Court 37), nor to any other part of the High Court.

17.5.2 If a matter is brought before Court 37 (or any inappropriate Court) between 10am and 4.30pm on a working day, the judge may refuse to deal with the application and direct that the application or proceedings be filed in the ACO.

17.5.3 On working days outside the hours of 10am to 4.30pm, and on non-working days, applications for interim orders should be directed to the King's Bench Division out of hours judge:[388] see para 17.8 of this Guide.

17.5.4 Urgent applications may be filed with the Court in London by email to administrativecourtoffice.immediates@justice.gov.uk. A size restriction of 20 MB applies. They may also be filed by delivery to the Administrative Court Office at the Royal Courts of Justice, Strand, London WC2A 2LL.[389]

17.5.5 Where an urgent application needs to be made to the Administrative Court outside London, the application must be made to the relevant Office and to the appropriate email address: see CPR 54C PD and Annex 1.[390]

387 CPR 54B PD para 1.3.
388 CPR 54B PD para 1.1.
389 CPR 54B PD para 1.4.
390 CPR 54B PD para 1.5.

17.6 Service of the application

17.6.1 The application for urgent consideration, together with the application bundle, must be served on the defendant and interested parties, advising them that the application has been made and of their right to make representations. This must be done either (a) before the application is filed with the Court, or if that is not possible (b) when the application is filed with the Court.[391]

17.7 Consideration of the application by the Court

17.7.1 Once the application has been filed, it will be referred to the immediates judge or another judge. The Court will consider the application within the time requested wherever possible.[392]

17.7.2 If possible, the Court will give the defendant and any interested party the opportunity to make representations before making any order. It may be necessary to set a very tight deadline for representations. Where it is not possible for a defendant to respond by the deadline, the Court is likely to proceed to consider the application without representations from the defendant.

17.7.3 The Court will normally deal with the application on paper. It may make procedural directions only (e.g. an order abridging time for the defendant to file an Acknowledgment of Service), but defendants should be aware that the order may alternatively (or in addition) include a prohibitory or mandatory injunction.

17.7.4 Prohibitory or mandatory injunctions granted on paper against a public authority do not generally contain a penal notice. However, that does not detract from their binding effect. Breach of such an injunction can result in proceedings for contempt of court.[393] Public authorities should ensure that they have in place proper arrangements to identify promptly and act upon injunction orders made on paper by the Administrative Court.

391 CPR 54B PD para 1.7.

392 CPR 54B PD para 1.8.

393 R (JM) v Croydon London Borough Council (Practice Note) [2009] EWHC 2474 (Admin). R (Mohammad) v Secretary of State for the Home Department [2021] EWHC 240 (Admin), [23] and [26]. R (KMI) v Secretary of State for the Home Department [2021] EWHC 477 (Admin), [39].

17.7.5 In some cases, the Court may decide that the application should be heard orally within a specified time. If so, the ACO will liaise with the parties to fix the hearing date. It may not be possible to accommodate all counsels' availability dates.

17.7.6 The judge dealing with the application may conclude that the application was not urgent and is suitable for disposal according to the Court's ordinary procedures. If so, the judge will refuse to deal with the matter on an urgent basis, and may:

17.7.6.1 make an adverse costs order against the applicant or his legal representatives (see para 25.1 on costs); and/or

17.7.6.2 refer the papers to the Hamid judge to consider whether any legal representative should be referred to the relevant professional regulator: see Chapter 18 of this Guide.

17.7.7 If an urgent application is refused on the papers, the applicant may request that the decision be reconsidered at an oral hearing (see para 16.7 of this Guide for the procedure). The application must be made by filing the application notice with the ACO, not by applying to the King's Bench Division interim applications judge, or any other Court.

17.8 Out of hours applications

17.8.1 The out of hours service is not available to litigants in person.

17.8.2 Legal representatives must consider carefully whether an out of hours application is required. They should make such an application only if the matter cannot wait until the next working day.

17.8.3 If it is necessary to make an out of hours application, the application should be made to the King's Bench Division out of hours judge. The barrister or solicitor acting should telephone 020 7947 6000[394] and speak to the King's Bench Division out of hours duty clerk.

17.8.4 The out of hours duty clerk will require the practitioner to complete the out of hours form, which can be downloaded from the Government website and emailed to DutyClerkKB@justice.gov.uk.[395] (Please do not send emails to this address unless invited to do so by the out of hours duty clerk).

394 As required by CPR 54B PD para 1.1 and CPR 25A PD para 4.5.

395 Out of hours application (King's Bench Division): Form QBD OHA. Available at: www.gov.uk/government/publications/form-kbd-oha-out-of-hours-application-kings-bench-division

17.8.5 The judge may deal with the application on paper. Alternatively, arrangements may be made to hear the application by telephone or remotely. The judge may telephone any other party to the application if appropriate. (This is often done in immigration cases where the application seeks a stay on removal.)

17.8.6 The duty of candour assumes added significance when a judge is asked to make an order in a short time frame and without any (or any substantial) opportunity for the defendant to make representations: see para 15.2.3 of this Guide.

18 Action against professional representatives for abuse of the Court's procedures

18.1 The Hamid jurisdiction: general

18.1.1 The Court's powers to prevent abuse of its procedures are set out at para 13.10 of this Guide.

18.1.2 The *Hamid* jurisdiction is a facet of the Court's jurisdiction to regulate its own procedures and to enforce the overriding duties owed to it by legal professionals. Although the case in which the jurisdiction was first identified[396] was an immigration case, it is not confined to immigration or even to public law cases.[397]

18.1.3 Where the Court identifies a possible abuse of its procedures in a case in which legal representatives are involved, it may refer the matter to a designated judge ("the *Hamid* judge").

18.1.4 The *Hamid* judge may send the legal representative(s) a letter inviting them to show cause why there should not be a referral to the relevant professional regulator (a "show cause" letter).

18.1.5 Having considered the legal representative's response, the Court may summon the representative(s) to explain their actions at a hearing in open court.

18.1.6 If the Court concludes that its procedures have been abused, it may decide to refer the legal representative(s) concerned to the relevant professional regulator(s) to consider disciplinary proceedings. It may also, or alternatively, consider making a wasted costs order against the legal representative(s).

18.1.7 Any orders made may be published and placed in the public domain. Any such publication will include the explanation provided by the legal representative.

396 R (Hamid) v Secretary of State for the Home Department [2012] EWHC 3070 (Admin).

397 R (DVP) v Secretary of State for the Home Department [2021] EWHC 606 (Admin), [2].

18.2 The Hamid jurisdiction: abuse of the urgent consideration procedure[398]

18.2.1 Abuse of the urgent consideration procedure has caused the Court to invoke the *Hamid* jurisdiction on a number of occasions. Practitioners should ensure that they read carefully and comply strictly with their obligations to the Court when using the urgent consideration procedure (see Chapters 16 and 17 of this Guide).

18.2.2 The following are examples of conduct which has given rise to invocation of the *Hamid* procedure:

18.2.2.1 The claimant's solicitor had delayed making the urgent application until the last minute and had not disclosed the full facts of the case in an attempt to use the urgent process to prevent his client's removal from the UK.[399]

18.2.2.2 The claimant's solicitor requested urgent interim relief in respect of a decision that had been made 3 years earlier.[400]

18.2.2.3 A practitioner advanced arguments that his client was suicidal and psychotic which was known or ought to have been known were false and/ or inconsistent with their own medical evidence.[401]

18.2.2.4 A practitioner lodged an application with grounds that were opaque and brief and failed to set out any of the claimant's history of criminality.[402]

18.2.2.5 The claimants' legal team applied for interim relief to prevent the use of particular accommodation to house asylum seekers in circumstances where the defendant had already transferred the individual claimants into alternative accommodation; and the Form N463 did not make this clear.[403]

398 See R (Tota) v Secretary of State for the Home Department [2024] EWHC 665 (Admin), [2]-[4] for a general discussion of the Hamid jurisdiction.

399 R (Hamid) v Secretary of State for the Home Department [2012] EWHC 3070 (Admin).

400 R (Butt) v Secretary of State for the Home Department [2014] EWHC 264 (Admin).

401 R (Okondu) v Secretary of State for the Home Department (wasted costs; SRA referrals; Hamid) IJR [2014] UKUT 377 (IAC).

402 R (Okondu) v Secretary of State for the Home Department (wasted costs; SRA referrals; Hamid) IJR [2014] UKUT 377 (IAC).

403 R (DVP & Ors) v Secretary of State for the Home Department [2021] EWHC 606 (Admin).

18.2.2.6 Form N463 was used by a claimant when the Claim form was filed, seeking a decision within 48 hours on an application for case management directions, in circumstances where the directions sought would not operate until after the Acknowledgement of Service had been filed (i.e., 3 weeks later).[404]

18.2.2.7 Urgent consideration and an application for interim relief within 7 days had been sought, but Claimant's counsel had failed to inform the Court that a very similar case in which he had appeared, and which involved substantially the same grounds, had been refused permission on the papers and then orally.[405]

18.2.3 Practitioners should also bear in mind the guidance at para 16.8.6 of this Guide. The *Hamid* jurisdiction may be invoked in cases where that guidance is not complied with.[406]

18.3 Action by professional regulators

18.3.1 Making abusive applications in judicial review claims can result in severe disciplinary sanctions, including striking off.[407]

404 In the matter of the Court's exercise of the Hamid jurisdiction [2021] EWHC 1895 (Admin).

405 R (Apricot Umbrella Limited) v His Majesty's Revenue and Customs [2024] EWHC 665 (Admin).

406 See also R (SB (Afghanistan) v Secretary of State for the Home Department [2018] EWCA Civ 215 at [54]-[56].

407 See Vay Sui IP v Solicitors Regulation Authority [2018] EWHC 957 (Admin), where a Divisional Court upheld the sanction of striking off a solicitor for making repeated abusive applications for injunctions or stays to prevent the removal of claimants.

19 CLOSED material

19.1 Introduction

19.1.1 CLOSED material is material that is relevant to an issue before the Court which one party claims to be entitled to withhold from the other party or parties because its disclosure would be contrary to the public interest.

19.1.2 The fact that material is confidential does not, on its own, supply a ground for not disclosing it. However, parts of a document which otherwise falls to be disclosed may be redacted if they are both confidential **and** irrelevant to any issue (see para 15.5 of this Guide).

19.1.3 There are three situations in which the Administrative Court may have to consider CLOSED material:

19.1.3.1 Material may be withheld from disclosure if it attracts public interest immunity (PII). It is for the Court to decide whether to uphold a claim for PII. If so, the material covered by the claim is in general inadmissible (subject to para 19.1.3.3 below). Para 19.2 of this Guide sets out the procedure for making a PII claim in the Administrative Court.

19.1.3.2 Under the Justice and Security Act 2013 (JSA), the Court is empowered to hold a closed material procedure (CMP) where it has made a declaration under s. 6 that a closed material application may be made. This can be done only if there is relevant material whose disclosure would be damaging to the interests of national security. The rules governing proceedings under the JSA are in CPR Part 82. Para 19.3 below summarises the law and procedure in the Administrative Court.

19.1.3.3 Following the Supreme Court's decision in Haralambous v St Albans Crown Court [2018] UKSC 1, [2018] AC 236, where a judicial review claim challenges the issue of a search warrant granted ex parte on the basis of CLOSED material, the High Court may consider the CLOSED material and take it into account in reaching its decision on the claim. Para 19.4 below sets out the procedure for claims in the Administrative Court challenging search warrants under the Haralambous jurisdiction.

19.2 Public interest immunity

19.2.1 Documents may be withheld from disclosure where a party establishes that disclosure would damage the public interest, either under existing common law principles or pursuant to CPR 31.19.[408] Where the claim for PII is made by a Government Department, it should include a certificate made personally by a Minister or a senior official.[409] Where the claim is made by a police force, the certificate should be given by the chief police officer or other senior officer.

19.2.2 The proper approach to PII involves a three-stage test:[410]

19.2.2.1 The person giving the PII certificate (or their lawyers) must decide whether the documentary material in question is relevant to the proceedings in question i.e., that the material should, in the absence of PII considerations, be disclosed in the normal way.

19.2.2.2 The person giving the certificate must consider whether there is a real risk that it would harm the public interest if the material was placed in the public domain.

19.2.2.3 The person giving the certificate must balance the public interests for and against disclosure (i.e. consider whether the damage to the public interest that would be caused by disclosure outweighs the damage to the public interest in the administration of justice that would be caused by non-disclosure). If the balance comes down against disclosure, then the PII certificate must state that, in the view of the author, it is in the public interest that the material be withheld.

19.2.3 When answering the second question, the person giving the certificate should consider whether any damage to the public interest can be prevented by disclosing part of a document or a gist (a

408 R (Public and Commercial Services Union) v Secretary of State for the Home Department [2022] EWHC 823 (Admin), [14].

409 In R (Charles) v Secretary of State for Foreign and Commonwealth Affairs [2020] EWHC 3010 (Admin), the Divisional Court rejected the submission that a PII certificate made by the Permanent Under-Secretary of the Foreign and Commonwealth Office (the most senior civil servant in that department) carried less weight than one given by a Minister. However, in that case, the certificate was given by a senior official (rather than a Minister) because the documents to which it related had been produced under a previous administration: [18(1)-(2)].

410 Al Rawi v Security Service [2010] EWCA Civ 482, [2012] 1 AC 531, [24] (Lord Neuberger MR in the Court of Appeal).

summary) of it or disclosing it on a restricted basis.[411] A claim for PII should only be made in respect of those parts of the material which it is necessary to withhold in the public interest.[412]

19.2.4 Where the balance comes down against disclosure, claiming public interest immunity is a duty, rather than the exercise of an administrative discretion.[413]

19.2.5 A claim for PII should be considered as soon as it becomes clear that a party has in their possession material which does or will fall to be disclosed, but whose disclosure would be damaging to the public interest.

19.2.6 What is required to discharge the duty of candour at the substantive stage may be more extensive than what is required before permission is granted (see para 15.3.2 of this Guide). Thus:

19.2.6.1 In some circumstances, a defendant may properly conclude that (even leaving aside any damage to the public interest which its disclosure would cause) PII material would not fall to be disclosed at the permission stage. If so, a claim for PII can be left until permission is granted.

19.2.6.2 However, if (leaving aside any damage to the public interest) the duty of candour would require disclosure of the PII material at the permission stage, the party must make a claim for PII at that stage.

19.2.7 Where, at whatever stage of proceedings, a party makes a claim for PII:

19.2.7.1 The fact that such a claim is being made should be clearly indicated in a letter to the ACO, with the title "PUBLIC INTEREST IMMUNITY CLAIM". The letter should explain whether, in the view of the party, the claim can be properly considered without the assistance of a special counsel or special advocate.

19.2.7.2 The Court will then give directions for the determination of the claim for PII (including considering whether to

411 R v Chief Constable of West Midlands Police ex p. Wiley [1995] 1 AC 274, 306-7.

412 R (Charles) v Secretary of State for Foreign and Commonwealth Affairs [2020] EWHC 3010 (Admin), [10(4)].

413 R v Chief Constable of West Midlands Police ex p. Wiley [1995] 1 AC 274, 295G-H. Rawlinson & Hunter Trustees SA v Director of the Serious Fraud Office (No. 2) [2015] 1 WLR 797, [30].

invite the Attorney General to appoint a special counsel or special advocate).[414]

19.2.8 It is for the Court to determine whether a claim for PII should be upheld. The Court must decide for itself whether the public interest would be damaged by disclosure of the material to which the claim relates and, if so, whether that damage outweighs any damage to the public interest in the administration of justice which non-disclosure would cause.[415]

19.2.9 Even where material cannot be disclosed, the court will consider whether the material can be disclosed in summarised or "gisted" form or disclosed to a restricted number of identified recipients (sometimes referred to as a "confidentiality ring").[416] To the extent that a claim for PII is upheld, the material cannot in any circumstances be admitted; it is not open to either party or to the Court to do so. If the claim for PII is not upheld, the material must be disclosed if it remains relevant to an issue in dispute.[417]

19.2.10 In almost all cases, the consequence of a decision to uphold a claim for PII is that the proceedings continue without taking into account the inadmissible material covered by the claim. However, where the material is so central to the issues that it would not be fair for the proceedings to continue, the Court may strike out the claim.[418]

19.3 Closed material proceedings under the Justice and Security Act 2013

19.3.1 The Justice and Security Act 2013 (JSA) authorises the High Court to hold a closed material procedure (CMP). A CMP differs fundamentally from proceedings in which a claim for PII has been upheld. In a CMP, one party is entitled to rely on material not disclosed to the other party

414 Al Rawi v Security Service [2010] EWCA Civ 482, [2012] 1 AC 531, [26] (Lord Neuberger MR in the Court of Appeal).

415 R v Chief Constable of West Midlands Police ex p. Wiley [1995] 1 AC 274, 295-6. Al Rawi v Security Service [2010] EWCA Civ 482, [2012] 1 AC 531, [25] (Lord Neuberger MR in the Court of Appeal).

416 R (Public and Commercial Services Union) v Secretary of State for the Home Department [2022] EWHC 823 (Admin), [17]-[20].

417 R v Lewes Justice ex p. Secretary of State for the Home Department [1973] AC 388, 407. Al Rawi v Security Service [2011] UKSC 34, [2012] 1 AC 531, [41] (Lord Dyson in the Supreme Court).

418 Carnduff v Rock [2001] 1 WLR 1786, Al Rawi v Security Service [2011] UKSC 34, [2012] 1 AC 531, [15] (Lord Dyson in the Supreme Court).

or parties (CLOSED material) and the Court can base its decision on such material.[419]

19.3.2 A CMP is available under the JSA only where the Court makes a declaration under section 6(2) of that Act. This may be made on the application of the Secretary of State (whether or not the Secretary of State is a party to the proceedings) or any party to the proceedings, or of the Court's own motion.

19.3.3 The Court may only make a declaration if two conditions are met.

19.3.4 The first condition is that:[420]

(a) "a party to the proceedings would be required to disclose sensitive material in the course of the proceedings to another person (whether or not another party to the proceedings), or

(b) a party to the proceedings would be required to make such a disclosure were it not for one or more of the following—

i) the possibility of a claim for public interest immunity in relation to the material,

ii) the fact that there would be no requirement to disclose if the party chose not to rely on the material,

iii) section 56(1) of the Investigatory Powers Act 2016 (exclusion for intercept material),

iv) any other enactment that would prevent the party from disclosing the material but would not do so if the proceedings were proceedings in relation to which there was a declaration under this section."

19.3.5 The second condition is that "it is in the interests of the fair and effective administration of justice in the proceedings to make a declaration".[421]

19.3.6 The Court must not consider an application by the Secretary of State under section 6(2) of the JSA unless satisfied that the Secretary of State has, before making the application, considered whether to make, or advise another person to make, a claim for PII in relation to the material on which the application is based (see section 6(7) of the JSA).

