



Neutral Citation Number: [2026] EWHC 2571 (Admin)

Case No: AC-2025-LON-004615

AC-2025-LON-002404

AC-2026-LON-002537

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 09/10/2026

Before :

MR JUSTICE CHAMBERLAIN

Between :

THE KING

on the application of

(1) FRY
(2) BNM1
(3) LRB

Claimants

- and -

SECRETARY OF STATE FOR DEFENCE

Defendant

- and -

**(1) SECRETARY OF STATE
FOR THE HOME DEPARTMENT**

(2) BNM2
(3) BNM3
(4) BNM4
(5) BNM5
(6) BNM6

**Interested
Parties**

Emma Daykin (instructed by **Deighton Pierce Glynn**) for the **First Claimant**

Nicola Braganza KC and **David Sellwood** (instructed by **Duncan Lewis**)
for the **Second Claimant**

Ben Amunwa (instructed by **Deighton Pierce Glynn**) for the **Third Claimant**

Alan Payne KC and **Richard Evans** (instructed by the **Government Legal Department**) for
the **Defendant**

Martin Goudie KC and **Dominic Lewis** (instructed by the **Special Advocates' Support
Office**) as **Special Advocates**

Hearing date: 2 October 2026

Approved Judgment

This judgment was handed down remotely at 10am on 9 October 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

Mr Justice Chamberlain:

Introduction

1. This judgment contains the reasons for orders made on the defendant’s application to extend time for the filing of certain documents. I have given my reasons in writing because applications of this sort have become increasingly common and it is important that litigants and practitioners should understand the court’s likely response to them.

The law

2. The importance of adherence to time limits set by court directions has been underlined repeatedly. This applies in public law litigation in the Administrative Court as much as elsewhere: see e.g. *R (Liberty) v Secretary of State for the Home Department* [2018] EWHC 976 (Admin) (Singh LJ and Holgate J).
3. In the Administrative Court Judicial Review Guide 2026, at paragraphs 2.1.3.3 and 2.1.3.4, attention is drawn to the need for legal professionals and litigants in person “to ensure that applications are made at the earliest stage possible and not left to the last minute” and “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”.
4. In March 2026, an Administrative Court Practice Statement was promulgated outlining a new procedure for dealing with opposed applications for extensions of time. Such applications will be determined on paper by a duty lawyer in the Administrative Court Office. If any party wishes to refer the matter to a judge, the application will be referred to a duty judge or deputy judge.
5. The Practice Statement begins as follows:

“1. Litigants, their legal representatives, Court staff and judges are all entitled to plan their work on the basis that time limits set by the Civil Procedure Rules and Practice Directions and in directions given by the Court will be adhered to.

2. Too many applications for extensions of time are being made at the last minute and/or without proper supporting reasons or evidence, apparently in the belief that the application will not be considered until the applicant has had the extra time sought, so the extension will become a fait accompli.

3. This is unfair to the other parties and their legal representatives. It is likely to have a particular adverse effect on litigants and legal representatives with caring responsibilities and on legal representatives who work part-time. It may also inconvenience the Court.”
6. The adverse effect of opposed application for extensions of time on the Court should be emphasised. Dealing with these applications puts additional strain on the Court’s

limited administrative and judicial resources, which has a knock-on effect on other litigants. The effect is particularly marked where the extension imperils a listed hearing.