419 Al Rawi v Security Service [2011] UKSC 34, [2012] 1 AC 531, [41] (Lord Dyson in the Supreme Court).

420 Section 6(4) of the Justice and Security Act 2013.

421 Section 6(5) of the Justice and Security Act 2013.

19.3.7 For these purposes "sensitive material" means "material the disclosure of which would be damaging to the interests of national security".[422] Thus, a CMP under the JSA is not available in respect of material whose disclosure would be damaging to another public interest (such as the international relations of the UK or the prevention and detection of crime).

19.3.8 Where the Secretary of State is not a party to proceedings and it appears to a party, or to the Court, that the party may be required to disclose material the disclosure of which would be damaging to the interests of national security, there is a requirement to notify the Secretary of State and the material must not be disclosed pending the Secretary of State's response.[423]

19.3.9 A person who intends to make an application for a declaration under section 6 of the JSA must, at least 14 days before making the application, serve written notice of that intention on the Court and on every other party to the proceedings and on the Secretary of State (if not a party); and may apply to the Court to the proceedings to be stayed pending the application or the person's consideration whether to make it.[424] The Court may stay the proceedings and may make the stay subject to conditions.[425]

19.3.10 An application for a declaration under section 6 of the JSA requires the applicant to file with the Court: (a) a statement of reasons to support the application and any additional written submissions; (b) material in relation to which the Court is asked to find that the first condition in section 6 of the JSA is met; and (c) the details of any special advocate already appointed.[426] The statement of reasons must include the Secretary of State's reasons for not making, or not advising another person to make, a claim for PII.[427]

19.3.11 Where the Secretary of State decides to make an application for a declaration under section 6 of the JSA or receives notice that another party intends to make such an application, the Secretary of State must immediately give notice of the proceedings to the Attorney General (who has power under section 9 of the JSA to appoint a special

422 Section 6(11) of the Justice and Security Act 2013.
423 CPR 82.20.
424 CPR 82.21(1).
425 CPR 82.21(2) & (3).
426 CPR 82.22(1).
427 CPR 82.22(2).

advocate).[428] Unless a special advocate is appointed a relevant person (i.e. a person who would otherwise be required to disclose sensitive material) may not rely on sensitive material at a hearing on notice.[429]

19.3.12 The functions of the special advocate are to represent the interests of the "specially represented party" (i.e. a party from whom sensitive material is withheld) by: (a) making submissions to the Court at any hearing or part of a hearing from which the specially represented party and their legal representatives are excluded; (b) adducing evidence and cross-examining witnesses at any such hearing or part of a hearing; (c) making applications to the Court or seeking directions from the Court; (d) making written submissions to the Court.[430]

19.3.13 The special advocate is restricted from communicating with any person about any matter connected with the proceedings once sensitive material is served on them.[431]

19.3.14 Once an application for a declaration under section 6 of the JSA has been made, the Court will serve notice of the application on all other parties, the Secretary of State (if not a party), the legal representatives of all parties and the special advocate. The Court will fix a directions hearing unless it considers the application can be determined on the papers.[432] Any directions hearing will involve the party applying for the declaration, the Secretary of State (if not the applicant) and the special advocate, but not the specially represented party and their representatives.[433]

19.3.15 If the Court makes a declaration under section 6 of the JSA it must then give directions (or fix a hearing at which such directions are to be given) for a hearing of a closed material application.[434]

428 CPR 82.9.
429 CPR 82.13(1)(b).
430 CPR 82.10.
431 CPR 82.11.
432 CPR 82.23(1).
433 CPR 82.23(2) and (4).
434 CPR 82.26.

19.3.16 The procedure for the making and determination of a closed material application is set out in CPR 82.13 - 82.14. Essentially:

19.3.16.1 The relevant person (the person who would be required to disclose the sensitive material) applies to withhold the sensitive material, filing with the Court: (a) the sensitive material; (b) a statement of the reasons for withholding it.[435]

19.3.16.2 The Court fixes a hearing, unless the conditions in CPR 82.14(2) are met. One situation in which a hearing is not required is where the special advocate gives notice that the application is not challenged and the Court is satisfied that it would be just to give permission without a hearing.

19.3.16.3 The relevant person and the special advocate file with the Court a schedule of the issues that cannot be agreed between them, giving brief reasons for their contentions and setting out any proposals for the Court to resolve them.[436]

19.3.16.4 The hearing takes place in the absence of the specially represented party and their representatives.[437]

19.3.16.5 Where the Court gives permission to the relevant person to rely on sensitive material, it must consider whether to direct the relevant person to serve a summary of that material on the specially represented party and their representative, but must ensure that the summary does not contain material the disclosure of which would be damaging to national security.[438]

19.3.16.6 Where the Court has not given permission to the relevant person to withhold sensitive material, or has directed the service of a summary, the relevant person may elect not to serve the material or summary. In that case, the Court can do one of two things. If it considers the sensitive material might adversely affect the relevant person's case or support the case of another party, it can direct the relevant person not to rely on specified points, or to make specified

435 CPR 82.13.
436 CPR 82.14(4).
437 CPR 82.14(5).
438 CPR 82.14(7).

concessions or take specified steps. In any other case, the Court can direct the relevant person not to rely on the material or on what is required to be summarised.[439]

19.3.16.7 CPR 82.14(10) imposes an absolute duty on the Court to give permission to the relevant person to withhold sensitive material where it considers that disclosure of the material would be contrary to the interests of national security. It may, however, be contended that in certain circumstances this duty should be "read down" to comply with Article 6 of the ECHR.[440]

19.3.17 There are various ways in which a document containing closed material may be rendered suitable for disclosure as an OPEN document.[441] The CLOSED material can be redacted by blacking out various parts. The part of the document that does not comprise CLOSED material can be re-typed in a new document, indicating with gaps, or ellipses, or other markers where text has been omitted (the "plain paper" version). A new document can be created which contains the gist or a summary of the CLOSED material. When either of the latter approaches is adopted, this should be made clear.

19.3.18 Substantive hearings in cases where a declaration under section 6 of the JSA has been made will typically involve OPEN and CLOSED parts. The parties, their legal representatives and special advocates can attend the OPEN part. Only the Secretary of State and relevant person (and their legal representatives) and the special advocate can attend the CLOSED part.

19.3.19 There is a presumption that every OPEN hearing will take place in public. An OPEN hearing may not take place in private, even if the parties consent, unless and to the extent that the Court decides that it must be held in private.[442] It will be held in private if, and only to the extent that, the Court is satisfied of one or more of a list of specified matters and that it is necessary to sit in private to secure the proper administration of justice. The specified matters include that (a) publicity would defeat the object of the hearing, (b) it involves

439 CPR 82.14(9).

440 European Court of Human Rights, European Convention on Human Rights. Available at: www.echr.coe.int/documents/d/echr/convention_eng. See R (K) v Secretary of State for Defence [2016] EWCA Civ 1149, [2017] 1 WLR 1671, [21]. See also R (Reprieve) v Prime Minister [2021] EWCA Civ 972, [2022] 2 WLR 1.

441 R (L1T FM Holdings UK Limited) v Secretary of State in the Cabinet Office [2024] EWHC 386 (Admin), [6].

442 CPR 39.2(1).

matters of national security or (c) it involves confidential information and publicity would damage that confidentiality.[443] Even where (b) is relied upon, clear and cogent evidence is required to displace the presumption that OPEN hearings take place in public.[444]

19.3.20 In proceedings in which a declaration under section 6 of the JSA. has been made, the Court may, and almost always will, give two judgments – one OPEN judgment, which is generally made public in the normal way and one CLOSED judgment, which is provided only to the relevant person, the Secretary of State and the special advocate.[445]

19.3.21 Before providing the draft OPEN judgment to the specially represented party, the draft judgment is sent for security checking to the Secretary of State and the relevant person.[446] The Secretary of State or relevant person may, within 5 days of being served notice, apply to the Court to reconsider the terms of the judgment.[447] Where such an application is made, a copy of the judgment and application must be sent to the special advocate.[448] The procedure in CPR 82.14 (with the exception of paras (6)-(8)) then applies.[449]

19.3.22 Unless the Court otherwise directs, CPR 5.4 (a publicly accessible register of claims), CPR 5.4B (the ability of a party to obtain court records) and CPR 5.4C (the ability of a non-party to obtain court records) do not apply to proceedings in which a declaration under section 6 of the JSA has been made.[450]

443 CPR 39.2(3).
444 Attorney General v British Broadcasting Corporation [2022] EWHC 380 (QB).
445 CPR 82.16.
446 CPR 82.17(1).
447 CPR 82.17(2).
448 CPR 82.17(3).
449 CPR 82.17(4).
450 CPR 82.18.

19.4 The Haralambous jurisdiction

19.4.1 In R (Haralambous) v St Albans Crown Court,[451] the Supreme Court considered whether a CMP is available in the High Court on a claim for judicial review of a decision to issue a search warrant, where the warrant was issued on an ex parte application relying on CLOSED material. The Supreme Court held that a CMP is in principle available. This enables the Court to consider all the material that was before the judicial authority which granted the warrant and to rely on that material when reaching its decision.

19.4.2 In R (Jordan) v Chief Constable of Merseyside Police, it was said that the procedure to be adopted in a claim invoking the *Haralambous* jurisdiction is as follows:[452]

19.4.2.1 Where the Court grants permission to apply for judicial review in a challenge to a warrant, and it is clear that the defendant or interested party has claimed or will claim PII over material relevant to the challenge, it should also give directions for: (i) a hearing to determine whether to uphold the PII claim; and (ii) a substantive hearing to determine the application for judicial review.

19.4.2.2 If possible, these two hearings should be listed before the same judge. It may be sensible for the listing of the second hearing to be left to be decided at the first hearing.

19.4.2.3 At the first hearing, if the PII claim is upheld in whole or in part, the Court should give directions dealing with: (i) the time within which the defendant must disclose and the claimant must respond to any new material; (ii) whether the case is sufficiently exceptional that it is necessary to invite the Attorney General to appoint a special advocate to represent the interests of the claimant in the CMP;[453] and (iii) in the light of these matters, the listing of the substantive hearing.

451 R (Haralambous) v St Albans Crown Court [2018] UKSC 1, [2018] AC 236.

452 R (Jordan) v Chief Constable of Merseyside Police [2020] EWHC 2274 (Admin), [35].

453 Competition and Markets Authority v Concordia International RX (UK) [2018] EWCA Civ 1881, [2018] Bus LR 2452, [75].

19.4.2.4 At the substantive hearing, the OPEN hearing should take place first, with the CLOSED hearing following. The claimant's representatives should be available to return for a short further OPEN hearing in case anything emerges from the CLOSED hearing on which it is necessary to invite further OPEN submissions.

19.4.2.5 Especially where, as in most cases, there is no special advocate to represent the interests of the claimant, counsel for the public authority has a special obligation to assist the Court by identifying any points arising from the CLOSED material which might arguably support the claimant or undermine the defence. The obligation is similar to that which arises when seeking an ex parte order. Counsel seeking such an order "must put on his defence hat and ask himself what, if he were representing the defendant or a third-party with the relevant interest, he would be saying to the judge, and, having answered that question, that is what he must tell the judge".[454] The same goes, mutatis mutandis, for counsel representing a defendant in any CMP held in a judicial review claim challenging a warrant.

19.4.2.6 After the substantive hearing, OPEN and CLOSED judgments should be prepared. To the extent possible, care should be taken to identify in the OPEN judgment every conclusion that has been reached in whole or in part on the basis of evidence referred to in the CLOSED judgment.[455]

454 In re Stanford International Bank Ltd [2011] Ch 33, [191].

455 Bank Mellat v HM Treasury (No. 2) [2013] UKSC 39, [2014] AC 700, [68].

20 Skeleton arguments and other required documents

20.1 General

20.1.1 The purpose of a skeleton argument is to assist the Court by setting out as concisely as practicable the arguments upon which a party intends to rely.[456]

20.1.2 The claimant, the defendant and any party who wishes to make representations must prepare a skeleton argument before any substantive hearing.[457]

20.1.3 Parties should also prepare skeleton arguments before any interlocutory hearing (for example, any renewed permission or hearing for interim relief or directions), even if the issue is straightforward.

20.2 Content of skeleton arguments

20.2.1 A skeleton argument must be as concise as possible.[458]

20.2.2 A skeleton argument should both define and confine the areas of controversy; be cross-referenced to any relevant document in the bundle; be self-contained and not incorporate by reference material from previous skeleton arguments or pleadings; and should not include extensive quotations from documents or authorities.[459]

20.2.3 It should not be left to other parties to infer from omissions in skeleton arguments what grounds of claim have been abandoned. If a party no longer pursues a ground of claim, that ought to be made clear to the court and to the other parties.[460] If an issue is intended to be pursued by a party at an oral hearing, it is not appropriate to simply state within the skeleton argument that the issue will be addressed by oral submissions.[461]

456 CPR 54A PD para 14.1.
457 CPR 54A PD paras 14.5 and 14.6.
458 R (Dolan) v Secretary of State for Health and Social Care [2020] EWCA Civ 1605, [119]-[120].
459 CPR 54A PD para 14.2(1).
460 R (All The Citizens) v Secretary of State for Culture, Media and Sport [2022] EWHC 960 (Admin), [17].
461 Goldstein v The Court of Caltanissetta Italy [2024] EWHC 1459 (Admin), [2].

20.2.4 Where it is necessary to refer to an authority, a skeleton argument must state the proposition of law for which the authority is cited and identify the parts of the authority that establish the proposition. Where the authority has paragraph numbers, these should be given. Otherwise, references to the page numbers of the report should be given. If more than one authority is cited in support of a given proposition, the skeleton argument must make clear why.[462]

20.2.5 When referring to an authority in a skeleton argument, or more generally at a hearing, it is necessary to ensure that the authority is genuine. Reliance should not be placed on auto-generated authorities using artificial intelligence tools, or on the fruits of a client's research, without checking the source directly. The citation of a false authority may lead to public admonition of the responsible lawyer, the imposition of a costs order, the imposition of a wasted costs order, striking out a case, referral to a regulator, the initiation of contempt proceedings, and referral to the police.[463]

20.2.6 It is important that:

20.2.6.1 the decision or other conduct under challenge is clearly identified;

20.2.6.2 the relevant facts, including any relevant change of circumstances since the Claim Form and supporting documentation were lodged, are set out;

20.2.6.3 the grounds for seeking judicial review (or interim relief, or any other order) are set out under numbered headings. The grounds must be stated shortly and numbered in sequence. Each ground should raise a distinct issue in relation to the decision under challenge;[464]

20.2.6.4 arguments and submissions in support of the grounds are set out separately in relation to each ground;

20.2.6.5 relevant legal principles are set out. Lengthy extracts from statutory or international materials, case law and other sources should be avoided unless it is considered

462 CPR 54A PD para 4.2(2).

463 R (Ayinde) v The London Borough of Haringey [2025] EWHC 1383 (Admin).

464 The Court emphasised the need for a clear and succinct statement of the grounds, in the context of appeals: R (Talpada) v Secretary of State for the Home Department [2018] EWCA Civ 841, [68]. See also Hickey v Secretary of State for Work and Pensions [2018] EWCA Civ 851, [74].

that this will materially speed up the Court's pre-reading, the presentation of the oral argument or the preparation of judgment;

20.2.6.6 the remedy sought is identified;

20.2.6.7 any urgency or other matter relevant to the timing of the case is explained;

20.2.6.8 any other relevant point, such as delay, alternative remedy or any other bar to relief, is identified and addressed.

20.3 Length and format of skeleton arguments

20.3.1 A skeleton argument must not exceed 25 pages. The Court may grant permission to exceed the 25-page limit.[465] Such an application should be made to a judge as soon as it is anticipated that one will be required. It is expected that this will be shortly after the Detailed Grounds of Defence are served.[466]

20.3.2 Skeleton arguments should be as short as possible. In most cases, there should be no need for the skeleton argument to exceed 20 pages.

20.3.3 A skeleton argument should be clearly typed and properly spaced. A font size of not less than 12-point should be used. Lines should be reasonably spaced (1.5 or double spacing is expected).

20.3.4 Paragraphs should be numbered sequentially. Pages should also be numbered.

20.3.5 Skeleton arguments filed and served by email should be sent as Word documents, not PDF or any other format and not included in the body of the email.

20.3.6 Any skeleton argument that does not comply with the requirements at paras 20.2.2, 20.2.3 or 20.3.1 of this Guide may be returned to its author by the ACO and may not be re-filed unless and until it complies with those requirements. The Court may disallow the cost of preparing a skeleton argument which does not comply with these requirements.[467]

465 CPR 54A PD para 14.3.

466 R (Palmer) v Northern Derbyshire Magistrates' Court [2021] EWHC 3013 (Admin), [11].

467 CPR 54A PD para 14.4. Advocates should expect that this practice will be followed: R (SSE Generation Ltd) v Competition and Markets Authority [2022] EWHC 865 (Admin).

20.4 Filing and serving skeleton arguments

20.4.1 Absent a specific judicial direction, the time limits for filing and serving skeleton arguments before a substantive hearing are:

20.4.1.1 for the claimant, not less than 21 calendar days before the hearing or warned date;[468] and

20.4.1.2 for the defendant or any other party wishing to make representations at the hearing, not less than 14 calendar days before the hearing or warned date.[469]

20.4.2 Skeleton arguments should always be served on the other party or parties to the case, whether or not that party is in a position to provide a skeleton by way of exchange.

20.4.3 For all other hearings (for example, hearings for renewal of permission), and in the absence of specific directions, skeleton arguments should be served at least two working days before the hearing is listed. If there is or may be a problem with compliance with that deadline, the ACO should be alerted as soon as possible.

20.4.4 Skeleton arguments should not be handed to the Court on the day of the hearing.

20.4.5 If either party anticipates that they will not be able to comply with the direction for the filing of skeleton arguments (or in the absence of specific directions, the requirement to file and serve at least two days before the hearing is listed) an application should be made promptly and with good reason.[470]

20.4.6 If the skeleton argument does not comply with this guidance, or is served late, the Court may refuse to permit the party in default to rely on the skeleton; alternatively, the Court may make an adverse costs order against the party in default (see para 25.1 of this Guide on costs).[471]

468 CPR 54A PD para 14.5.

469 CPR 54A PD para 14.6.

470 Goldstein v The Court of Caltanissetta Italy [2024] EWHC 1459 (Admin), [2].

471 See R (National Council of Civil Liberties) v Secretary of State for the Home Department (Procedural Matters) [2018] EWHC 976 (Admin), [17].

20.5 Other required documents

20.5.1 In addition to the skeleton arguments, not less than 7 days before a substantive hearing, the parties must file:[472]

20.5.1.1 an **agreed** list of issues;

20.5.1.2 an **agreed** chronology of events (with page references to the hearing bundle); and

20.5.1.3 an **agreed** list of essential documents for the advanced reading for the Court (with page references in the hearing bundle to the passages relied on) and a time estimate for that reading.

20.5.2 These are important documents, designed to assist the Court in preparing for the case and in understanding the scope of the dispute and the dates of the key material events.

20.5.3 Because these documents must be agreed by all parties, the parties should liaise in good time before the deadline to decide who will produce the first drafts; the date by which this will be done; and the date by which the other party or parties will communicate their comments on the drafts. Parties are expected to approach this task in a spirit of co-operation. The issues and events in the chronology should be described neutrally. Tendentious descriptions should be avoided.

472 CPR 54A PD para 14.7.

21 Documents

21.1 Bundles: general

21.1.1 A bundle is a paginated and indexed set of the documents (or extracts from them) which the parties consider it is necessary for the judge to consider at a particular hearing. Documents in a bundle should generally be presented in chronological order (i.e. starting with the oldest document and ending with the most recent document). Correspondence between the parties should only be included in the bundle if it serves a particular purpose of relevance to the issues in dispute at the hearing for which the bundle is being prepared.

21.2 The hearing bundle

21.2.1 The bundle prepared for a substantive hearing is known as the hearing bundle. The parties must agree its contents. If the hearing bundle is over 400 pages, there must also be a core bundle. This is a paginated and indexed bundle including the pleadings, a copy of the decision and/or measure challenged in the proceedings and such further documents (or extract from them) as the parties consider essential for the purposes of the hearing. Each party (or the party's solicitor) must certify that the hearing bundle and any core bundle meet these requirements.[473]

21.2.2 The Court will not adjudicate disputes about which documents should be in the hearing bundle or core bundle. The parties should approach the task of agreeing their content in a spirit of co-operation. If one party considers that a document should be included and another party disagrees on the basis that the document is irrelevant or inadmissible, the document should be included, but the dispute as to its relevance or admissibility should be flagged in the index.

21.2.3 An electronic version of the hearing bundle and any core bundle must be prepared in accordance with the guidance at Annex 9.[474]

21.2.4 Sometimes the order granting permission, or another order, will include a direction about when the hearing bundles are to be lodged. Absent such a direction, the hearing bundle and any core bundle must be lodged, in hard copy and electronic form, not less than 21 days before the hearing date or warned date. For Divisional Court

473 CPR 54A PD para 15.1.

474 CPR 54A PD para 15.2.

cases, one hard copy bundle must be lodged for each judge hearing the case.[475]

21.2.5 If it is necessary to lodge bundles late, the bundles should be accompanied by a letter making clear that the bundle relate to an imminent hearing and explaining the reasons why it was not possible to lodged the bundles on time. If this is not done, the bundles may not be placed before the judge hearing the case.

21.2.6 The Court does not expect to have documents handed up during the course of the hearing, although in exceptional circumstances it may give permission to adduce evidence or submit documents in that way.

21.3 Other hearings

21.3.1 Sometimes (for example, when an urgent interlocutory application is made), there may be no directions about bundles. The party making the application must still ensure that all documents relevant to the application are before the Court by preparing an application bundle, in hard copy and electronic form, containing these documents. The bundle must be filed at Court and served on the other parties in good time before the hearing.

21.3.2 This means that the application bundle must be served at least 3 clear days before the hearing or, in cases where the urgency of the application makes this impossible, no later than 1pm on the day before the hearing.

21.4 Format of bundles

21.4.1 The Court always requires both hard copy and electronic bundles to be provided, subject to any order to the contrary.

21.4.2 Hard copy bundles should be secured in a ring or lever arch binder or binders which can comfortably accommodate the documents contained in them. The binders must open and close properly. The bundle's spine must be clearly marked with the reference number of the case and name of the parties. Documents should be copied double-sided and in portrait format (not landscape). Copies must be legible.

21.4.3 Electronic bundles (or e-bundles) must be prepared and formatted in accordance with the guidance at Part A of Annex 9.[476]

475 CPR 54A PD para 15.3.

476 CPR 54A PD para 15.2.

21.4.4 If it is necessary to prepare an updated electronic bundle after the original bundle has been sent to the judge, it should not be assumed that the judge will accept it as a complete replacement. The judge may already have started to mark up the original. Inquiries should be made of the judge as to their preference. Absent a particular direction, a substitute bundle should be made available, but any additional pages should also be provided in a separate supplementary bundle with those pages appropriately numbered and/or sub-numbered (143.1, 143.2 etc).

21.4.5 The judge may refuse to read a bundle which does not comply with these requirements, or direct that a revised bundle is submitted which does comply, in which event the judge may disallow the costs or make another adverse costs order.

21.5 How to lodge electronic bundles

21.5.1 Hearing e-bundles for non-urgent judicial review claims and interlocutory applications should be lodged by email as follows:

21.5.1.1 Send a request by email to these addresses:

- For cases in the London High Court: administrativecourtoffice.duc@justice.gov.uk
- For cases in the Birmingham High Court: administrativecourtoffice.birmingham@justice.gov.uk
- For cases in Wales and the Western Circuit: administrativecourtoffice.cardiff@justice.gov.uk
- For cases in the Leeds High Court: administrativecourtoffice.leeds@justice.gov.uk
- For cases in the Manchester High Court: administrativecourtoffice.manchester@justice.gov.uk

21.5.1.2 The email will be answered with an invitation from an ejudiciary.net email address to upload the documents.

21.5.1.3 There is a maximum size of attached files which can be received by a justice.gov address (36MB in aggregate) and ejudiciary.net address (150MB in aggregate). Where those limits cause a problem, the solution may be to transmit bundles by separate emails. Sensibly bundled documents must not be separated into small bundles just for the purpose of transmission. These limits do not apply when uploading documents to the Document Upload Centre.

21.5.1.4 The email subject line should provide the following detail: (a) case number (once issued); (b) case name (shortest comprehensible version); (c) hearing date (once listed); and (d) judge name (if known).

21.5.1.5 The claim form and accompanying documents should not be sent by way of hyperlinks in an email. Documents filed by email need to be attached to or included in an email.[477]

21.5.2 Application e-bundles accompanying applications for urgent consideration must be filed as indicated in para 17.5.4 of this Guide.

21.5.3 Parties and their legal representatives should **only** use the addresses set out above or another email address directed by the Court. Sending the same document to multiple email addresses risks it being overlooked and left unread.

21.5.4 Litigants in person who do not have access to email should contact the ACO by telephone **(only to be used in an emergency)** so that alternatives arrangements can be made if permitted by the Senior Legal Managers or a judge. The following telephone numbers are to be used:

For cases in the High Court in London: 020 7947 6158.

For cases in the High Court in Birmingham: 0121 681 4441.

For cases in Wales or the Western Circuit: 02920 376460.

For cases in the High Court in Leeds: 0113 306 2578.

For cases in the High Court in Manchester: 0161 240 5313.

477 Paragraphs 2.1 and 3.2 of Practice Direction 5B. R (ETM Contractors Ltd) v Bristol City Council [2024] EWHC 2263 (Admin), [79(4)].

21.5.5 For more information on electronic filing and fee payment see the Administrative Court's information for court users, 4 October 2023 (Annex 9 to this Guide).[478]

21.6 Litigants in person

21.6.1 The general rule is that litigants in person must comply with the requirements in this Guide. If it is not possible for a litigant in person to comply with the rules on electronic bundles, the Court must be given a brief explanation of the reasons for this as far in advance of the hearing as possible. Where possible, a practical way of overcoming the problem should be identified. Where a litigant in person is the claimant or applicant and another party has legal representation, the legal representatives for that party should consider offering to prepare the e-bundle.

21.7 Sanction for non-compliance

21.7.1 If the hearing bundle or application bundle of documents does not comply with this guidance, or is served late, the Court may refuse to allow the party in default to rely on the bundle of documents. Alternatively, it may make an adverse costs order against the party in default (see para 25.1 of this Guide).

478 HM Courts and Tribunals Service, Administrative Court Information for Court Users, 2022. Available at: www.judiciary.uk/wp-content/uploads/2022/07/Administrative-Court-Information-for-court-users-June22.pdf

22 Authorities

22.1 General

22.1.1 Authorities are the source materials on which the Court relies to identify, interpret and apply the law. They include legislative provisions, reports or transcripts of decided cases, international legal materials, legal textbook extracts and legal journal articles.

22.1.2 An authorities bundle is an indexed set of the authorities which the parties consider the Court will need to read at a particular hearing. It should contain only those authorities to which it is necessary to refer for the fair disposal of the issues at the hearing. It need not contain every authority referred to in the statements of case or skeleton arguments. It should not contain authorities for propositions which are not in dispute. In most cases, it is unnecessary to refer to more than 10 authorities. In some cases, fewer than that (or none at all) will be required.

22.1.3 Where large numbers of authorities are cited, it is preferable to agree a core bundle of authorities, itself not exceeding 10 authorities.

22.1.4 Where a decided case is reported in a set of law reports, the report (rather than a transcript of the judgment) should be cited. Where a case is reported in the Official Law Reports (AC, QB/KB, Ch, Fam), that version should be used in preference to any other.[479] Copies of reported authorities printed from websites or databases should be in the same format as the hard-copy printed version of the report where possible.

22.2 Substantive hearings

22.2.1 For substantive hearings, the parties are required to lodge the agreed authorities bundles no less than 7 days before the hearing date or warned date. For Divisional Court cases, one set of hard copy bundles will be required for each judge hearing the case.[480] If one party considers that an authority should be included, it should generally be included.

479 Lord Chief Justice of England and Wales, Practice Direction: Citation of Authorities (2012). Available at: www.judiciary.uk/wp-content/uploads/JCO/Documents/Practice+Directions/lcj-pract-dir-citation-authorities-2012.pdf

480 CPR 54A PD para 15.5.

22.2.2 Some of the authorities which it is necessary for the Court to see at the hearing may already have been filed at Court with the Claim Form, Acknowledgment of Service or Detailed Grounds. These should still be included in the authorities bundle, as the Court will not necessarily have the earlier bundles before it.

22.3 Other hearings

22.3.1 For other hearings (including oral permission hearings, interim relief and other interlocutory hearings), there may be no directions about bundles. Even so, authorities bundles must be prepared if the Court will need to see authorities. The bundles should be agreed in the same way as for substantive hearings (see para 22.2 of this Guide).

22.3.2 As with application bundles, authorities bundles must be lodged at Court and served on the other parties in good time before the hearing.

22.3.3 This means that the authorities bundles must be served at least 3 clear days before the hearing or, in cases where the urgency of the application makes this impossible, no later than 1pm on the day before the hearing.

22.4 Format of authorities bundles

22.4.1 Whenever they are required, authorities bundles should be provided both in hard copy and in electronic form, subject to any order to the contrary.

22.4.2 Hard copy bundles must be indexed and tabbed. They may also be sequentially paginated. They must be secured in a ring or lever arch binder or binders which can comfortably accommodate the authorities contained in them. The binders must open and close properly. The bundle's spine must be clearly marked with the reference number of the case and name of the parties. Documents should be copied double-sided and in portrait format (not landscape). Copies must be legible.

22.4.3 Electronic authorities bundles must be prepared in the same way as electronic hearing and application bundles (see para 21.4.3 of this Guide).

22.5 Litigants in person

22.5.1 The general rule is that litigants in person must comply with the requirements in this Guide. However, where a litigant in person is the claimant or applicant and another party has legal representation, the legal representatives for that party should generally prepare the authorities bundles.

22.6 Sanctions

22.6.1 If the authorities bundle does not comply with this guidance, or is lodged late, the Court may refuse to allow the party in default to rely on those authorities, require the bundle to be adjusted to meet the Court's requirements, and/or make an adverse costs order against the party in default (see para 25.1 of this Guide).

23 Evidence

23.1 Witness evidence

23.1.1 A witness statement must be headed with the title of the proceedings.[481]

23.1.2 At the top right hand corner of the first page, there should be clearly written:[482]

23.1.2.1 the party on whose behalf the statement is made;

23.1.2.2 the initials and surname of the witness;

23.1.2.3 the number of the statement in relation to that witness;

23.1.2.4 the identifying initials and number of each exhibit referred to;

23.1.2.5 the date the statement was made; and

23.1.2.6 the date of any translation.

23.1.3 A witness statement must, if practicable, be in the witness's own words and must in any event be drafted in the witness's own language,[483] expressed in the first person and should also state:[484]

23.1.3.1 the full name of the witness;

23.1.3.2 his place of residence or, if he is making the statement in his professional, business or other occupational capacity, the address at which he works, the position he holds and the name of his firm or employer;

23.1.3.3 his occupation, or if he has none, his description;

23.1.3.4 the fact that he is a party to the proceedings or is the employee of such a party (if it be the case); and

481 CPR 32 PD para 17.1.

482 CPR 32 PD para 17.2.

483 Where a witness statement is in a foreign language, the party wishing to rely on it must have it translated and file the foreign language statement with the court. The translator must sign the original and certify that the translation is accurate. See CPR 32 PD para 23.2 and R (MQ) v Secretary of State for the Home Department [2023] EWHC 205 (Admin), [17].

484 CPR 32 PD para 18.1.

23.1.3.5 the process by which it has been prepared, for example, face-to-face, over the telephone, and/or through an interpreter.

23.1.4 A witness statement must state which of the statements in it are made from the witness's own knowledge, and which are matters of information or belief; and the source of matters of information or belief.[485] Where the maker of a witness statement is relying on evidence provided by an incorporated entity, and the source of the information is an officer or employee of that entity (rather than documents seen by the witness themselves), the person must be identified.[486] This applies also where the entity concerned is a government department.[487] Failure to comply strictly with this requirement may not render evidence inadmissible, but may affect the weight which can be attached to it.[488] However, where a witness gives evidence about departmental policies, it may not be necessary to identify each individual who has contributed to the policy's development; it may be sufficient to provide general information about the process by which the statement has been prepared.[489]

23.1.5 Each exhibit should be verified and identified by the witness and remain separate from the witness statement.[490] The statement should have pages numbered consecutively and be divided into numbered paragraphs.[491] It is usually convenient to follow the chronological sequence of the events or matters dealt with.[492]

485 CPR 32 PD para 18.2.

486 Punjab National Bank (International) Ltd v Techtrek India Ltd [2020] EWHC 539 (Ch), [20] (Chief Master Marsh).

487 Attorney General v British Broadcasting Corporation [2022] EWHC 380 (QB), [30].

488 R (Gardner) v Secretary of State for Health and Social Care [2022] EWHC 967 (Admin), [258].

489 R (All the Citizens) v Secretary of State for Digital, Culture, Media and Sport [2022] EWHC 960 (Admin), [2022] 1 WLR 3748, [25].

490 CPR 32 PD para 18.3.

491 CPR 32 PD para 19.1.

492 CPR 32 PD para 19.2.

23.1.6 A witness statement must include a statement of truth in the following terms:[493]

"I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth."

23.1.7 The witness must not sign that statement of truth unless he or she holds an honest belief in the truth of the statements made in the witness statement. Proceedings for contempt of court may be brought against a person if, without an honest belief in its truth, he or she makes or causes to be made a false statement in a document verified by a statement of truth.[494]

23.1.8 It is rare for a witness to be called to give oral evidence in judicial review proceedings: see para 11.2 of this Guide.

23.2 Expert evidence

23.2.1 A party wishing to rely on expert evidence must obtain the Court's permission to do so.[495] Permission will be given only where expert evidence is reasonably required to resolve the proceedings.[496] There is no special dispensation from compliance with these rules in public law cases. The rules must be observed.[497]

23.2.2 In judicial review proceedings, the Court's function is to determine whether the decision or conduct challenged was a lawful exercise of a public function, not to assess the merits of the decision or conduct under challenge. It is therefore seldom necessary or appropriate to consider any evidence going beyond what was before the decision-maker and evidence about the process by which the decision was taken – let alone any expert evidence.[498]

493 CPR 32 PD para 20.2.
494 CPR 32.14.
495 CPR 35.4.
496 CPR 35.1.
497 R (AB) v Chief Constable of Hampshire Constabulary [2019] EWHC 3461 (Admin), [118].
498 R (Law Society) v Lord Chancellor [2018] EWHC 2094 (Admin), [2019] 1 WLR 1649, [36]. R (AB) v Chief Constable of Hampshire Constabulary [2019] EWHC 3461 (Admin), [117].

23.2.3 The situations in which evidence other than of the decision under challenge is admissible in judicial review proceedings are limited. They include (a) evidence showing what material was before or available to the decision maker; (b) evidence relevant to the determination of a question of fact on which the jurisdiction of the decision-maker depended; (c) evidence relevant in determining whether a proper procedure was followed; and (d) evidence relied on to prove an allegation of bias or other misconduct on the part of the decision-maker.[499]

23.2.4 Expert evidence not falling into these categories will be admissible only rarely. However, it may be admissible:

23.2.4.1 to explain technical matters, where an understanding of such matters is needed to enable the Court to understand the reasons relied on in making the decision in the context of a challenge to its rationality;[500]

23.2.4.2 where it is alleged that the challenged decision was reached by a process which involved a serious – and incontrovertible – technical error which is not obvious to an untutored lay person but can be demonstrated by a person with the relevant technical expertise;[501] and

23.2.4.3 where it is alleged that a process was unfair because of the failure to disclose information, expert evidence may assist in showing the importance of the information not disclosed, the submissions that would have been made in response to it and, therefore, the materiality of the failure.[502]

499 R v Secretary of State for the Environment ex p. Powis [1981] 1 WLR 584, 595. R (Law Society) v Lord Chancellor [2018] EWHC 2094 (Admin), [2019] 1 LR 1649, [37].

500 R (Lynch) v General Dental Council [2003] EWHC 2987 (Admin), [2004] 1 All ER 1159, [22]. R (Law Society) v Lord Chancellor [2018] EWHC 2094 (Admin), [2019] 1 WLR 1649, [38].

501 R (Law Society) v Lord Chancellor [2018] EWHC 2094 (Admin), [2019] 1 WLR 1649, [39]-[41]. The error must be incontrovertible, once the matter is explained by the expert. If the expert's evidence is contradicted by a rational opinion from another qualified expert, the justification for admitting it will fall away.

502 R (Law Society) v Lord Chancellor [2018] EWHC 2094 (Admin), [2019] 1 WLR 1649, [42].

23.2.5 A claimant must give careful thought to whether to apply for permission to adduce expert evidence. Any application for permission to adduce expert evidence, and for appropriate consequential directions, must be made at the earliest possible opportunity.[503] Ideally, this should be done in the Claim Form or, if later, as soon as the need for it arises.