A brief procedural chronology of this case

7. These three claims challenge decisions of the Secretary of State for Defence in relation to Afghan nationals seeking relocation to the UK. They raise issues which are likely to be of relevance not only to the claimants but also to others in a similar position.
8. It is not necessary to set out the whole procedural history of these cases. It is sufficient to note that, in BNM1 and FRY, there had by July 2026 been very many applications by the defendant for extensions of time to file evidence and other documents, many of them made after expiry of the relevant deadline.
9. In an order dated 16 June 2026, Mould J gave directions for BNM1 (in which permission had been granted) and FRY (which was to be determined on a rolled-up basis) to be heard together with a time estimate of 4 days, the first of which was to be for reading, starting on 12 October 2026.
10. In a further order approved on 6 August 2026, reflecting decisions taken at a case management hearing in the previous week, Mould J directed that a third case, LRB, in which proceedings had been lodged more recently, should also be dealt with at the same hearing. He extended the time estimate to 5 days.
11. Mould J ordered that:
 - “3. LRB is designated the lead case in relation to the challenge to the Defendant’s decision announced on 28 April 2026 to end in-country support and relocation assistance. BNM1 may also make submissions on those issues at the substantive hearing.
 4. FRY and BNM1 are designated the lead cases in relation to the challenge to the Defendant’s approach to third country support.”
12. The potential effect of these claims on those of other claimants can be seen from the final recital to Mould J’s order:

“...in anticipation of the substantive hearing together of these three claims on 12 October 2026, the Court may be willing to consider giving case management directions, including as appropriate a stay of proceedings, in any other claim that challenges (a) the Defendant’s decision on 28 April 2026 to end in-country support and relocation assistance and/or (b) decisions in individual cases made pursuant to that decision and/or (c) the Defendant’s decision not to grant support to individuals in third countries during the process of their relocation to the UK”.

13. In paragraph 6 of his order, he also gave procedural directions as follows:

“i. Any further material that can be provided by the Defendant following the hearing on 29 July 2026 to be provided by 4pm on 14 August 2026, together with all other OPEN disclosure and evidence in the claims.

ii. The Claimants shall file and serve: (i) their skeleton arguments, (ii) amended Grounds, and (iii) any further written evidence relied on, by 4 September 2026.

iii. The Defendant shall file and serve: (i) OPEN and CLOSED skeleton arguments to stand as Detailed Grounds of Defence in LRB and any amended Detailed Grounds in FRY and BNM1; (iii) any written evidence relied on that it does not seek to withhold on the grounds that its disclosure would be damaging to the interests of national security; (iv) any CLOSED written evidence, not already served, to be relied upon, such CLOSED documents to be accompanied by a section 8 application, by 4pm on 25 September 2026.

iv. The parties shall agree the contents of a joint OPEN hearing bundle and the Claimants shall file it with the Court by 4pm on 2 October 2026.

v. The Defendant and the Special Advocates shall agree the contents of the CLOSED hearing bundle and the Defendant shall file it with the Court by 4pm on 2 October 2026.

vi. The Claimants shall file and serve an agreed joint OPEN authorities bundle by 4pm on 2 October 2026.

vii. The Defendant shall file and serve an agreed (between Special Advocates and Defendant) joint CLOSED authorities bundle, in hard copy, by 4pm on 2 October 2026.

viii. No later than 7 days before the hearing [i.e. by 5 October 2026], the parties shall file: (1) an agreed list of issues; (2) an agreed chronology of events (with page references to the hearing bundle); and (3) an agreed list of essential documents for the advanced reading for the Court (with page references in the bundles to the passages relied on) and a time estimate for that reading.”

14. The first key date was 14 August 2026. In advance of that deadline, the claimants’ solicitors in BNM1 had written to the defendant seeking further information. On 11 August 2026, GLD replied saying that the Secretary of State would be “providing further disclosure on 14 August 2026, and intends to respond to your various requests when that disclosure is provided”.

15. The first indication that the defendant would not be providing the disclosure required by the order of Mould J was on 14 August 2026, after the deadline had passed, when GLD wrote to the parties attaching an application for an extension of time, which they

were “intending to file shortly”. The only reasons given for the application was given in box 10 of the form N244 as follows:

“2. Whilst considerable work has been undertaken additional time is required to finalise some documents and the Defendants would not claim at this time to have complied with paragraph 6(i) of Mould J's order.”