23.2.6 Determining whether the expert evidence is reasonably required to resolve the proceedings involves: (i) identifying the issues in the proceedings to which the expert evidence is said to be relevant; and (ii) evaluating whether the expert evidence is reasonably required to resolve those issues. This will usually entail a close focus on the pleaded issues and the content of the expert report. It will also involve an assessment of the evidence *already* available to the court on the particular issue, whether this is by way of documents or statements from witnesses of fact. In some instances, expert evidence may be of potential relevance to an issue in the case but may not significantly assist the court in light of the other evidence that it already has and may not, therefore, be required to resolve the proceedings.[504]

503 R (Law Society) v Lord Chancellor [2018] EWHC 2094 (Admin), [2019] 1 WLR 1649, [44]. R (AB) v Chief Constable of Hampshire Constabulary [2019] EWHC 3461 (Admin), [118].

504 R (Public and Commercial Services Union) v Secretary of State for the Home Department [2022] EWHC 517 (Admin), [27]-[29].

Part D: Ending The Claim

24 Ending a Claim

24.1 Introduction

24.1.1 Cases are ended either by an order made by the Court (where the case is determined by the Court or settled by consent) or by notice of discontinuance.

24.1.2 Where the public law aspects of a claim are no longer in issue, but residual matters such as damages remain, the parties should address their minds to the question whether the remainder of the claim should be transferred to another court.[505] See para 12.8 of this Guide for further information on damages.

24.2 Claim determined by the Court

24.2.1 Where the Court makes a final determination, and produces a Court order, the case will have concluded in the Administrative Court (subject only to an appeal to the Court of Appeal (see CPR Part 52 and Chapter 26 of this Guide).

24.2.2 A final determination will be made:

24.2.2.1 where permission to apply for judicial review is refused on the papers and the claim is declared to be totally without merit;

24.2.2.2 where permission to apply for judicial review is refused on the papers and reconsideration is not requested within 7 days;

24.2.2.3 where permission to apply for judicial review is refused after an oral hearing;

24.2.2.4 where the substantive claim is dismissed; or

24.2.2.5 where the substantive claim succeeds and a final order is made.

505 R (ZA (Pakistan)) v Secretary of State for the Home Department [2020] EWCA Civ 146, [72].

24.3 Discontinuance

24.3.1 A case may be ended by discontinuing the claim, which may be done at any point in the proceedings.[506]

24.3.2 Discontinuance requires the claimant to file a notice of discontinuance (Form N279) and serve it on all parties.[507] There is no Court fee payable when discontinuing.

24.3.3 The claimant may discontinue the claim in relation to all or some of the defendants.[508]

24.3.4 The Court's permission is required to discontinue where the claimant has obtained an interim injunction[509] or any party has given an undertaking to the Court.[510] This can be done by filing the notice of discontinuance, referring to the fact that permission is required, and the ACO will forward the notice to a judge to give permission without a hearing (unless the judge orders a hearing and representations). In other cases, permission is not required.

24.3.5 The discontinuance will take effect from the date on which the notice of discontinuance is served on the defendant(s).[511]

24.3.6 By filing a notice of discontinuance, the claimant accepts that he or she is liable for the defendant's costs up until that date[512] (unless the parties have agreed a different costs order) and a costs order will be deemed to have been made on the standard basis[513] (see para 25.2.3 of this Guide). The claimant may apply to reverse the general rule that he or she is liable for costs. Any such application must demonstrate a good reason for departing from the general rule. A good reason may exist if the defendant has behaved unreasonably. Any such application must be made in accordance with the interim applications procedure (see para 13.7 of this Guide).

506 CPR 38.2(1).
507 CPR 38.3(1).
508 CPR 38.3(4).
509 CPR 38.2(2)(a)(i).
510 CPR 38.2(2)(a)(ii).
511 CPR 38.5(1).
512 CPR 38.6(1).
513 CPR 44.9(1)(c).

24.3.7 The defendant may apply to have a notice of discontinuance set aside within 28 days of being served with it.[514]

24.4 Consent orders and uncontested proceedings

24.4.1 If the parties agree to end a claim, they must seek the approval of the Court. The parties must file 3 copies of a draft agreed order with the ACO, together with (a) a short statement of the matters relied on as justifying the proposed agreed order, and (b) copies of any authorities or statutory provisions relied on. Both the draft order and the agreed statement must be signed by all parties (including interested parties) to the claim. The relevant fee must also be paid.[515] The Court will only approve the order if it is satisfied that the order should be made; if not so satisfied, a hearing date may be set. The open justice principle applies to a determination made on the papers and the Court may have to give consideration to the question whether there should be public access to documents.[516]

24.4.2 The terms of the order can include anything that the parties wish the Court to approve, but will generally include the following:

24.4.2.1 an indication (often in the header to the order as well as in the recitals) that the order is made "By Consent";[517]

24.4.2.2 the signature of the legal representative for every party to the claim, or of the party themselves where he or she is acting in person;[518]

24.4.2.3 where the order will finally determine the claim, the manner of determination (e.g. that the claim is withdrawn or that the decision challenged is quashed).

24.4.3 Where the claim is withdrawn, this leaves the challenged decision in place (unless the defendant has voluntarily withdrawn the decision, thus removing the claimant's need to obtain the relief of the Court). Where the decision is quashed, it will be of no legal effect.

514 CPR 38.4.

515 CPR 54A PD para 16. See Annex 2 of this Guide for the fee.

516 See UXA v Merseycare NHS Foundation Trust [2021] EWHC 3455, [2022] 4 WLR 30. For an example of a case where the Court gave a public judgment giving its reasons for making a consent order, see R (Fairey) v East Riding of Yorkshire Council [2023] EWHC 361 (Admin).

517 CPR 40.6(7)(b).

518 CPR 54A PD para 16(1). "Party" for these purposes includes an interested party.

24.4.4 The consent order should make provision for determining costs, otherwise a deemed costs order will apply (see para 25.8 of this Guide for deemed costs orders). This is generally done in one of 3 ways:

24.4.4.1 by providing for an agreed, set sum to be paid between the parties;

24.4.4.2 by allowing the parties to agree the quantum of costs after the consent order has been finalised, with a fall-back option of applying for detailed assessment of costs. For example: the claimant is to pay the defendant's reasonable costs, to be subject to detailed assessment if not agreed (see para 25.3.4 of this Guide for detailed assessment);

24.4.4.3 by making provision for summary assessment of costs on the papers. Such a provision should follow the ACO Costs Guidance;

24.4.4.4 by making provision for liability for costs to be decided on the papers on the basis of written submissions in accordance with the ACO Costs Guidance dated April 2016 (see para 25.5 of this Guide). In such circumstances, it will be necessary to specify arrangements for determining the quantum of any costs award once the question of liability has been settled by the court – e.g. by providing for detailed assessment in default of agreement.

24.4.5 Where the agreement relates to an order for costs only, the parties need only file a document signed by all the parties setting out the terms of the proposed order (a fee is payable).

24.5 Settlements on behalf of children and protected parties

24.5.1 Where a claim is made by or on behalf of, or against, a child or a protected party[519] no settlement, compromise or payment and no acceptance of money paid into Court shall be valid without the approval of the Court.[520]

24.5.2 To obtain the Court's approval, an application must be made in accordance with the procedure described at para 13.7 of this Guide.

24.6 Other points of practice

24.6.1 The parties have an obligation to inform the Court if they believe that a case is likely to settle as soon as they become aware of the possibility of settlement.[521] Such information allows judges and staff to allocate preparation time and hearing time accordingly. Failure to do so may result in the Court making an adverse costs order against the parties (see para 25.1 of this Guide for costs).

24.6.2 When a case is closed by the ACO the file may be immediately reduced in size for storage (or "broken up"). Particulars of claim and witness statements are retained on the closed file but all exhibits, written evidence, and authorities are destroyed. The reduced file is retained for 3 years after the case is closed. It is then destroyed.

519 CPR 21.1.
520 CPR 21.10.
521 Yell Ltd v Garton [2004] EWCA Civ 87, [6].

25 Costs

25.1 Liability for costs

25.1.1 The Court has a discretion whether to order one party to pay the legal costs of another.[522] The discretion is governed by CPR Part 44.

25.1.2 Where the Court decides to make an order for costs, the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party.[523]

25.1.3 In deciding whether to make a different order, the Court must have regard to all the circumstances of the case, including the conduct of the parties.

25.1.4 The conduct of the parties includes (but is not limited to):[524]

25.1.4.1 conduct before as well as during the proceedings, and in particular the extent to which the parties followed the pre-action Protocol (see para 6.2 of this Guide);

25.1.4.2 whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;

25.1.4.3 the manner in which a party has pursued or defended their case or a particular allegation or issue; and

25.1.4.4 whether a claimant who has succeeded in the claim, in whole or in part, has exaggerated their claim.

25.1.5 Where a party has failed to comply with orders of the Court or other procedural rules (such as those outlined in this Guide) the Court may:

522 Section 51(1) of the Senior Courts Act 1981 and CPR 44.2(1).

523 CPR 44.2(2)(a) and R (M) v Croydon London Borough Council [2012] EWCA Civ 595, [58]-[65]. The fact that one party is publicly funded is "not necessarily irrelevant" to the exercise of discretion on costs: ZN (Afghanistan) v Secretary of State for the Home Department [2018] EWCA Civ 1059, [91]-[92] and [106]. The court has regarded the prospect of an adverse costs order against a public authority as beneficial on the basis that it will encourage better decision-making within Government, a more realistic appraisal by the respondent Department of the merits of defending any particular application and the efficient and proportionate conduct of proceedings. It has also considered it just that a person wronged by the actions of a public body should be reimbursed his costs: Competition and Markets Authority v Flynn Pharma Ltd [2022] UKSC 14, [2022] 1 WLR 2972, [133].

524 CPR 44.2(5).

25.1.5.1 in a case where the party in default is the successful party, reduce the amount of costs to which he or she would normally be entitled; and

25.1.5.2 in a case where the party in default is the unsuccessful party, require that party to pay more than would otherwise be considered reasonable.

25.1.6 Where a party has succeeded on only part of its case a judge will ordinarily require the losing party to pay costs only insofar as they relate to the parts of the claim that have succeeded, or pay only a percentage of the winning party's costs. Nevertheless, the court retains a broad discretion in relation to costs and may make a different award taking into account all the circumstances.[525]

25.2 Reasonable costs and the basis of the assessment

25.2.1 The Court will not require payment of costs which have been unreasonably incurred or are unreasonable in amount.[526] In deciding whether costs are reasonable the Court will have regard to all the circumstances of the case.[527]

25.2.2 The amount payable is assessed (i.e. determined) either on the standard basis of assessment or on the indemnity basis of assessment.

25.2.3 Most costs orders are made on the standard basis. Where a Court order is silent as to the basis, the presumption is that the standard basis applies.[528]

25.2.4 Where the amount of costs is to be assessed on the standard basis, the Court will allow only those costs which are proportionate to the matters in issue. Where there is doubt as to whether costs were reasonable and proportionate in amount the Court will determine the question in favour of the paying party.[529] Costs incurred are proportionate if they bear a reasonable relationship to:[530]

25.2.4.1 the sums in issue in the proceedings;

525 R (A, B) v North Central London Integrated Care Board [2024] EWHC 2881 (Admin), [32].
526 CPR 44.3(1).
527 CPR 44.4(1).
528 CPR 44.3(4)(a)
529 CPR 44.3(2).
530 CPR 44.3(5).

25.2.4.2 the value of any non-monetary relief in issue in the proceedings;

25.2.4.3 the complexity of the litigation;

25.2.4.4 any additional work generated by the conduct of the paying party; and

25.2.4.5 any wider factors involved in the proceedings, such as reputation or public importance.

25.2.5 The Court will assess costs on the indemnity basis in cases where the losing party has acted unreasonably in bringing, maintaining or defending the claim or in any other way.[531]

25.2.6 Where the amount of costs is to be assessed on an indemnity basis, the Court will resolve any doubt it may have as to whether costs were reasonably incurred or were reasonable in amount in favour of the receiving party. There is no requirement that the costs be proportionately incurred or proportionate in amount.[532]

25.3 Summary and detailed assessment

25.3.1 Where the Court orders a party to pay costs to another party, it may either assess those costs itself summarily (i.e. undertake a summary assessment), or order that a detailed assessment be undertaken by a Costs Judge.[533]

25.3.2 Where the Court does not make a summary assessment and does not mention the manner of assessment in a costs order, detailed assessment is presumed.[534]

25.3.3 The general rule is that the Court should make a summary assessment at the conclusion of any hearing which has lasted no more than one day, unless there is good reason not to do so. The Court may decide not to make a summary assessment if the paying party shows substantial grounds for disputing the sum claimed and the dispute is not suitable for summary determination. The costs covered by the summary assessment will be those of the application or matter to

531 The principles applicable when deciding whether costs should be awarded on the indemnity basis are set out in R (PZX) v Secretary of State for the Home Department [2022] EWHC 2890 (Admin), [13].

532 CPR 44.3(3).

533 CPR 44.6(1).

534 CPR 44 PD para 8.2.

which the hearing related. If the hearing disposes of the whole claim, the order may deal with the costs of the whole claim.[535]

25.3.4 The procedure for summary assessment is as follows:

25.3.4.1 For any hearing which is listed to last for one day or less, each party who intends to claim costs must file and serve on the other parties a statement of costs. This must be done not less than 24 hours before the time fixed for the hearing (unless a judge has ordered a different timetable).[536]

25.3.4.2 The statement should follow as closely as possible Form N260 and must be signed by the party or the party's legal representative.[537]

25.3.4.3 Where an application is to be determined without a hearing, the statement of costs should be filed and served with the application papers.

25.3.4.4 The Court will not make a summary assessment of the costs of a receiving party who is an assisted person or a person for who civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) are provided under arrangements made for the purposes of that Part of that Act.[538]

25.3.4.5 The Court will not make a summary assessment of the costs of a receiving party who is a child or protected party within CPR Part 21 unless the legal representative acting for the child or protected party has waived the right to further costs. The Court may, however, make a summary assessment of the costs payable by a child or protected party.[539]

25.3.4.6 Unless a judge orders otherwise, any costs order must be complied with within 14 days of the costs order,[540] although the parties may vary this time limit and agree

535 CPR 44 PD para 9.2.
536 CPR 44 PD para 9.5(2) and (4)(b).
537 CPR 44 PD para 9.5(3).
538 CPR 44 PD para 9.8.
539 CPR 44 PD para 9.9.
540 CPR 44.7(1).

their own payment terms without seeking the agreement of the Court.

25.3.5 The procedure for detailed assessment is as follows:

25.3.5.1 Detailed guidance on the procedure for detailed assessment can be found in the Senior Courts Costs Office Guide, which can be found online at the following website: www.gov.uk/government/publications/senior-courts-costs-office-guide.

25.3.5.2 Where detailed assessment has been ordered by the Administrative Court in London, the application for detailed assessment of costs must be started at the Senior Courts Costs Office in London.

25.3.5.3 Where detailed assessment has been ordered by the Administrative Court sitting outside of London, the application for detailed assessment of costs must be made in the District Registry associated with the relevant ACO. For example, for a judicial review claim determined by the Administrative Court in Cardiff, the detailed costs assessment should be started in the District Registry in Cardiff, and so on. There is one exception: if the case is a Western Circuit case administered by the ACO in Cardiff but heard on the Western Circuit, any detailed cost assessment should be filed at the District Registry in Bristol.

25.3.5.4 It should be noted that detailed assessment proceedings are not Administrative Court proceedings and a new case number will be assigned to the proceedings. The ACO will not have any further involvement with the case.

25.4 Costs orders at the permission stage

25.4.1 If permission is granted, either on the papers or at an oral hearing, the claimant's costs are "costs in the case" (unless the Court make a different order). This means that whether the claimant will be able to recover the costs of the application for permission will depend on the outcome of the substantive hearing.

25.4.2 If a defendant or interested party seeks their costs of responding to the application for permission to apply for judicial review an application should be included in Acknowledgment of Service, which should be accompanied by a schedule setting out the

amount claimed (limited to the costs incurred in preparing the Acknowledgment of Service and the Summary Grounds of Defence).[541] If permission is refused on the papers, the judge will decide whether to award costs and, if so, will normally summarily assess them. This will be a final order unless the claimant makes representations in accordance with the directions contained in the judge's order but not the costs incurred at the pre-action stage.[542]

25.4.3 If the parties file costs representations outside the time permitted by the judge (usually 14 days) they must apply for an extension of time to file the costs submissions in accordance with the procedure at para 13.7 of this Guide.

25.4.4 If the claimant also seeks reconsideration of the refusal of permission at an oral hearing, any objections to costs that have been previously ordered may be considered at the renewal hearing. The Court may confirm or vary the earlier order as to costs.

25.4.5 If permission to apply for judicial review is refused at a hearing there are additional principles which the Court will generally apply:[543]

25.4.5.1 A successful defendant or other party at the permission stage who has filed an Acknowledgment of Service should generally recover the costs of doing so from the claimant, whether or not he or she attends any permission hearing.

25.4.5.2 A defendant or other party who attends and successfully resists the grant of permission at a renewal hearing will not usually recover from the claimant the costs of attending the hearing.[544]

25.4.5.3 A Court, in considering an award of costs against an unsuccessful claimant at a permission hearing, should only depart from the general principles above if it is considered that there are exceptional circumstances for doing so.

25.4.5.4 A Court considering costs at the permission stage should be allowed a broad discretion as to whether, on the facts

541 R (Ewing) v Office of the Deputy Prime Minister [2005] EWCA Civ 1583, [2006] 1 WLR 1260, [47].

542 R (Jones) v Nottingham City Council [2009] EWHC 271 (Admin).

543 R (Mount Cook Ltd) v Westminster City Council [2003] EWCA Civ 1346, [2004] CP Rep 12, [76].

544 CPR 54A PD para 7.5.

of the case, there are exceptional circumstances justifying the award of costs against an unsuccessful claimant.

25.4.5.5 Exceptional circumstances may consist in the presence of one or more of the features in the following non-exhaustive list: (a) the hopelessness of the claim; (b) the persistence in it by the claimant after having been alerted to facts and/or of the law demonstrating its hopelessness; (c) the extent to which the Court considers that the claimant, in the pursuit of his application, has sought to abuse the process of judicial review; (d) whether, as a result of the deployment of full argument and documentary evidence by both sides at the hearing, the unsuccessful claimant has had, in effect, the advantage of an early substantive hearing of the claim; (e) whether the unsuccessful claimant has substantial resources which it has used to pursue the unfounded claim and which are available to meet an order for costs; (f) whether the permission was refused at a rolled-up hearing, in which event the defendant, who has prepared for a substantive hearing, may be awarded costs.

25.5 Costs when a claim has been settled

25.5.1 When a case is settled, parties should seek to agree costs through reasoned negotiation, mindful of the overriding objective and the amount of costs at stake. Only if they cannot agree should they apply to the Court for an order.

25.5.2 In their discussions on costs, the parties should bear in mind that the Court may already have decided the issue of costs of the application for permission. Where this decision amounts to a final order (see para 24.4.2 of this Guide), the Court must not be asked to revisit the decision in any submissions on costs.