16. The solicitor for BNM1 pointed out by return, correctly, that as the deadline had passed, the application was properly characterised as one seeking retrospective relief from sanctions following non-compliance with an order, rather than simply as an application for an extension of time.
17. The application for relief from sanctions was filed and issued on 17 August 2026 and contained some explanation of the reasons why further time was needed, including the extent of the disclosure exercise being undertaken, the difficulties encountered in considering how to put material into OPEN and the need to consult with other departments.
18. On 21 August 2026, at 3.37pm, GLD sent the claimants’ representatives a further application for an extension of time, which they said they were proposing to file shortly. Again, the only explanation was in box 10 on the form N244:

“2. Regretfully additional time is required to finalise some documents and the Defendants would not claim at this time to have with paragraph 6(i) of Mould J's order. A further short extension to Tuesday 1 September to account for the bank holiday is requested.”

19. In an order dated 25 August 2026, the extension sought was granted by Ceri Hopewell, an Administrative Court lawyer exercising delegated powers. In her observations, she said this:

“These are important claims in a long line of cases concerning the ARAP scheme. The defendant’s applications are premised on the complexity of the disclosure exercise. The claimants object to an extension of time to comply with para 6(i) of Mould J’s order for reasons including lack of notice; an insufficiently clear or detailed explanation for the failure to comply with the original deadline; and the defendant’s repeated applications for extensions of time through the course of the proceedings (most of which were made after the relevant deadline had already expired). The claimants further complain that the defendant’s approach to the litigation adds to their workload.

In my view, the defendant has provided a tolerably clear explanation in relation to the complexity of the disclosure exercise. Otherwise, the claimants’ points are well made. Overall, I consider that the claims cannot realistically proceed any further until the disclosure exercise is complete. I have therefore reluctantly decided to grant the most recent extension of time sought by the defendant.

Going forward, it is essential that the parties do everything they reasonably can to ensure that the hearing in the week commencing 12/10/2026 is effective. It may be that the claimants would want the court to revisit the rest of the timetable in Mould J's order – not least because they are presently required to file skeleton arguments, amended grounds and any further evidence only three days after the revised deadline for the defendant to provide further material etc.

If so, I encourage the parties to cooperate and to seek to agree how best to absorb the delays caused by the disclosure exercise so that the court is provided with all necessary material well in advance of the hearing. In particular, the judge will still need to receive the list of issues, chronology and list of essential documents by 05/10/2026.”

20. In the light of that, the claimants sought the defendant's agreement to vary the date for filing their and the Special Advocates' skeleton arguments, amended grounds and evidence. The outcome was an agreement that these would be filed on 11 and 18 September 2026 respectively, that the defendant would file and serve his skeleton argument on 25 September 2026 and the evidence required under paragraph 6(iii) of Mould J's order on 29 September 2026. The solicitor for the First and Third Claimants made clear that this was “the latest possible date as it is 2 weeks before the hearing”. (Alan Payne KC for the defendant suggested in argument that GLD understood the agreed extension to 29 September 2026 related to the skeleton argument, disclosure and evidence by 29 September 2026, but the correspondence makes clear that it related to the evidence alone; and Mr Payne wisely did not seek to suggest that the defendant's understanding of the correspondence was correct.)
21. There was then further correspondence about failures by the defendant to comply with other parts of Mould J's order and a request for a case management hearing.
22. On 18 September 2026, Fordham J made the following order:
 - “1. The Defendant shall provide his full response (and any attendant disclosure) to the Claimants' Requests for Information and Disclosure of 22 July 2026 and 6 August 2026 by 4.30pm on Monday 21 September 2026.
 2. The Defendant shall provide his full response (and any attendant disclosure) to the Claimants' further Request for Information and Disclosure of 15 September 2026 by 4.30pm on Friday 25 September 2026.
 3. The Defendant shall provide updated evidence and disclosure in relation to the Tajikistan third-country support decision by 4.30pm on Friday 25 September 2026.
 4. The Defendant shall provide updated evidence and disclosure in relation to the Additional Family Members (AFM) decision on BNM3 and BNM4 by 4.30pm on Friday 25 September 2026.”