25.5.3 Where a claim has settled (see para 24.4 of this Guide), but the parties have been unable to agree costs, the parties should follow the ACO costs guidance dated April 2016.[545]

25.5.4 The Court will consider what order on costs to make in accordance with the principles contained in M v Croydon London Borough Council

545 HM Courts and Tribunals Service, Guidance as to how the parties should assist the Court when applications for costs are made following settlement of claims for judicial review – April 2016. Available at: assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/716591/ac013-eng.pdf

[2012] EWCA Civ 595, [2012] 1 WLR 2607 and R (Tesfay) v Secretary of State for the Home Department [2016] EWCA Civ 415, [2016] 1 WLR 4853.

25.6 Interested parties and costs

25.6.1 In cases where the claimant is unsuccessful at the substantive stage, the Court does not generally order an unsuccessful claimant to pay two sets of costs. However, it may do so where the defendant and the interested party have different interests which require separate representation.[546] If the claimant is acting in the public interest rather than out of personal gain then it is less likely that the Court will order the second set of costs.[547]

25.6.2 The Court may, however, and often does, order an unsuccessful claimant to pay two sets of costs of preparing Acknowledgments of Service at the permission stage.[548]

25.7 Costs orders in favour of and against interveners

25.7.1 A person may apply to file evidence or make representations at a hearing[549] (see para 3.2.4 of this Guide). Such a person is commonly referred to as an intervener and there are specific rules governing whether an intervener can recover its costs or be ordered to pay costs, summarised below.[550]

25.7.2 A claimant or defendant in substantive or permission judicial review proceedings,[551] cannot be ordered to pay an intervener's costs[552] unless there are exceptional circumstances that make such a costs order appropriate.[553]

546 Bolton MDC v Secretary of State for the Environment [1995] 1 WLR 1176.

547 R (John Smeaton on behalf of Society for the Protection of Unborn Children) v Secretary of State for Health [2002] EWHC 886 (Admin), [32]-[42]. See also Campaign to Protect Rural England (Kent Branch) v Secretary of State for Communities and Local Government [2019] EWCA Civ 1230.

548 R (Luton Borough Council) v Central Bedfordshire Council [2014] EWHC 4325 (Admin), [221]-[226].

549 CPR 54.17.

550 Section 87 of the Criminal Justice and Courts Act 2015.

551 Section 87(9) and (10) of the Criminal Justice and Courts Act 2015.

552 Section 87(3) of the Criminal Justice and Courts Act 2015.

553 Section 87(4) of the Criminal Justice and Courts Act 2015.

25.7.3 Section 87 of the Criminal Justice and Courts Act 2015 sets out the conditions Under which the Court must order the intervener to pay any costs specified in an application by a claimant or defendant incurred by them as a result of the intervener's involvement in that stage of the proceedings. This applies where:[554]

25.7.3.1 the intervener has acted, in substance, as the sole or principal applicant or defendant; or

25.7.3.2 the intervener's evidence and representations, taken as a whole, have not been of significant assistance to the Court; or

25.7.3.3 a significant part of the intervener's evidence and representations relates to matters that it is not necessary for the Court to consider in order to resolve the issues that are the subject of the stage in the proceedings; or

25.7.3.4 the intervener has behaved unreasonably.

25.7.4 If the intervener becomes a party, the costs provisions above no longer apply and are treated as never having applied.[555]

25.8 Orders which do not mention costs

25.8.1 Where an order made by the Administrative Court does not mention costs:

25.8.1.1 normally, the Court is deemed to have made no order as to costs;[556] but

25.8.1.2 in the case of an order granting permission to appeal, permission to apply for judicial review, or any other order or direction sought by a party on an application without notice, it is deemed to include an order that the applicant's costs are in the case (i.e. they will depend on the outcome of the claim).[557]

554 Section 87(5) of the Criminal Justice and Courts Act 2015.
555 Section 87(11) of the Criminal Justice and Courts Act 2015.
556 CPR 44.10(1)(a)(i).
557 CPR 44.10(2).

25.8.2 Any party may apply to vary a deemed costs order made in accordance with para 25.8.1.2 (but not para 25.8.1.1) of this Guide.[558] Such an application must be made in accordance with the interim orders procedure (see para 13.7 of this Guide).

25.9 Applications to set aside costs orders

25.9.1 Save for deemed costs orders (see para 25.8 above), any costs order where the parties have had the opportunity to make representations before the order was made, whether made on the papers or after an oral hearing, is a final costs order.[559] The Administrative Court may not set it aside or reconsider the order at a hearing. If challenged, the order must be appealed (see Chapter 26 of this Guide).

25.10 Costs orders when the paying party is in receipt of Legal Aid

25.10.1 Costs orders can be made against persons who have the benefit of legal aid (subject to the principles discussed earlier in this section of the Guide). Where the Court does make such an order it will order that the person with the benefit of legal aid must pay the costs of the requesting party and the Court may set the amount to be paid, but the Court will note that the person with the benefit of legal aid is subject to costs protection in accordance with section 26 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

25.10.2 Costs protection means that the legally aided person is not automatically liable for the costs. If the person awarded costs wishes to require the legally aided person to pay those costs, he or she must apply for an order from the Senior Courts Costs Office or, where the costs order was made by an Administrative Court outside London, to the relevant associated District Registry.

558 CPR 44.10(3).

559 R (Jones) v Nottingham City Council [2009] EWHC 271 (Admin), [2009] ACD 42. R (Bahta) v Secretary of State for the Home Department [2011] EWCA Civ 895, [2011] CP Rep 43.

25.11 Orders that costs be paid from Central Funds (criminal cases only)

25.11.1 Where a claimant who was the defendant in a criminal court is successful in a judicial review claim relating to a criminal cause or matter, a Divisional Court may make a costs order, for payment out of central funds. In proceedings before a Divisional Court in respect of a summary offence, the court may order the payment out of central funds of such amount as the court considers reasonably sufficient to compensate a private prosecutor for any expenses properly incurred in the proceedings.[560] Where such an order is made, whether in favour of a defendant or a private prosecutor, the sum is paid by the Ministry of Justice.

25.11.2 The costs order is made in such amount as the Court considers reasonably sufficient to compensate for any expenses properly incurred in the proceedings, unless the Court considers that there are circumstances that make it inappropriate for the applicant to recover the full amount, in which case the Court may order a lesser amount that it considers just and reasonable.

25.11.3 The costs order may not require the payment out of central funds of an amount that includes legal costs unless those costs were incurred in proceedings in the Court below (Magistrates' Court or Crown Court on appeal against conviction or sentence).[561]

25.11.4 There is no power for a single judge to order costs be paid out of central funds. Where a claimant seeks an order for costs from central funds when appearing before a single judge, the judge will adjourn the matter to be considered on the papers by a Divisional Court, constituted by the single judge who heard the case and another judge. This does not apply to legal costs, as the Divisional Court has no jurisdiction to order legal costs from central funds, other than in the circumstances set out at 25.11.3 above.[562]

25.11.5 When making the costs order, the Court will fix the amount to be paid out of central funds in the order if it considers it appropriate to

560 Section 16(6) of the Prosecution of Offences Act 1985 and section 17 of the Prosecution of Offences Act 1985. See Lord Howard of Lympne v Director of Public Prosecutions [2018] EWHC 100 (Admin).

561 Section 16A(1) and (4) of the Prosecution of Offences Act 1985.

562 Section 16A of the Prosecution of Offences Act 1985. See London Borough of Barking and Dagenham v Aziz (Re Costs) [2024] EWHC 1584 (Admin), [11]-[12].

do so.[563] Where the Court does not fix the amount to be paid out of central funds in the order it must describe in the order any reduction required and the amount must be fixed by means of a determination made by or on behalf of the Court by the Senior Courts Costs Office.[564]

25.11.6 If the claimant has the benefit of a representation order or a legal aid certificate there can be no claim for costs out of central funds.[565]

25.11.7 Where an order for costs from central funds has been made the claimant must forward the order to the Senior Courts Costs Office, which will arrange for payment of the amount specified.

25.12 Costs orders against courts, tribunals or coroners

25.12.1 Where judicial review proceedings are brought against a court, tribunal or coroner as defendant, and the defendant adopts a neutral position or attends to make submissions on procedure or law, the Administrative Court will generally not make a costs order against them.[566]

25.12.2 In such cases, it may be appropriate for the Court to make a costs order against the interested party which took the underlying administrative decision which led to proceedings before the Court or tribunal. For example, in judicial review proceedings against the Upper Tribunal in immigration cases, the Court may make a costs order against the Secretary of State for the Home Department, who will generally be named as an interested party.[567] The making of a costs order which is contingent on the outcome of the substantive appeal has been disapproved, but it is open to the Court to transfer the application for costs in the judicial review proceedings to the Upper Tribunal to be dealt with when the outcome of the appeal is known.[568]

563 Section 16(6C) of the Prosecution of Offences Act 1985.

564 Section 16(6D) of the Prosecution of Offences Act 1985.

565 Section 21(4A) of the Prosecution of Offences Act 1985.

566 Davies (No 2), R (on the application of) v HM Deputy Coroner for Birmingham [2004] EWCA Civ 207, [2004] 1 WLR 2739, [3], [47]-[50].

567 R (Faqiri) v Secretary of State for the Home Department [2019] EWCA Civ 151, [2019] 1 WLR 4497, [51].

568 JH (Palestinian Territories) v Secretary of State for the Home Department [2020] EWCA Civ 919, [2021] 1 WLR 455, [44]-[46], [52].

25.12.3 Where a court, tribunal or coroner does contest the claim, it (or he or she) becomes liable for costs, subject to the principles discussed in this section of the Guide.

25.13 Wasted costs orders

25.13.1 In appropriate cases the Court has power to order that a legal representative should pay the costs of an opposing party or that a specified sum for costs is disallowed.[569] These orders are referred to as wasted costs orders.

25.13.2 A wasted costs order may be made against the receiving party's own legal representatives or against the representatives of the paying party.[570]

25.13.3 An application for a wasted costs order may be made by the party who suffered the wasted costs or may be ordered of the Court's own volition.

25.13.4 When considering whether to make a wasted costs order, the Court will consider 3 questions:[571]

25.13.4.1 Did the legal representative (or any employee of the representative) act improperly, unreasonably or negligently?

25.13.4.2 If so, did the conduct cause the party who incurred the costs to incur unnecessary costs or has the conduct caused costs incurred by a party prior to the conduct to be wasted?

25.13.4.3 If so, is it just in all the circumstances to order the legal representative to compensate the subject of the wasted costs for the whole or part of the relevant costs?

25.13.5 The Court will give the legal representative a reasonable opportunity to make written submissions or, if the legal representative prefers, to attend a hearing before it makes such an order.[572]

569 Section 51(6) of the Senior Courts Act 1981 and CPR 46.8.

570 Brown v Bennett [2002] 1 WLR 713.

571 CPR 46 PD para 5.5 and in re A Barrister (Wasted Costs Order) (No 1 of 1991) [1993] QB 293.

572 CPR 46.8(2).

25.13.6 Wasted costs applications should generally be considered by the Court at the end of proceedings, unless there is good reason to consider them at another time.[573]

25.14 Costs orders where a party is represented pro bono

25.14.1 Section 194 of the Legal Services Act 2007 makes provision for the recovery of costs where the representation has been provided pro bono (free of charge to the represented party).[574] Where such an order is made, the costs awarded in favour of that party will not be payable to the party's legal representatives but to a charity, the Access to Justice Foundation.

25.15 Environmental law claims

25.15.1 There are limits on the amount of costs that a party may be ordered to pay in "Aarhus Convention claims" (i.e. certain claims involving environmental issues). The costs caps do not affect the application of the normal principles for ordering or assessing costs and are applied once those decisions are made.[575]

25.15.2 The caps only apply where the claimant is a member of the public.[576] This includes natural persons, corporations and unincorporated associations,[577] but does not include public bodies.

25.15.3 An Aarhus Convention claim is a claim for judicial review or statutory review[578] which deals with subject matter within the scope of Articles 9(1), 9(2), or 9(3) of the Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (the Aarhus Convention).[579]

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573 Filmlab Systems International Ltd v Pennington [1995] 1 WLR 673.

574 CPR 46.7.

575 R (Campaign to Protect Rural England (Kent Branch)) v Secretary of State for Communities and Local Government [2019] EWCA Civ 1230, [2020] 1 WLR 352.

576 CPR 45.41(2)(a).

577 CPR 45.41(2)(a) and (b) and Article 2.4 of the Aarhus Convention.

578 Statutory review includes an appeal under section 289 of the Town and Country Planning Act 1990 or section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990: see CPR 45.41(3).

579 United Nations Economic Commission for Europe, Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters, 25 June 1998. Available at: unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf. See also CPR 45.41(2)(a).

25.15.4 A claimant who believes that their claim is an Aarhus Convention claim and wishes to apply for a costs cap under these provisions must note that fact in Part 7 of the Claim Form[580] and file and serve with the Claim Form a schedule of their financial resources which is verified by a statement of truth and provides details of:[581]

25.15.4.1 the claimant's significant assets, liabilities, income and expenditure; and

25.15.4.2 in relation to any financial support which any person has provided or is likely to provide to the claimant, the aggregate amount which has been provided and which is likely to be provided.

25.15.5 If the claimant does not comply with para 25.15.4, the costs caps will not apply.[582]

25.15.6 Where the claimant complies with para 25.15.4, the costs limit is automatically in place.[583] The current costs limit is £5,000 where the claimant is claiming only as an individual and not as, or on behalf of, a business or other legal person. In all other cases the limit is £10,000. Where a defendant is ordered to pay costs, the limit is £35,000.[584]

25.15.7 The Court may vary or remove the limits outlined at para 25.15.6,[585] but only on an application[586] and only if satisfied that:

25.15.7.1 to do so would not make the costs of the proceedings prohibitively expensive for the claimant; and

25.15.7.2 in the case of a variation which would reduce a claimant's maximum costs liability or increase that of a defendant, without the variation the costs of the proceedings would be prohibitively expensive for the claimant.

580 CPR 45.42(1)(a).
581 CPR 45.42(1)(b).
582 CPR 45.42(1)-(2).
583 CPR 45.42(1).
584 CPR 45.43(2)-(3).
585 CPR 45.44(1).
586 The application must be made in accordance with CPR 45.44(5)-(7).

25.15.8 Proceedings are prohibitively expensive if the likely costs (including any court fees payable) either:[587] exceed the financial resources of the claimant; or are objectively unreasonable having regard to the six factors listed in CPR 45.44(3), namely:

25.15.8.1 the situation of the parties;

25.15.8.2 whether the claimant has a reasonable prospect of success;

25.15.8.3 the importance of what is at stake for the claimant;

25.15.8.4 the importance of what is at stake for the environment;

25.15.8.5 the complexity of the relevant law and procedure; and

25.15.8.6 whether the claim is frivolous.

25.15.9 When the Court considers the financial resources of the claimant for these purposes, it must have regard to any financial support which any person has provided or is likely to provide to the claimant.[588]

25.15.10 Where the defendant intends to challenge the assertion that the Aarhus Convention applies and, therefore, that the costs limit does not apply, the challenge should be made in the Acknowledgment of Service.[589] The Court will then determine the issue at the earliest opportunity.[590]

25.15.11 In any proceedings to determine whether the claim is an Aarhus Convention claim:[591]

25.15.11.1 if the Court holds that the claim is not an Aarhus Convention claim, it will normally make no order for costs in relation to those proceedings;

25.15.11.2 if the Court holds that the claim is an Aarhus Convention claim, it will normally order the defendant to pay the claimant's costs of those proceedings to be assessed on the standard basis. That order may be enforced even if this would increase the costs payable by the defendant beyond the amount stated at para 25.15.6 above or any variation of it.

587 CPR 45.44(2).
588 CPR 45.44(3).
589 CPR 45.45(1).
590 CPR 45.45(2).
591 CPR 45.45(3).

26 Appeals

26.1 Appeals in civil cases

26.1.1 In civil cases, parties may seek to appeal to the Court of Appeal. Permission to appeal is required. The procedure is discussed between paras 26.2 and 26.6 of this Guide.

26.2 Challenging a decision to grant permission to apply for judicial review

26.2.1 Where permission to apply for judicial review has been granted neither the defendant nor any other person served with the Claim Form may apply to set aside the order granting permission to bring a judicial review.[592]

26.2.2 If the defendant or another interested party has not been served with the Claim Form, he or she may apply to the Administrative Court to set aside permission, but the power to set aside permission is exercised sparingly and only in a very clear case.[593]

26.3 Appeals against the refusal to grant permission to apply for judicial review

26.3.1 Where permission to apply for judicial review has been refused after a hearing in the Administrative Court, the claimant may apply for permission to appeal, but the application must be made directly to the Court of Appeal.[594]

26.3.2 Where the application for permission to appeal for judicial review has been certified as totally without merit, there is no right to request reconsideration of that refusal at an oral hearing in the Administrative Court. In such a case, the applicant can apply to the Court of Appeal directly for permission to appeal. [595]

592 CPR 54.13.

593 See R v Secretary of State ex p. Chinoy (1992) 4 Admin L Rep 457.

594 CPR 52.8(1); Glencore Energy UK Ltd v Commissioners of HM Revenue and Customs [2017] EWHC 1587 (Admin).

595 CPR 52.8(2). At the time of writing, the rule has yet to be updated to reflect changes to CPR 54.7A, which came into effect on 6 April 2023. It remains accurate in relation to applications certified as totally without merit but not so for claims challenging a decision of the Upper Tribunal where the right to request reconsideration now applies (see paras 9.4 and 9.7 of this Guide).

26.3.3 An appeal against the refusal of permission to apply for judicial review must be filed with the Court of Appeal within 7 days of the date of the decision, unless the Administrative Court sets a different timetable.[596] In a case where the decision is made on paper and there is no right to reconsideration (para 26.3.2 of this Guide), the 7 days begins from the date of service of the order, not the date of the decision.[597]

26.3.4 The Court of Appeal may, instead of giving permission to appeal, give permission to apply for judicial review, in which event the case will proceed in the Administrative Court unless the Court of Appeal orders otherwise.[598]

26.4 Appeals against case management orders

26.4.1 Before considering appealing against a case management order, parties should consider whether there is a right to apply for reconsideration of the order in the Administrative Court (see para 9.4 of this Guide).

26.4.2 Where there is not, and the order is final, the time limit for appealing remains 21 days in civil cases, but the proceedings in the Administrative Court will not necessarily await the decision of the Court of Appeal. If the parties wish the Administrative Court proceedings to be stayed, they must make an application (see para 13.7 of this Guide).

26.4.3 Permission to appeal is generally granted more sparingly in appeals against case management orders. The Court of Appeal will consider not only whether the appeal would have a real prospect of success or there is some other compelling reason why the appeal should be heard, but also the significance of the decision, the costs involved in appealing, the delay or disruption likely to be caused to the Administrative Court proceedings, and whether the point would be better dealt with at or after the substantive hearing.