23. The defendant did not comply with paragraph 1 by the deadline and did not seek any extension by that time. In response to a request by one of the claimants' solicitors for an update, GLD filed yet another application to extend time, again after the deadline had passed. The explanation given on form N244 was as follows:

“Unfortunately, this work has taken longer than expected, and regrettably the Defendant applies for a further extension of time until 4:30pm 25 September 2026 in order to finalise the provide his response and attendant disclosure.”

The application before me

24. The defendant did not file or serve the skeleton argument, amended detailed grounds or OPEN disclosure by 25 September 2026, as required by paragraph 6(iii) Mould J's order, and did not seek any extension by the deadline. Nor did he file his evidence by 29 September 2026. Instead, after 4pm on 29 September 2026, he filed another application for an extension of time “to comply with paragraph 6(iii) of the order dated 6 August 2026”. The reasons for the extension were set out on form N244 as follows:

“4. The Court will be aware that the Defendant has faced challenges in providing disclosure in a timely manner in this case and the court has already granted the defendant several extensions of time to serve the initial and subsequently requested disclosure. This has compressed the time available to complete the defendant's written evidence. This evidence requires this input of a small number of subject matter and policy experts before the evidence can be finalised. The Defendant is working at pace with its witnesses and will complete the witness statement production process as soon as is possible. In addition, some of the evidence will be provided in CLOSED which has compounded the delay in finalising these statements due to technical difficulties including access and system outages on the part of the defendant and their representatives. Regrettably despite best efforts, Defendant is forced to seek an extension of time until 4pm 5 October 2026 in order to finalise and provide his OPEN and CLOSED written evidence. The Skeleton Arguments (combined with Detailed Grounds) cannot be finalised until the evidence is finalised and therefore it is proposed that they be provided alongside the OPEN and CLOSED witness statements.”

25. That application was referred to me on 30 September 2026, because the Administrative Court lawyer dealing with it considered that it was likely to imperil the hearing date. I considered the papers on the evening of 30 September 2026 and an email was sent to the parties on the following morning informing them that there would be a case management hearing at 3pm on 2 October 2026. The parties were warned as follows:

“1. The application to extend time was made after the expiry of the relevant deadline, which itself had already been extended several times.

2. The extension now sought would shorten by half the time available to the other parties to prepare for the hearing.

3. A 4-day hearing has been listed for 13 October for a considerable time. The timetable was set in light of the fact that the outcome of this case might affect not only the claimants in these cases, but also others not before the court. Vacating that hearing would have a real and adverse impact on the court, third parties and other litigants whose cases might be delayed if this case has to be relisted. All this must have been obvious to the Defendant.

4. One would expect an application to extend time in these circumstances to be supported by full witness evidence detailing genuinely unforeseen and unforeseeable difficulties. Despite this, the application is not supported by any witness evidence at all. The information supporting the application (in paragraphs 3 and 4 of box 10 of the Application Notice) is exiguous.

5. There should be no assumption that the extension sought will be granted or that the hearing will be vacated. The Defendant should continue to work on, and if possible file, the relevant documents in the period between now and the hearing at 3pm on 2 October. If the documents still have not been filed by the time of the hearing, the court will expect a full, evidenced explanation why this has not been done, from the solicitor with conduct or another appropriate witness.

6. If the court is persuaded to vacate the hearing, it will wish to consider (a) relisting the hearing taking into account the availability of the court and of the claimants' counsel and (b) any appropriate orders as to the costs (including the basis of costs) of the application and of the proceedings more generally. Counsel should give consideration to these matters in advance of the hearing on Friday."

26. By the time of the hearing on 2 October 2026, the defendant's skeleton argument, three OPEN witness statements and a bundle of exhibits had been filed. Mr Payne submitted that, as far as the defendant was concerned, the hearing could go ahead, though he conceded that the claimants may not have enough time to prepare for it.
27. The joint position of the claimants' counsel was that there was now not enough time for them to consider the material just served, make any additional requests for information or disclosure arising from it and prepare for the hearing, given their other commitments. In my judgment, this was understandable. The claimants' representatives had made very clear that 29 September was the "latest possible date". The new evidence to be served was substantial, so it was entirely predictable that a unilateral decision to breach the court's order (as extended by agreement) would make the hearing impossible.