596 CPR 52.8(3).
597 CPR 52.8(4).
598 CPR 52.8(5).

26.5 Appeals against interim orders made by a Master

26.5.1 An appeal against the order of the Master made at an oral hearing may be appealed to a High Court Judge.

26.5.2 The application for permission to appeal must be filed on Form N161 and lodged with the ACO. The guidance above, save for any references to the Court of Appeal, equally apply to appeals against the Master's decisions.

26.6 Appeals against decisions made at the substantive hearing of an application for judicial review

26.6.1 Where a party wishes to appeal against the Court's decision following a substantive hearing, permission to appeal is required. This can be granted by the Administrative Court or by the Court of Appeal.

26.6.2 Applications for permission to the Administrative Court should be made at the hearing at which the decision to be appealed is made unless the Court directs the application to be made later.[599] The Court may adjourn the question of permission to appeal to another date or to be considered on written representations, but it must make an order doing so at the time of the hearing when the decision is made.

26.6.3 If permission to appeal is refused by the Administrative Court, a second application for permission to appeal may be made to the Court of Appeal by filing an Appellant's Notice (Form N161).[600]

26.6.4 Alternatively, a first application for permission to appeal can be made directly to the Court of Appeal. Any party seeking to appeal should submit grounds of appeal that are focused, clear and concise.[601] Parties must follow the relevant provisions of the CPR and Practice Directions on appeals.

599 CPR 52.3(2)(a).

600 CPR 52.3(3) and CPR 52.12(1).

601 Hickey v Secretary of State for Work and Pensions [2018] EWCA Civ 851, [2018] 4 WLR 71.

26.6.5 In appeals against substantive decisions of the Administrative Court, the Appellant's Notice must be lodged with the Court of Appeal within 21 days of the date of the decision or within the time limit ordered by the Administrative Court.[602]

26.6.6 Permission to appeal will only be granted if the Court of Appeal finds that the appeal would have a real prospect of success or there is some other compelling reason why the appeal should be heard.[603]

26.6.7 Further information on appeals to the Court of Appeal can be provided by the Civil Appeals Office (see Annex 1 for contact details).

26.7 Appeals in criminal causes or matters

26.7.1 There is no right of appeal from the Administrative Court to the Court of Appeal in cases relating to any criminal cause or matter.[604] Whether an application for judicial review concerns a criminal cause or matter depends on the nature and character of the underlying litigation. The question is whether the direct outcome of the proceedings which underlay the proceedings in the High Court was that a person was placed in jeopardy of criminal trial and punishment for an alleged offence.[605]

26.7.2 In such cases, the only route of appeal from the Administrative Court is to the Supreme Court. An appeal to the Supreme Court is only possible where:

26.7.2.1 the Administrative Court certifies that a point of law of general public importance is involved in the decision;[606] and

26.7.2.2 permission to appeal is granted (either by the Administrative Court or by the Supreme Court).

602 CPR 52.12(2).

603 CPR 52.6(1).

604 Section 18(1)(a) of the Senior Courts Act 1981.

605 See Re McGuinness (Attorney General for Northern Ireland and others intervening) [2020] UKSC 6, [2021] AC 392. See also R (Cleeland) v Criminal Cases Review Commission [2022] EWCA Civ 5, in which it was decided that a challenge to a Criminal Cases Review Commission decision is not a criminal cause or matter.

606 Section 1(2) of the Administration of Justice Act 1960.

26.7.3 An application for permission to appeal to the Supreme Court and for a certificate that the case raises a point of law of general public importance must be made to the Administrative Court within 28 days of the decision challenged or the date when reasons for the decision are given.[607]

26.7.4 The application for a certificate of a point of law and for permission to appeal may be made in the same application. The procedure is the same as the interim applications procedure (see para 13.7 above). The Court may decide to grant the certificate even if it decides to refuse permission to appeal. The certificate will be used in any application to the Supreme Court for permission to appeal.

26.7.5 The route of appeal to the Supreme Court applies (in principle) to a decision to refuse permission to apply for judicial review or to certify an application for permission as totally without merit, but any such appeal would require a certificate that a point of law of public importance is involved in the decision (which is unlikely to be given).[608]

26.7.6 Further information on appeals to the Supreme Court can be obtained from the Supreme Court (see Annex 1 for contact details).

607 Section 2(1) of the Administration of Justice Act 1960.

608 See R (Kearney) v Chief Constable of Hampshire Police [2019] EWCA Civ 1841, [2019] 4 WLR 144, [36]-[39], concerning section 18(1) of the Senior Courts Act 1981, which must be read with section 1(1) of the Administration of Justice Act 1960.

Annex 1 – Contact Details

The Administrative Court Offices

Website

www.gov.uk/courts-tribunals/administrative-court

Birmingham

The Administrative Court Office Birmingham Civil and Family Justice Hearing Centre
Priory Courts
33 Bull Street
Birmingham
West Midlands B4 6DS
DX 01987 Birmingham 7
Telephone Number: 0121 250 6733
General Email: administrativecourtoffice.birmingham@justice.gov.uk
Skeleton Arguments Email:
administrativecourtoffice.birminghamskeletonarguments@justice.gov.uk

Leeds

The Administrative Court Office Leeds Combined Court Centre
The Courthouse
Oxford Row
Leeds
West Yorkshire LS1 3BG
DX: 703016 Leeds 6
Telephone Number: 0113 306 2578
General Email: administrativecourtoffice.leeds@justice.gov.uk
Skeleton Arguments Email:
administrativecourtoffice.leedsskeletonarguments@justice.gov.uk

London

The Administrative Court Office Royal Courts of Justice
The Strand
London WC2A 2LL
DX 44457 Strand
Telephone Number: 020 7947 6000
General Email: administrativecourtoffice.generaloffice@justice.gov.uk

Skeleton Arguments Email:
administrativecourtoffice.london.skeletonarguments@justice.gov.uk
List Office Email: administrativecourtoffice.listoffice@justice.gov.uk
Case Progression Email: administrativecourtoffice.caseprogression@justice.gov.uk
Case Progression (Crime and Extradition only) Email:
administrativecourtoffice.crimex@justice.gov.uk

Manchester

The Administrative Court Office Manchester Civil Justice Centre
1 Bridge Street West
Manchester M60 9DJ
DX 724783 Manchester 44
Telephone Number: 0161 240 5313
General Email: administrativecourtoffice.manchester@justice.gov.uk
Skeleton Arguments Email:
administrativecourtoffice.manchesterskeletonarguments@justice.gov.uk

Wales and the Western Circuit

The Administrative Court Office Cardiff Civil Justice Centre
2 Park Street
Cardiff CF10 1ET
DX 99500 Cardiff 6
Telephone Number: 02920 376460
General Email: administrativecourtoffice.cardiff@justice.gov.uk
Skeleton Arguments Email:
administrativecourtoffice.cardiffskeletonarguments@justice.gov.uk

Upper Tribunal (Administrative Appeals Chamber)

Upper Tribunal (Administrative Appeals Chamber)
5th Floor, 7 Rolls Buildings
Fetter Lane
London EC4A 1NL
DX 160042 STRAND 4
Telephone Number: 020 7071 5662
Email adminappeals@Justice.gov.uk

Upper Tribunal (Immigration and Asylum Chamber)

For UTIAC – Judicial Reviews Only:
For London:
Upper Tribunal (Immigration and Asylum Chamber)
IA Field House, 15 Breams Buildings
London EC4A 1DZ
For UT(IAC) judicial reviews in Birmingham, Cardiff, Leeds, or Manchester, see the contact details for the Administrative Court Office in that area above.

For UTIAC – All non-judicial review cases:
Lodging Appeals:
Upper Tribunal (Immigration and Asylum Chamber)
IA Field House, 15 Breams Buildings,
London EC4A 1DZ
Unless advised otherwise, all other correspondence to:
Upper Tribunal (Immigration and Asylum Chamber)
Arnhem Support Centre, PO Box 6987
Leicester LE1 6ZX
Facsimile: 0116 249 4130
Customer Service Centre (Enquiry Unit) Telephone: 0300 123 171

Senior Courts Costs Office

Senior Courts Costs Office
Thomas More Building
Royal Courts of Justice
The Strand
London WC2A 2LL
DX 44454 Strand
Telephone Number: 020 7947 6469/ 6404 / 7818
Email: SCCO@justice.gov.uk
Website: www.gov.uk/courts-tribunals/senior-courts-costs-office

Court Of Appeal (Civil Division)

Civil Appeals Office, Room E307
Royal Courts of Justice
The Strand
London WC2A 2LL
DX: 44450 Strand
Telephone Number: 020 7947 7121/6533

Supreme Court

The Supreme Court
Parliament Square
London SW1P 3BD
DX 157230 Parliament Sq 4
Telephone Number: 020 7960 1500 or 1900

Annex 2 – Forms and Fees

Act / Application	Form*	Fee**	Ref**
Application for permission to apply for judicial review	N461 (Judicial Review Claim Form)	£174.00	1.9(a)
Reconsideration of permission at an oral hearing	86b	£438.00	1.9(b)
On court making order giving permission to proceed with claim for judicial review (commonly referred to as continuation fee) Any fee paid under 1.9(b) is deducted		£874.00	1.9(c)
Acknowledgment of Service	N462 (Judicial Review Acknowledgment of Service)	£0.00	–
Interim Application	N244 (Application Notice)	£313.00	2.4
Consent Order	N244 (Application Notice) & Consent Order	£123.00	2.5
Discontinuance	N279 (Notice of Discontinuance)	£0.00	–
Urgent Consideration (within 48 hours of lodging claim)	N463 (Judicial Review Application for Urgent Consideration	£303.00 (unless made when lodging when the fee is £0.00)	2.4

* Current forms can be found at: www.gov.uk/government/collections/administrative-court-forms

** Schedule 1, Civil Proceedings Fees Order 2008 (as amended). The fees above were correct on 1 May 2025.

Annex 3 – Addresses for Service of Central Government Departments[609]

Government Department	Solicitor for Service
Advisory, Conciliation and Arbitration Service Cabinet Office Commissioners for the Reduction of National Debt Crown Prosecution Service Department for Business, Energy and Industrial Strategy Department for Digital, Culture, Media and Sport Department for Education Department for Environment, Food and Rural Affairs Department for Health and Social Care Department for International Trade Department for Transport Export Credits Guarantee Department (UK Export Finance) Foreign, Commonwealth and Development Office Government Actuary's Department Health and Safety Executive	The Treasury Solicitor Government Legal Department 102 Petty France Westminster London SW1H 9GL

609 The Crown Proceedings Act 1947 and CPR 54A PD para 5.2(b) make provision about service of government departments. The list is taken from a document published by the Paymaster General on 18 March 2021, which forms part of CPR 66 PD para 2.1. Some of the departments listed here no longer exist under the names listed.

Government Department	Solicitor for Service
His Majesty's Treasury Home Office Ministry of Defence Ministry of Housing, Communities and Local Government Ministry of Justice National Savings and Investments (NS&I) Northern Ireland Office Office for Budget Responsibility Office of the Secretary of State for Wales (Wales Office) Privy Council Office Public Works Loan Board Serious Fraud Office Statistics Board (UK Statistics Authority) The National Archives Department for Work and Pensions Department for Energy Security & Net Zero	The Treasury Solicitor Government Legal Department 102 Petty France Westminster London SW1H 9GL
Competition and Markets Authority	Director of Litigation Competition and Markets Authority 25 Cabot Square Canary Wharf London E14 4QZ
Food Standards Agency	Head of Legal Services Food Standards Agency Floors 6 and 7 Clive House 70 Petty France London SW1H 9EX

Government Department	Solicitor for Service
Forestry Commission	Director of Estates Forestry Commission 620 Bristol Business Park Coldharbour Lane Bristol GL16 1EJ
Gas and Electricity Markets Authority (Ofgem)	General Counsel Office of Gas and Electricity Markets The Office of General Counsel 10 South Colonnade Canary Wharf London E14 4PU
His Majesty's Revenue and Customs	General Counsel and Solicitor to His Majesty's Revenue and Customs HM Revenue and Customs 14 Westfield Avenue South West Wing Stratford London E20 1HZ
National Crime Agency	Legal Adviser National Crime Agency Units 1-6 Citadel Place Tinworth Street London SE11 5EF
Office for Standards in Education, Children's Services and Skills (Ofsted)	Deputy Director, Legal Services Ofsted Clive House 70 Petty France Westminster London SW1H 9EX
Office of Qualifications and Examinations Regulations (Ofqual)	Legal Director Ofqual Earlsdon Park 53-55 Butts Road Coventry CV1 3BH

Government Department	Solicitor for Service
Office of Rail and Road (ORR)	General Counsel Office of Rail and Road 25 Cabot Square Canary Wharf London E14 4QZ
Water Services Regulation Authority (Ofwat)	General Counsel Water Services Regulation Authority (Ofwat) Centre City Tower 7 Hill Street Birmingham B5 4UA
Welsh Government	The Director of Legal Services to the Welsh Government Cathays Park Cardiff CF10 3NQ
Welsh Revenue Authority	Head of Legal Welsh Revenue Authority QED Centre Main Avenue Treforest Industrial Estate Pontypridd CF37 9EH

Annex 4 – Listing Policy for the Administrative Court

HM Courts &
Tribunals Service

Administrative Court Listing Policy
(All business except extradition appeals)

Introduction

This policy replaces the listing policy issued in June 2018.

It provides guidance for officers when listing cases in the Administrative Court. It will be applied by the Administrative Court Office in the Royal Courts of Justice, London ("the London ACO") and by each of the Administrative Court Offices on circuit ("the circuit ACOs" – i.e. the Administrative Court Offices in Cardiff, Birmingham, Leeds and Manchester). The policy is intended to provide guidance for listing officers.

The policy concerns the listing of all hearings for claims and appeals brought in the Administrative Court, save for extradition appeals. (The practice followed when listing hearings in extradition appeals, including expedited appeals is stated in Criminal Practice Direction 50.)

The Honourable Mr Justice Swift
Former Judge in Charge of the Administrative Court
30 June 2022
Revised June 2025

Part A: General

Urgent interim applications

1) The following applies to urgent applications filed within working hours (i.e. Monday to Friday, London 9am to 4.30pm, out of London 9am to 4pm). Any out of hours urgent application should be directed to the King's Bench Division out of hours duty clerk (020 7947 6000).

2) Any urgent application made to the Administrative Court within working hours must be made using Form N463.

3) Urgent applications should be made by filing (a) Form N463 (properly completed see Practice Direction 54B at §1.2); together with (b) the required application bundle (see Practice Direction 54B at §1.3). Wherever possible, urgent applications and supporting documents should be filed by email. They may also be filed by post and DX. Litigants in person without access to email should contact the relevant Administrative Court office to discuss possible alternative arrangements.

4) The appropriate fee must be paid. Court users who wish to lodge an urgent application without payment of the court fee are required to follow the procedure at Annex 1.

5) Each urgent application will be reviewed by an ACO lawyer to ensure it meets the requirements in Practice Direction 54B as appropriate – i.e. Practice Direction 54B at §§1.2 – 1.3 and 1.7 (all applications); §§2.2 – 2.4 (applications for interim relief); and §§3.1 – 3.2 (applications for expedition). If the application meets the requirements in Practice Direction 54B and requires immediate attention, it will be sent to a judge the same day.

6) When considering the application, the judge will have regard to the matters at §1.8 of Practice Direction 54B.

7) If an oral hearing is required, it will be listed in accordance with directions given by the judge. The parties will be notified of any directions given by email. Hearings are likely to be listed without reference to the availability of the parties or their representatives.

8) If an application made on Form N463 does not require urgent attention it may either be refused, or be allocated for consideration by a judge as a non-urgent interim application – see at paragraph 13 below.

Permission hearings: judicial review claims and statutory appeals.

9) A permission hearing will be listed on receipt of a Renewal Notice (Form 86B) and the relevant fee or a Judge's order adjourning a permission application into court.

10) The general expectation for cases in London is that the parties will be notified of the date for the hearing of the renewed application within 2 weeks, and that the hearing of the application take place between 3 and 8 weeks of the date the Renewal Notice was filed. The practice for listing renewal hearings by the circuit ACOs may differ. Hearings will usually be fixed at the Court's convenience; counsel's availability will not ordinarily be a relevant consideration.

11) Hearings will be listed with a time estimate of 30 minutes. If any party considers that a different time estimate is required, the court must be informed immediately - see Practice Direction 54A at §7.7.

Non-urgent interim applications

12) Non-urgent interim applications must be made using Form N244. The time within which the application needs to be decided (or any other information relevant to the time within which the application must be decided) must be included in Form N244 and in a covering letter. The application must include a draft order. If particular directions are sought for the purposes of determining the application, those directions must be stated in Form N244.

13) Applications will ordinarily be considered on paper, in the first instance. Any directions necessary for the determination of an application will be given by the court. Any hearing required will be listed in accordance with those directions.

Final hearings (including rolled-up hearings): judicial review, statutory appeals/ applications and case stated appeals

14) Save as provided otherwise (see Part D below), final hearings in judicial review claims and statutory appeals will be listed within 9 months of the date of issue.

15) Once permission is granted, the claimant must pay the relevant fee for continuation within the statutory time limit. If the fee is not paid within the time permitted, the case will be closed and will not be listed. Where a rolled-up hearing has been ordered, the claimant must give an undertaking to pay the continuation fee if permission is ultimately granted. If the undertaking is not given, the case will be closed and will not be listed.

16) A case will enter the Warned List of the first day following time allowed by the CPR (or judicial order) for filing and service of documents (e.g. in an application for judicial review, the date for filing and service of Detailed Grounds of Defence and evidence). Once in the Warned List, the case will usually and subject always to any order to the contrary, be heard within 3 months ("the listing period").

17) When a case has entered the warned list, the listing office will email the parties (if represented, the representative) with details of the listing period. Parties will be told the date by which they must provide a list of dates to avoid. Parties are encouraged to seek to agree mutually convenient dates for the hearing (see further paragraph 20 below).

18) Cases will be listed for hearing in accordance with the following practice and principles.

19) Final hearings are usually only listed for hearing Tuesday to Thursday of each week in term time.

20) If the parties offer dates that (a) correspond; and (b) are within the listing period, every effort will be made to list the case for hearing on those dates.

21) If the available dates provided by the parties do not correspond, or the dates provided (even if they correspond) are unsuitable for the court, the case will be listed for hearing at the Court's convenience.

22) Where counsel or a solicitor advocate is instructed, the listing period will not be ordinarily be extended solely because of their availability.

23) A case allocated to any of the circuit offices will be listed for hearing on that circuit at the most geographically appropriate hearing centre, subject to judicial availability.

Part B: Divisional Courts

24) Where a party considers that a claim or application should be dealt with by a Divisional Court, then that party should notify the ACO in writing as soon as possible, i.e. usually in or with the claim form or application, or the acknowledgment of service or response to an application.