The conduct of the Secretary of State and his representatives in this case

28. Mr Payne for the defendant accepted that criticisms could be made of the defendant's conduct, but sought to put that conduct in perspective by saying that the defendant's team had been working hard to complete the various tasks required of them in the

court's directions, with limited resources. I place very little weight on that submission, because there is almost no evidence to support it.

29. The defendant could have filed witness statements supporting his applications to extend time. Those statements might have explained in detail: (i) what steps had been taken to comply with the deadline; (ii) when those steps were taken; (iii) if the default was attributable to lack of staff or other resources, what steps were taken to secure additional resources and when those steps were taken; (iv) when it was realised that it would not be possible to comply with the deadline and, if the application is made close to or after the deadline, why it was not realised earlier; and (v) when the other parties were contacted about the extension, what they said and what consideration was given to this.
30. Instead, the information supporting the applications consisted, in each case but one, of a few wholly unspecific sentences on the form N244. The one exception was the application of 17 August 2026 for relief from sanctions, which, as Ms Hopewell said, contained a "tolerably clear explanation of in relation to the complexity of the disclosure exercise", though not of why the application had been made so late and without warning. For the other applications, I have no proper basis on which to conclude that the defendant was doing all it could at any relevant stage. In any event, even if the Secretary of State's team had been doing their best throughout, their conduct was characterised by an apparently total lack of planning or organisation, reflected in the late stage at which the applications were made.
31. Next, Mr Payne submitted that I should bear in mind that the defendant would be submitting that two of the claims were now academic, since the claimants had now been brought to the UK. This point does not have the significance claimed, for two reasons. The first is that, as was made clear by Mould J's order, these were test cases. When the hearing was listed, it was envisaged that they would determine points relevant to other cases. The second is that, irrespective of that, if a party considers that some factual development means that he should not have to comply with existing directions, the proper course is to apply to vary or discharge those directions. The defendant did not do that, so the obligations to comply remained, whether or not its argument that the cases are now academic in due course succeeds.
32. The Secretary of State and his representatives repeatedly failed to give any notice to the other parties of their inability or unwillingness to comply with directions until after the relevant deadline has passed. They repeatedly applied for extensions of time supported by exiguous and unspecific reasons on form N244, with no accompanying witness statement. There is no evidence that they had any regard for the effect that their delay would have on the other parties or their representatives. They simply assumed that those other parties would have to modify their own working plans, irrespective of any other commitments, to fit the convenience or capacity of the Secretary of State's team.
33. The application of 29 September 2026 was a textbook example of bad litigation practice. It related to documents some of which had been due on 25 September 2026, though apparently the defendant's representatives mistakenly believed that the claimant had agreed to extend time for filing these documents. Even in relation to the documents which were in fact due on 29 September 2026, the application was made after the

deadline. At that point, there were less than two weeks remaining before the start of the hearing. Without any prior warning, the defendant sought to cut in half the time allowed by the directions to the claimants' representatives to consider and respond to those documents. It was obvious that this conduct might well imperil a very substantial hearing which had been listed for over 3 months.

34. It is difficult to avoid the impression that the Secretary of State and his representatives in this case came to regard procedural directions as optional, assuming that—in a case such as the present, where the claimants require disclosure to plead and argue their case—the court will have no option but to excuse default. They appear also to have assumed that, if a substantial hearing had to be rescheduled (as was obviously likely), any detriment would be borne by the other parties and the court, and not by the Secretary of State or his team.
35. The Practice Statement (the key parts of which I set out at paragraph 5 above) was designed to address assumptions of this kind. It has obviously not yet been wholly successful. The fact is, however, that dealing with repeated applications for extensions of time, which are opposed for understandable reasons, places intense strain on the court's limited administrative and judicial resources, to the detriment of litigants generally.

Directions for the future conduct of this litigation

36. My aims are: first, to set a realistic timetable for the substantive hearing which limits to the minimum any disadvantage to the claimants and their representatives; and secondly, to discourage any repeat of the conduct described here in these or any other cases.
37. To that end:
 - (a) There will be a further directions hearing on 9 October 2026 at 3.30pm at which the court will:
 - (i) relist the hearing during the Michaelmas Term 2026 on dates which, so far as possible, accommodate the claimants' representatives and Special Advocates (if the defendant's representatives are unavailable, he will have to find alternatives);
 - (ii) set procedural directions leading to that hearing.
 - (b) Any further application by the defendant to vary the directions set on 9 October 2026 which is not agreed by all parties must be accompanied by a witness statement from a lawyer with conduct of the litigation setting out in detail the information set out in paragraph 29 above and in addition giving the name and position of the person in the client department or GLD who made the decision to apply for an extension of time and confirming that this individual has read this judgment.

- (c) Any such application is to be referred to the Judge in Charge of the Administrative Court or a judge nominated by him, who may fix a hearing at which the maker of the witness statement is required to attend and be cross-examined.
 - (d) The defendant must pay the claimants' costs:
 - (i) occasioned by the defendant's applications to extend time since 6 August 2026 (including the application of 29 September 2026);
 - (ii) of the hearing on 2 October 2026;
 - (iii) of the hearing on 9 October 2026; and
 - (iv) attributable to the adjournment of the hearing fixed for 13 October 2026,such costs to be assessed, if not agreed, on the indemnity basis.
 - (e) Whatever the outcome of these claims, the defendant may not recover the costs of preparing the documents filed in breach of Mould J's order.
38. The effect of paragraph 37(e) may be limited given the restrictions on the recovery of costs from legally aided claimants in first instance proceedings, but I have no doubt that it is justified in principle. Parties should not expect to recover the costs of preparing documents if they are filed in breach of court orders, at least in cases such as the present, where the breach is not properly explained and follows a series of similar unexplained breaches.

General observations

39. Parties should familiarise themselves with the principles in the March 2026 Practice Statement. Deadlines set by the court (including by court lawyers acting under delegated powers), or by the CPR or Practice Directions, must be met. An extension of time has the potential to cause unfairness to the other party because it disrupts the plans of the other party and their legal team and may also disrupt the court's business, with knock-on adverse effects for other litigants.
40. Parties should not assume that an extension of a day or a few days will be immaterial, even if a commensurate extension is offered to other parties. Where an extension of time would have the effect of reducing by a substantial proportion the time available to another party to prepare a document or prepare for a hearing, prejudice to that party can be assumed.
41. If an opposed application is necessary, it should be made well before the deadline expires. The court aims to refer such an application to a lawyer or judge as soon as possible. As noted in the Practice Statement, parties should not assume that the application will be granted. If it is not, the document will have to be submitted by the original deadline.

42. Opposed applications made shortly before or after the deadline expires should be rare. They are particularly likely to cause prejudice to other parties. Extensions of time close to a hearing may also cause difficulties for the judge, who may have planned to work on a case at a particular time. Changes to the judge's timetable at a late stage may have an impact on other cases, which has the potential to cause unfairness to the litigants in those cases.
43. Whenever an opposed application for an extension of time is made, dealing with it diverts the court's already limited administrative and judicial resources. The chronology in the present case provides a good example of how much time can be taken up dealing with requests for extensions of time and relief from sanctions. That time would be better spent dealing with the court's other important work.
44. Accordingly, an opposed application for an extension of time will not be granted without good reasons. Generic reasons are unlikely to be sufficient. The information in paragraph 29 should be provided. In many cases, a witness statement from the lawyer with conduct of the litigation will be required. The duty of candour applies.
45. If good reasons are not provided, the application may be refused. Even if the application is granted, the consequences may include costs orders of the kind made here. In case of repeated breach of orders, directions similar to those in paragraph 37(b) and (c) may be appropriate.
46. I direct that a copy of this judgment be sent to the Treasury Solicitor.