25) Although parties may make representations as to the suitability of a case to be heard before the Divisional Court, the decision whether a case should be listed before the Divisional Court and if so, the constitution of that Court, are matters for the Court.

26) The ACO will not be able to offer as many suitable available dates for a hearing and will not ordinarily take account of the availability of each party's counsel/ solicitor advocate when listing the hearing.

Part C: Adjourning/Vacating Hearings

27) If a hearing becomes unnecessary because a claim has been withdrawn or compromised, the parties must inform the court, as soon as possible.

28) A hearing will generally not be adjourned or vacated unless there are good reasons to do so, even where all parties agree that the hearing should be adjourned. An adjournment will rarely be granted if the only reason for the application is that counsel is unavailable.

29) Any application to adjourn or vacate a hearing must be made using either Form AC001 or Form N244 (see links on the Administrative Court website). The application notice should be filed with the court at least 3 days prior to the hearing (unless good reason is provided for the late filing of the application). A fee is payable save where the application is both made by consent **and** made more than 14 days before the date fixed for the hearing.

30) The application must set out the reasons in support of the application. Even when an application is made by consent, the application must set out the reasons why the hearing should be adjourned/vacated. A draft order must be provided.

31) Notwithstanding that an application to adjourn or vacate a hearing has been filed, parties should assume that the hearing remains listed until they are advised otherwise by the court.

32) A hearing may only be adjourned or vacated by judicial order. A decision whether to grant or refuse an application to adjourn can be taken by an ACO lawyer under delegated powers. If a party is not content with an order of the ACO lawyer, it may request that the order is reviewed by a judge. The review will be either on consideration of the papers or at a hearing. The request for a review must be made in writing (within 7 days of the date on which the party was served with the ACO lawyer's order). The request must include the original application; should address the reasons given by the ACO lawyer when refusing the application; and set out any further matters relied on. As long as the request is filed within 7 days (or such time as allowed by the order) no further fee is payable.

Part D: Planning Court

33) The Planning Court is a specialist list under the charge of the Planning Liaison Judge. The work covered by the Planning Court is defined in CPR 54.21. Claims in the Planning Court are heard by judges who have been nominated by the President of the King's Bench Division as specialist planning judges, some of whom are also nominated to hear "significant" cases: see CPR 54.22.

34) Cases in the Planning Court generally fall into four broad categories:

(a) *Planning Statutory Review claims* under PD8C.[610] Permission to apply is required and an Acknowledgment of Service must be accompanied by summary grounds of defence;

(b) *Planning Statutory Appeals (or Applications)* under PD8A paragraph 222. Permission to apply is not required. A party intending to contest the claim is not required to file summary grounds of defence unless ordered by the Court to do so (under CPR PD 54D 3.5);

(c) *Appeals under section 289 of TCPA 1990* against decisions on enforcement notice appeals and tree replacement orders (under section s.208) and appeals under section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990 on decisions against enforcement notice appeals, where permission is required (see PD 52D para 26);

(d) *Planning judicial reviews* where permission to apply and an Acknowledgment of Service are required (see CPR 54.4 and 54.8). These include challenges to decisions of local planning authorities, development consent orders (under s.118 of the Planning Act 2008) and neighbourhood plans (under s.61N of TCPA 1990).

35) The Planning Liaison Judge will designate cases as "significant" applying the criteria at paragraph 3.2 of Practice Direction 54D. Paragraph 3.4 of Practice Direction 54D sets the following target timescales for significant cases which will apply, save where the interests of justice require otherwise.

(a) Applications for permission to apply for judicial review or planning statutory review are to be determined within three weeks of the expiry of the time limit for filing of the acknowledgment of service.

610 Claims under sections 287 or 288 of TCPA 1990, section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990, section 22 of the Planning (Hazardous Substances) Act 1990, and section 113 of the Planning and Compulsory Purchases Act 2004.

(b) Oral renewals of applications for permission to apply for judicial review or planning statutory review are to be heard within one month of receipt of request for renewal.

(c) Applications for permission under section 289 of the Town and Country Planning Act 1990 are to be determined within one month of issue.

(d) Planning statutory reviews are to be heard within six months of issue.

Judicial reviews are to be heard within ten weeks of the expiry period for the submission of detailed grounds by the defendant or any other party as provided in CPR 54.14.

General

36) Subject to the points below, the listing policy at paragraphs 1 to 32 above applies equally to cases in the Planning Court.

Non-Significant cases

37) Cases not designated as "significant" will be dealt with within the general timescales set out above for claims in the Administrative Court.

Significant cases

Permission hearings

38) Hearings of renewed application for permission will usually be fixed at the Court's convenience; counsel's availability will not ordinarily be a relevant consideration. Hearings will be listed with a time estimate of 30 minutes. If any party considers that a different time estimate is required, the court must be informed immediately – see Practice Direction 54A at §7.7; see also the fixing letter, which states as follows

"This application has been fixed in accordance with our listing policy and on the basis that it will take no longer than 30 minutes to hear. If you have already indicated that this application will require a hearing of longer than 30 minutes, I would be grateful if you could confirm this with the List Office, in writing. Otherwise on receipt of this letter you must confirm your current time estimate. This is a mandatory requirement. If it becomes necessary to adjourn because of a late increased time estimate, quite apart from any costs sanction, the solicitors and counsel involved may be required to appear before the Court to explain the failure to comply with the instruction above. Furthermore, the case will be re-listed for the earliest possible opportunity in accordance with the availability of a Judge and not the availability of counsel."

Final hearings (including rolled-up hearings)

39) Final hearings will be listed following the practice and principles above at paragraphs 19 – 23, and the following additional matters.

40) For cases to be heard in London, as soon as the Court fee required to continue the proceedings has been paid the List Office will inform the parties by email of a window of suitable dates, and encourage them to agree a mutually convenient date for the hearing.

41) The List Office will seek to offer the parties 3 dates, within the relevant timescale set in Practice Direction 54D. Hearing dates for significant cases are governed by the availability of a judge authorised to hear such cases. If parties are unable to agree one of the dates provided, the case will be listed for hearing without further reference to the parties. The appointment to fix procedure is used only when necessary.

42) The circuit offices generally apply the same policy.

Annex 1

Urgent applications: undertakings to pay the required fee

43) Litigants are encouraged to use the HMCTS fee account facility to avoid unnecessary process and delay in issuing court proceedings.

    To create an account please contact: MiddleOffice.DDServices@liberata.gse.gov.uk

44) Fees may be paid using a credit or debit card.

- For applications issued in London call 0203 936 8957 (10am and 4pm, Monday to Friday, not Bank Holidays) or email RCJfeespayments@justice.gov.uk.
- For applications issued out of London provide your phone number to the relevant circuit ACO office; the office will call you to take payment.

45) Litigants who need to lodge an urgent application but are unable to pay the fee either using an account or by credit or debit card, must follow the procedure set out below. This facility may be used only in exceptional circumstances as a result of unavoidable emergency, and only by solicitors/barristers with rights to participate in litigation. The cut off time for using this procedure is 4.30pm for applications issued in London, 4pm for applications issued out of London.

Step 1

Email the required documents (set out below) to:

- London administrativecourtoffice.generaloffice@justice.gov.uk
  Tel: 020 7947 6000
- Cardiff administrativecourtoffice.cardiff@justice.gov.uk
  Tel: 02920 376 460
- Birmingham administrativecourtoffice.birmingham@justice.gov.uk
  Tel: 0121 681 4441
- Leeds administrativecourtoffice.leeds@justice.gov.uk
  Tel: 0113 306 2578
- Manchester administrativecourtoffice.manchester@justice.gov.uk
  Tel: 0161 240 5313

Step 2

Wait for the Court to process your application and email you a sealed claim form for service. Please note if you do not provide all of the documents required (see Practice Direction 54B) together with (a) the undertaking form EX160B3;[611] and (b) a covering letter explaining in full the emergency and why the required fee cannot be paid, your application will not be processed.

Step 3

Post the required fee to the Court. The undertaking requires that the fee must be received within 5 days. The Court reference must be clearly stated in the covering letter.

611 HM Courts and Tribunals Service, Undertaking to apply for remission of a court or tribunal fee, or to pay a court or tribunal fee, for emergency applications only: Form EX160B. Available at: www.gov.uk/government/publications/form-ex160b-undertaking-to-apply-for-remission-of-a-court-fee-or-tribunal-fee-or-to-pay-a-court-fee-or-tribunal-fee-for-emergency-applications-only

Annex 5 – Arrangements for the Remote Handing Down of Judgments

The arrangements set out below only concern the mode of hand down. They do not affect anything in Practice Direction 40E, nor do they affect the terms of any embargo to which may apply to the draft judgment.

1) When a judgment is handed down remotely, notice will be given in the Cause List as follows

   "Remote hand down. This judgment will be handed down remotely by circulation to the parties or their representatives by email and release to The National Archives. A copy of the judgment in final form as handed down should be available on The National Archives website shortly thereafter or can be obtained on request from the Administrative Court Office."

2) At the published date and time, the judgment will be sent by the ACO, attached to an email in the following terms

   "I attach the judgment in this case by way of hand down, which will be deemed to have occurred at [Listed Time and Date]."

3) The final/approved version of the judgment will have this wording on the front page

   "Remote hand down. This judgment was handed down remotely at [time] on [date] by circulation to the parties or their representatives by email and by release to The National Archives."

   At the same time a copy will be sent to The National Archives.

The Honourable Mr Justice Swift
Former Judge in Charge of the Administrative Court
22 July 2025

Annex 6 – Handing Down Administrative Court Judgments in Wales

1) CPR 7.1A requires that cases in which decisions of Welsh public bodies are challenged must be heard in Wales (unless required otherwise by any enactment, rule or practice direction). In addition, in accordance with the principles stated in CPR PD 54C, other public law claims that are closely connected with Wales will ordinarily be heard in Wales.

2) When a case has been heard in Wales and judgment has been reserved, the judgment will be handed down either:

    (a) in open court in Wales, either by the trial judge or by another judge on behalf of the trial judge; or

    (b) remotely by circulation to the parties or their representatives by e-mail and by release to the National Archives.

3) The arrangements set out below affect only the mode of hand down. They do not affect anything in Practice direction 40E, nor do they affect the terms of any embargo to which may apply to the draft judgment.

4) If a judgment is handed down remotely, the general arrangements applicable to judgments in the Administrative Court will apply. Notice of the hand down will appear on the Cause List for the court where the case was heard; copies of the judgment will be available from the Administrative Court Office in Cardiff, on request.

5) If the judgment is handed down in open court, the case will be listed on the Cause List for the court where the case was heard as “Judgment, for hand down”.

6) After the judgment has been handed down, copies of the judgment will be available in court.

7) If all consequential matters are agreed or the parties have given consent for determination of consequential matters on the basis of written submissions (so that no further hearing is required) the order and any supplemental judgment in respect of the consequential matters will normally be handed down at the same time and in the same way as the principal judgment.

8) If consequential matters are not agreed and a hearing is required to determine them then that hearing will take place in Wales with the trial judge returning to Wales for that hearing if necessary.

9) If it is not possible for that hearing to take place at the time of the handing down of the judgment the judge will normally at that time adjourn determination of the consequential matters and extend time for filing an appellant's notice to a date after the determination of the consequential matters.

The Honourable Mr Justice Swift
Former Judge in Charge of the Administrative Court
22 July 2025

Annex 7 – Observing Hearings Remotely

1) Whether to permit remote observation of a hearing is always a decision for the court. The following applies subject to any specific arrangement made for a particular case.

2) Applications for permission to observe a hearing remotely must be made by email to administrativecourtoffice.generaloffice@justice.gov.uk. All applications must:

    (a) identify the case and hearing in respect of which the application is made (i.e., the case reference number and the date of the hearing);

    (b) state the name of the applicant, provide the applicant's home address, email address and phone number and, if different from the home address, state the address where the applicant will be if permitted to observe the hearing remotely;

    (c) set out, briefly, the reasons why the application is made; and

    (d) include a statement by the applicant in the following terms:

    "If permitted to observe the hearing remotely, I understand that I must not record or transmit what I see and hear. I understand that it is an offence and may be a contempt of court to do so, and that I may be punished if I were to do so. I will abide by any instruction given to me by the court during the hearing. I agree and undertake to the Court that I will not provide the link that I am given to access the hearing to any other person."

    Applications that do not comply with the above requirements will be refused without further consideration.

3) Applications must be made promptly. Applications that are made late, for example, on the morning of a hearing or late in the afternoon the day before, or in any other circumstances which in the opinion of the judge considering the application might impede the efficient conduct of or preparation for the hearing, may be refused without consideration.

4) Applications will be considered by a judge, usually the judge who is to conduct the hearing. Applications will be decided in accordance with the provisions of the Remote Observation and Recording (Court and Tribunals) Regulations 2022. The judge is not required to give reasons for his decision. The decision of the judge is final and not subject to further review.

5) If an application is granted, the applicant must comply with any/all conditions imposed by the judge and, while the hearing is in progress, must comply with any further instruction the judge may give. The judge may decide to terminate remote access at any time during the hearing.

6) Any permission granted to observe a hearing remotely is given subject to the proviso that the hearing will not be delayed by any technical or other difficulty affecting remote access. Hearings will not be delayed or adjourned by reason of such matters.

Annex 8 – Judicial Review in the Upper Tribunal

A8.1 The Upper Tribunal's Judicial Review Jurisdiction

A8.1.1 The Upper Tribunal's judicial review jurisdiction is conferred by section 15 of the Tribunals, Courts and Enforcement Act 2007 ("TCEA"). The existence of the jurisdiction depends upon certain conditions being met, as explained in section 18 of the TCEA.

A8.1.2 The UT has power to grant a mandatory, prohibiting or quashing order, a declaration and an injunction. Relief granted by the UT has the same effect as corresponding relief granted by the High Court and is enforceable as if it were relief granted by that Court. In deciding whether to grant relief the UT must apply the same principles that the High Court would apply in deciding whether to grant relief on an application for judicial review.

A8.1.3 Like the position in the High Court, section 16 of the TCEA provides that an application for judicial review may be made only if the applicant has obtained permission. Section 16 also contains provisions in the same terms as section 31(2A) of the Senior Courts Act 1981, restricting the grant of relief where the UT considers it highly likely the outcome would not have been substantially different even if the conduct complained of had not occurred.[612]

A8.2 Transfers of Judicial Review Applications

A8.2.1 As explained at para 6.5 of the Guide, the effect of the Lord Chief Justice's Direction is that most applications for judicial review of immigration (and asylum) decisions are filed in the Upper Tribunal (Immigration and Asylum Chamber) ("UT(IAC)") and, if filed in the High Court, must be transferred to the UT(IAC). If an application is made to the UT(IAC) for judicial review of a decision that is not covered by the Direction, or which is specifically

612 See para 12.10 of this Guide.

exempted by it (see 6.5.3), then, subject to what is said in the following para, the UT(IAC) must transfer the application to the High Court.[613]

A8.2.2 If certain conditions specified in section 31A(4) and (5) of the Senior Courts Act 1981 are met, the High Court may by order transfer [a judicial review application] to the Upper Tribunal if it appears to the High Court to be just and convenient to do so".[614] This power is routinely exercised in order to transfer to the UT(IAC) a judicial review made by a person who claims to be a minor from outside the United Kingdom, challenging a local authority's assessment of that person's age.

A8.2.3 The UT has power to permit or require an amendment which, if made, would give rise to an obligation to transfer the proceedings to the High Court. Except with the permission of the UT, additional grounds may not be advanced if they would give rise to an obligation to transfer. The UT therefore has power to decide whether to retain jurisdiction over the judicial review application. If the judicial review application has been transferred to the UT by the High Court under that Court's power of transfer, and the amendment or additional grounds would not have prevented the High Court from exercising that power, if the amendment or grounds had been in place prior to transfer, then the UT will transfer the application back to the High Court only if the UT considers it just and convenient to do so.[615]

A8.3 Out of Hours Applications

A8.3.1 The out of hours procedure described in para 17.1 of the Guide applies to urgent applications in immigration judicial review proceedings that cannot wait until the next working day. For this purpose, the out of hours High Court judge sits as a judge of the UT.

613 Section 18(3) of the Tribunals, Courts and Enforcement Act 2007.

614 Section 31A(3) of the Senior Courts Act 1981.

615 Rule 33A of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Annex 9 – Administrative Court: Information For Court Users

Effective date: 27 June 2022

The following practical measures will remain in place until further notice, to assist the court to deal with its business as efficiently as possible.

Sections A and B apply to all Administrative Court claims. Compliance with Section A is required by Practice Directions 54A and 54B.

Sections C to H also apply to claims, appeals and applications administered by the Administrative Court; but where arrangements differ depending on which Administrative Court office is dealing with the matter, this is explained in the text below.

Arrangements for electronic working

A. Electronic bundles

(Practice Direction 54A, §§ 4.5 and 15; Practice Direction 54B, §1.3)

Electronic bundles must be prepared as follows and be suitable for use with all of Adobe Acrobat Reader and PDF Expert and PDF Xchange Editor.

1) A bundle must be a single PDF. The upload limit for bundles filed by email is 20mb while the size limit for bundles filed by e-filing is 100mb and there is no limit on the size of bundles uploaded to the DUC.

2) If the bundle is filed in support of an urgent application (i.e., an application made using Form N463) it must not exceed 20mb, and (unless the court requests otherwise) should be filed by email

3) If the papers in support of any claim or appeal or non-urgent application exceed 20mb, the party should file:

    (a) a core bundle (no larger than 20mb) including, as a minimum, the Claim Form and Grounds or Notice of Appeal and Grounds, or Application Notice and Grounds; documents regarded as essential to the claim, appeal, or application (for example the decision challenged, the letter before claim and the response, etc.); any witness statements (or primary witness statement) relied on in support of the claim, appeal or application; and a draft of the order the court is asked to make; and

(b) a further bundle containing the remaining documents.

Bundles should be filed using the Document Upload Centre.

4) All bundles must be paginated in ascending order from start to finish. The first page of the PDF will be numbered "1", and so on. (Any original page numbers of documents within the bundle are to be ignored.) Index pages must be numbered as part of the single PDF document, they are not to be skipped; they are part of the single PDF and must be numbered. If a hard copy of the bundle is produced, the pagination on the hard copy must correspond exactly to the pagination of the PDF.

5) Wherever possible pagination should be computer-generated; if this is not possible, pagination must be in typed form.

6) The index page must be hyperlinked to the pages or documents it refers to.

7) Each document within the bundle must be identified in the sidebar list of contents/bookmarks, by date and description (e.g., "email 11.9.21 from [x] to [y]"). The sidebar list must also show the bundle page number of the document.

8) All bundles must be text based, not a scan of a hard copy bundle. If documents within a bundle have been scanned, optical character recognition should be undertaken on the bundle before it is lodged. (This is the process which turns the document from a mere picture of a document to one in which the text can be read as text so that the document becomes word-searchable, and words can be highlighted in the process of marking them up.) The text within the bundle must therefore be selectable as text, to facilitate highlighting and copying.

9) Any document in landscape format must be rotated so that it can be read from left to right.

10) The default display view size of all pages must always be 100%.

11) The resolution on the electronic bundle must be reduced to about 200 to 300dpi to prevent delays whilst scrolling from one page to another.

12) If a bundle is to be added to after the document has been filed, it should not be assumed the judge will accept a new replacement bundle because he/she may already have started to mark up the original. Inquiries should be made of the judge as to what the judge would like to do about it. Absent a particular direction, any pages to be added to the bundle as originally filed should be provided separately, in a separate document, with pages appropriately sub-numbered.

For guidance showing how to prepare an electronic bundle, see (as an example) this video prepared by St Philips Chambers, which explains how to create a bundle using Adobe Acrobat Pro.[616]

Any application filed by a legal representative that does not comply with the above rules on electronic bundles may not be considered by a Judge. If the application is filed by a litigant in person the electronic bundle must if at all possible, comply with the above rules. If it is not possible for a litigant in person to comply with the rules on electronic bundles, the application must include a brief explanation of the reasons why.

B. The Document Upload Centre

Whenever possible, file documents electronically. This includes claims, responses, interlocutory applications, and hearing bundles. Unless stated otherwise below, file documents using the Document Upload Centre (DUC).

Requests to upload documents to the DUC should be sent to the email addresses referred to below in Sections D, E and F. After uploading a document, you must email the relevant court office to confirm the upload.

For guidance on how to use the DUC, see the HMCTS "Professional Users Guide" for detailed information about the Document Upload Centre[617], and the DUC video guide on YouTube[618].

Arrangements for filing and responding to claims, appeals and applications

C. Applications for urgent consideration

Administrative Court, London (Royal Courts of Justice)

Urgent applications (i.e. applications within the scope of Practice Direction 54B) should be filed either electronically (preferred wherever possible), or by post or DX. Until further notice, urgent applications may not be filed over the counter at the Royal Courts of Justice.

616 St Philips Barristers, St Philips electronic court bundle video highlighted in guidance issued to the judiciary, November 2021. Available at: st-philips.com/news-events/st-philips-electronic-court-bundle-video-highlighted-in-guidance-issued-to-the-judiciary

617 HM Courts and Tribunals Service, HM Courts and Tribunals Service information bulletins. Available at: www.gov.uk/guidance/hm-courts-and-tribunals-service-information-bulletins

618 Judicial Office, Introduction to the Document Upload Centre, 2021. Available at: www.youtube.com/watch?v=rbYBhdPNr5E

The process explained below should be used for any urgent interlocutory application that is filed electronically.

1) Applications must be filed by email to: administrativecourtoffice.immediates@justice.gov.uk accompanied with either a PBA number, receipt of payment by debit/credit card or a fee remission certificate (see below, Section G).

2) This inbox will be monitored Monday to Friday between the hours of 9:30am and 4:30pm. Outside of these hours the usual KB out of hours procedure should be used.

3) Your application must be accompanied by an electronic bundle containing only those documents which it will be necessary for the court to read for the purposes of determining the application – see Practice Direction 54B at §§1.3, and 2.2 – 2.3. The bundle must be prepared in accordance with the guidance at Section A ; it must not exceed 20mb.

4) Any other urgent queries should be sent by email to: administrativecourtoffice.generaloffice@justice.gov.uk, marked as high priority, and with 'URGENT' in the subject line. Any such emails will be dealt with as soon as possible.

If you are not legally represented and do not have access to email, you should contact the Administrative Court Office by telephone on 020 7947 6000 (option 6) so that details of your application may be taken by telephone and alternative arrangements made if permitted by the senior legal manager or the duty judge.

Other Administrative Court offices

Out of London, urgent applications may be filed between 10am and 4pm, Monday to Friday. Urgent applications may also be filed in person. If you wish to file in person, you should contact the relevant office by phone to arrange to attend the public counter. The phone numbers are as follows

Birmingham
0121 681 4441 – pick option 2 then option 5.

Cardiff
02920 376460

Leeds
0113 306 2578

Manchester
0161 240 5313

If filing an urgent application by email, the arrangements at 1 – 4 above apply, save that: (a) see Section H below for how to pay the application fee; and (b) please use the following email addresses.

Birmingham:
administrativecourtoffice.birmingham@justice.gov.uk

Cardiff:
administrativecourtoffice.cardiff@justice.gov.uk

Leeds:
administrativecourtoffice.leeds@justice.gov.uk

Manchester:
administrativecourtoffice.manchester@justice.gov.uk

D. Non-urgent work: civil claims and appeals

All other civil business (i.e. non-urgent claims, appeals and applications) should be filed electronically (preferred wherever possible) or by post or DX. There may be a slight delay before claims/applications are issued, but the date the Claim Form or Notice of Appeal is received by the Administrative Court office will be recorded as the date of filing. It remains the responsibility of the party making an application or claim to ensure that it is filed within the applicable time limit.

If a decision on an interlocutory application is time-sensitive, please state (both in the Application Notice and in a covering letter) the date by which a decision on the application is required.

Filing claims, appeals and non-urgent applications

1) Wherever possible, claims for judicial review, statutory appeals, planning matters, and non-urgent interlocutory applications are to be filed electronically using the Document Upload Centre.

2) Requests to upload documents should be sent

   for London cases to: administrativecourtoffice.duc@justice.gov.uk

   for other offices, use the appropriate email address at Section C above.

You will receive an invitation by email to upload your documents. You should then upload the claim/appeal/application bundle (prepared in accordance with Section A).

3) If you are commencing a claim or appeal please upload a further PDF document comprising an additional copy of the Claim Form or Notice of Appeal and the decision document challenged. If filing in London include a PBA number or proof of payment by debit/credit card or a fee remission certificate (see Section H); if you are filing the claim at any office out of London, also see Section H.

4) Documents being uploaded must be in PDF format, no other format will be accepted by the system. If the papers in support of an application for judicial review or an appeal or an application exceed 20mb, the claimant/appellant/applicant should file:

   (a) a core bundle (no larger than 20mb) including, as a minimum, the Claim Form and Grounds or Notice of Appeal and Grounds, or Application Notice and Grounds; documents regarded as essential to the claim, appeal, or application (for example the decision challenged, the letter before claim and the response, etc.); any witness statements (or primary witness statement) relied on in support of the claim, appeal or application; and a draft of the order the court is asked to make; and

   (b) a further bundle containing the remaining documents.

5) All electronic bundles must be prepared/formatted in accordance with the guidance at Section A.

6) Once a claim or appeal has been issued, Administrative Court staff will provide the case reference number to the parties by email.

7) Interlocutory applications should be sent by email

   for London cases to: administrativecourtoffice.generaloffice@justice.gov.uk

   for other offices, use the appropriate email address at Section C above.

If filing in London include a PBA number or receipt of payment by debit/credit card (see Section H); if filing at an office out of London, also see Section H.

8) If you are not legally represented and do not have access to email, contact the Administrative Court office by telephone so that alternative arrangements can be made. For London claims the number is 020 7947 6000 (option 6). For claims at other offices use the appropriate phone number at Section C above.

Responding to claims, appeals or application notices

1) Wherever possible, any response to a claim or appeal or application notice should be filed electronically. This will include Acknowledgements of Service, Respondent's Notices, responses to interlocutory applications, and any supporting bundles.

2) File smaller documents (less than 50 pages or less than 10mb) by email. In London these should be sent to administrativecourtoffice.caseprogression@justice.gov.uk, for other offices use the appropriate email address at Section C above.

3) For all larger documents use the Document Upload Centre. Any request to upload documents must be made by the professional representative by email:

   for London cases to: administrativecourtoffice.duc@justice.gov.uk

   for other offices, use the appropriate email address at Section C above.

4) The requirements for the preparation of bundles at Section A and Section D (filing claims) apply and must be followed. Please note the provisions on file size.

5) If you are not legally represented and do not have access to email, you should contact the Administrative Court office by telephone so that alternative arrangements can be made. For London claims the number is 020 7947 6000 (option 6). For claims at other offices use the appropriate phone number at Section C above.

E. Non-urgent work: claims in criminal causes or matters, appeals by case stated

Filing claims and issuing applications and case stated appeals

1) Wherever possible, non-urgent claims for judicial review in criminal causes or matters and appeals by case stated are to be filed electronically using the Document Upload Centre.

2) Requests to upload documents should be sent

   for London cases to: administrativecourtoffice.crimex@justice.gov.uk

   for other offices, use the appropriate email address at Section C above.

3) You will receive an invitation by email to upload your documents. You should then upload the claim/appeal/application bundle (prepared in accordance with Section A). If you are commencing a claim or appeal please also upload a further PDF document comprising an additional copy of the Claim Form or Notice of

Appeal and the decision document challenged. If filing in London include a PBA number or proof of payment by debit/credit card or a fee remission certificate (see Section H); if filing at any of the out of London offices, also see Section H.

4) Once a claim or appeal has been issued, Administrative Court staff will provide the case reference number to the parties by email.

5) Interlocutory applications should be sent by email

   for London cases to: administrativecourtoffice.crimex@justice.gov.uk

   for other offices, please use the appropriate email address referred to at Section B above.

For London include a PBA number or receipt of payment by debit/credit card (see Section H); if you are filing the claim in one of the out of London offices, also see Section H.

6) The requirements for the preparation of bundles at Section A and Section D (filing claims) apply and must be followed. Please note the provisions on file size.

7) If you are not legally represented and do not have access to email, you should contact the Administrative Court office by telephone on 020 7947 6000 (option 6) so that alternative arrangements can be made.

Responding to claims and case stated appeals

1) Wherever possible, any response to a claim or appeal or application notice should be filed electronically. This includes Acknowledgements of Service, Respondent's Notices, responses to interlocutory applications, and any supporting bundles.

2) File smaller documents (less than 50 pages or less than 10mb) by email. In London, use administrativecourtoffice.crimex@justice.gov.uk, and for other offices use the appropriate email address at Section C above.

3) For all larger documents use the Document Upload Centre. Requests to upload documents should be sent

   for London cases to: administrativecourtoffice.crimex@justice.gov.uk

   for other offices, use the appropriate email address at Section C above.

4) The requirements the preparation of bundles at Section A and Section D apply and must be followed. Please note the provisions on file size.

5) If you are not legally represented and do not have access to email, you should contact the Administrative Court Office by telephone on 020 7947 6000 (Option 6) so that alternative arrangements can be made.

F. Extradition appeals

Filing appeals and issuing Application Notices

1) Wherever possible, extradition appeals and interlocutory applications in extradition appeals must be sent electronically to: administrativecourtoffice.crimex@justice.gov.uk

Include a PBA number or proof of payment by debit/credit card (see Section H). If you are not legally represented and do not have access to email, you should contact the Administrative Court office by telephone 020 7947 6000 (Option 6) so that alternative arrangements can be made.

2) After the period for lodging amended grounds of appeal has expired the Appeal Bundle must be lodged. Please use the Document Upload Centre. Any request to upload documents must be made by the professional representative by email to:

   administrativecourtoffice.crimex@justice.gov.uk

Litigants in person without access to email should contact the Court to make alternative arrangements – see paragraph 1 above.

3) Any further bundles (whether for renewed application for permission to appeal or for the hearing of the appeal) shall also be lodged in by the methods stated at paragraph 2 above.

4) All bundles for the appeal or (if heard other than at the permission to appeal hearing or the appeal hearing), for any application in the appeal must be prepared in accordance with the requirements at Section A above. If the papers in support of an appeal or application exceed 20mb, the Appellant/Applicant should file:

   (a) a core bundle (no larger than 20mb) including, as a minimum, the Notice of Appeal and Grounds, or Application Notice and grounds; documents regarded as essential to the appeal, or application (for example the extradition request, the judgment of the District Judge, the Respondent's Notice etc.); any witness statements (or primary witness statement) relied on in support of the appeal or application; and a draft of the order the court is asked to make; and

   (b) a further bundle containing the remaining documents.

Responding to appeals and Application Notices

1) Wherever possible, responses to appeals and Application Notices should be filed electronically with the Administrative Court.

2) File smaller documents (less than 50 pages or less than 10mb) by email, to administrativecourtoffice.crimex@justice.gov.uk.

3) Larger documents should be filed using the Document Upload Centre. Any request to upload documents must be made by email to administrativecourtoffice.crimex@justice.gov.uk

4) Litigants in person without access to email should contact the Administrative Court office by phone on 020 7947 6000 (Option 6) so that alternative arrangements can be made.

5) Any documents for the hearing of the appeal or application must be prepared in accordance with the requirements at Section A, and be lodged in the manner described above in the paragraphs concerning the filing of appeals.

Other arrangements

G. Determination of claims

Paper applications

Applications for permission to apply for judicial review, applications for permission to appeal, and interlocutory applications will continue to be considered on the papers, as usual.

Orders

Orders will be served on all parties by email or, if service by email is not possible, they will be served by post.

Hearings

1) All matters for hearing will appear in the Daily Cause List. The list may be subject to change at short notice.

2) Hearings will ordinarily take place either in person (in court).

3) A judge may, on application by the parties, permit a different mode of hearing: either a hybrid hearing, or a remote hearing. A hybrid hearing is when some participants in court and others present by video. At a remote hearing all participants are present by video or phone. Hybrid hearings are conducted using the Cloud Video Platform (CVP) for persons attending by

video. Remote hearings are by Cloud Video Platform (CVP) or Microsoft Teams (video), or BT Meet Me (phone). If a hearing takes place by video and/or phone, the arrangements will be made by the court.

4) If an application is made that the hearing take place as a hybrid hearing or a remote hearing, the application will be determined by a judge who will decide whether it is in the interests of justice to grant the application. Whenever possible the judge will make this decision taking account of the views of the parties.

5) If it appears a hearing may need to be vacated (e.g. by reason of illness) or the arrangements for the hearing may need to be changed (e.g. because a party is required to self-isolate), please inform the court as soon as possible.

H. Fees (applies to all claims)

Payment by debit or credit card (by phone or email)

You can pay a court fee for a London claim by debit or credit card by contacting the Fees Office on 020 7073 4715 between the hours of 10:00am and 16:00pm, Monday to Friday (except bank holidays) or by emailing RCJfeespayments@justice.gov.uk. Once the payment has been processed you will receive a receipt which you should submit with the claim form and/or application form.

Court fees for claims at other offices can also be paid by debit or credit card – please provide your contact telephone number in the email/letter that accompanies the claim or application, you will be contacted to make payment by phone.

Payment by PBA

If you have a PBA account, then you must include the reference number in a covering letter with any claim form and/or application you lodge so the fee can be deducted from this account.

Payment by cheque

Cheques should be made payable to HMCTS. The cheque should be sent together with the Claim Form or Application Notice, either by post or DX.

For London claims cheques can be sent via the drop box at the main entrance in the Royal Courts of Justice. For claims at other offices, if you have arranged to file the claim/application in person, you may bring the cheque with you.

Attending the Fees Office counter (Royal Courts of Justice, London only)

The Fees Office counter is open to the public Monday to Friday 10am to 4:30pm (except Bank Holidays). **Access to the Fees Office counter is on an appointment only basis. There is no walk-in facility**. To make an appointment to attend the counter contact the Fees Office, Monday to Friday 10am to 4pm (except Bank Holidays), by phone (020 7947 6527) or by email (feesofficecounterbooking@justice.gov.uk). Do not attend without a confirmed appointment.

Once the fee has been taken or the fee remission form completed the Claim Form, or Notice of Appeal or Application Notice may be sent and will be forwarded to the relevant Administrative Court office for processing.

Help with fees

To apply for fee remission, go to the Help with Fees website and complete the step-by-step application process.[619]

If your claim is in London forward your 'HWF' reference to the Fees Office feesrcj@justice.gov.uk along with a copy of your Claim Form and/or application form. Please note, the number is confirmation of applying and is not confirmation of Remission entitlement. The Fees Office will process your application and contact you with the outcome of the Help with Fees application and will advise your next steps. For the out of London offices send your HWF reference along with the Claim Form and/or application form.

619 GOV.UK, Get help paying court and tribunal fees. Available at: www.gov.uk/get-help-with-court-fees

Annex 10 – Contacting the Administrative Court Office

This note explains how court users should contact Administrative Court Office (ACO).

The preferred option is to contact the ACO **via email**. For any URGENT queries – Court Users are expected to flag their email as high importance and insert URGENT and the date of hearing (if applicable) in the subject bar. Emails should go to the following addresses and should be answered in the timescales set out here:

The following email addresses are for London cases only (see end for regional cases):

Team/ Email	Types of queries	Response time
For the General Office administrativecourtoffice.generaloffice@justice.gov.uk	Appointments New Applications Filing consent orders Payment by PBA	Non-Urgent emails: 5-7 days URGENT emails: up to 2 days
For Case Progression Office administrativecourtoffice.caseprogression@justice.gov.uk	Case Progression/ update/ office Copy request	Non-Urgent emails: up to 3 days URGENT emails: same day (unless the email is sent after 4:30pm, in which case next day)
For DUC upload: administrativecourtoffice.duc@justice.gov.uk	DUC upload	
For Skeleton Argument: administrativecourtoffice.london.skeletonarguments@justice.gov.uk	Skeleton Arguments	

Team/ Email	Types of queries	Response time
For the List Office administrativecourtoffice.listoffice@justice.gov.uk	To fix or to vacate any cases Change time estimates or court Book Video links or interpreters	Non-Urgent emails: up to 3 days URGENT emails: same day (unless the email is sent after 4:30pm, in which case next day)

If you require assistance by phone, court users can call the RCJ Reception on 020 7947 6000, who will direct users to the relevant team selected from the below:

- ACO General Office
- ACO Case Progression Office
- ACO Listings Office

If the Team you are trying to contact are busy please leave your name and contact details with reception who will forward on your details and the relevant team will aim to contact you back on the same day.

The following email addresses are for regional cases:

Email address	Nature of correspondence	Please include in subject line
If your case is not in London, please use the relevant email address from the list below:		
administrativecourtoffice.manchesterskeletonarguments@justice.gov.uk	Filing Skeleton Arguments for imminent hearing in – Manchester – Leeds – Birmingham – or Cardiff	Case number Hearing date
administrativecourtoffice.leedsskeletonarguments@justice.gov.uk		
administrativecourtoffice.birminghamskeletonarguments@justice.gov.uk		
administrativecourtoffice.cardiffskeletonarguments@justice.gov.uk		
administrativecourtoffice.manchester@justice.gov.uk	All other queries regarding cases in the Administrative Court in – Manchester – Leeds – Birmingham – or Cardiff	Case number The word 'URGENT', if applicable
administrativecourtoffice.leeds@justice.gov.uk		
administrativecourtoffice.birmingham@justice.gov.uk		
administrativecourtoffice.cardiff@justice.gov.uk		

Correct as at August 2025