



Neutral Citation Number: [2025] EWHC 1475 (Admin)

AC-2025-LON-000659

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

Tuesday, 17<sup>th</sup> June 2025

**Before:**  
**FORDHAM J**

-----

**Between:**  
**THE KING (on the application of BLV)**  
**- and -**  
**SECRETARY OF STATE FOR THE HOME**  
**DEPARTMENT**

**Claimant**

**Defendant**

-----  
-----

**Deighton Pierce Glynn** for the Claimant  
**Government Legal Department** for the Defendant

-----  
Determination on the papers  
-----

**Approved Judgment**

-----  
FORDHAM J

## **FORDHAM J:**

### Introduction

1. In this case the Claimant's solicitors (DPG) have properly raised these questions relating to the e-filing of a judicial review claim. What "details of a new case" is a judicial review claimant required to "enter" online (CPR PD51O §2.3(c))? Can difficulties with the correct online "details" be a basis for a court order (CPR PD51O §5.3(2) and CPR 3.10(b)) back-dating the court-recorded "filing" date of the new judicial review claim? And should communications with the Court about possible back-dating be copied to the other parties? Having considered the position on the papers, with further assistance by written evidence and submissions from both parties, and having ventilated with them taking this course, I am satisfied that it is appropriate to address the points which have been raised in this brief judgment. It may be that the practical difficulties encountered in this case will be considered apt for ventilation at the Administrative Court User Group, or apt for further online guidance.

### The Pre-Action Protocol

2. A person bringing a claim for judicial review is generally expected to follow the Judicial Review Pre-Action Protocol: see the Administrative Court Judicial Review Guide 2024 at §6.2. A stated purpose of the Protocol is to "support the efficient management of proceedings where litigation cannot be avoided" (Pre-Action Protocol at §3(e)). Consequences of pre-action engagement include that parties and their lawyers are identifiable and lines of communication about the proposed claim are opened.

### Starting a Judicial Review Claim

3. Parliament has provided that "making" of an "application for judicial review" should be without "undue delay" (Senior Courts Act 1981 s.31(6)). The CPR require that the claim form must be "filed" promptly and in any event within 3 months (CPR 54.5(1)). Special rules apply in certain cases, notably planning cases and procurement cases. There are prescribed contents and accompanying documents for a claim form (CPR 54.6). There is also a required fee (JR Guide §7.2.4). The prescribed judicial review claim form (Form N461) has boxes to be filled in including: details of the claimant's representatives (firm and individual solicitor); details of all other parties and their representatives; confirmation whether the Protocol was complied with; any application for an extension of time; and confirmation of what supporting documents accompany the claim.
4. The Guide says the judicial review claim is "started" by "filing a Claim Form that meets the requirements set out in CPR Part 54" (§6.4.1). It says the claim is "made" on "the date on which it is filed", with the "date of filing, usually [being] written on the Claim Form in manuscript by the ACO staff when the Claim Form is received at the ACO" (§7.2.1). Judicial review is a modified Part 8 claim (CPR 54.1(1)(e)). CPR 7.2(1) says proceedings are "started" when the court "issues" the claim form at the claimant's request. But PD7A §6.1 provides that where a claim form is "received in the court office on a date earlier than the date on which it was issued by the court", the claim is "brought" for the purposes "any ... relevant statute on that earlier date". PD7A §6.2 provides that "the date on which the claim form was received by the court will be recorded by a date stamp either on the claim form held on the court file or on the letter that accompanied the claim form when it was received by the court". PD7A §6.3 provides that "an enquiry

about the date on which the claim form was received by the court should be directed to a court officer”.

5. Form N461 has a printed box in its top right corner “For Court use only”. There, the Court staff will insert the case “reference number” and a “date” (day/month/year) recording when the claim was filed (CPR 54.5(1)) and so made (s.31(6)). The staff will also apply the official court stamp, across the top of printed box, with a date in the middle of the official stamp. In this case, the court stamp said 05 Mar 2025. That was the date of “issue” of the claim, from which the 7 day deadline for service runs. What followed was certified service (N215, 12 March 2025). The Defendant’s N462 Acknowledgment of Service was filed (31 March 2025). A reply was filed (4 April 2025).
6. The court-recorded “date of filing” (JR Guide §7.2.1), as “the date on which the claim form was received” (PD7A §6.2), stands as a visible and objective reference-point for considering delay and promptness. But any party can make an enquiry about it with the Court (PD7A §6.3). Starting the claim is something the claimant does, but it involves the Court and the date is recorded by the Court.

#### Issuing a Judicial Review Claim

7. At the printed box on the Form N461, Court staff will also apply the official court stamp, bearing a date in the middle of the official stamp. This is the date of “issue” of the claim. The claimant makes the claim, but the Court issues it. The JR Guide explains that the “date of filing ... 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” (§7.2.1). CPR 7.2(2) provides that a claim form is “issued on the date entered on the form by the court”. CPR 2.6(1)(a) says “the court must seal” the claim form “on issue” and CPR 2.6(2) says “the court may place the seal on the [claim form] by hand, by printing or electronically”.
8. The issuing of the claim triggers the time-frame for service on the other parties. CPR 54.7 provides that “within 7 days after the date of issue” the claim form must be served on the defendant and any interested party. Service of the claim form has the special function of being the act by which the defendant is subjected to the court’s jurisdiction: R (Good Law Project Ltd) v Secretary of State for Health and Social Care [2022] EWCA Civ 355 [2022] 1 WLR 2339 at §§41, 83. DPG do not, in the circumstances of this case, suggest the Court should be backdating the date of “issuing” of the claim. As they recognise, service cannot take place until the claim has been issued and sealed (see Ideal Shopping Direct Ltd v Mastercard Inc [2022] EWCA Civ 14 [2022] 1 WLR 1541), and backdating the date of issue could immediately put a claimant out of time for service.

#### CPR PD51O

9. Judicial review e-filing is covered by CPR PD51O (Electronic Working Pilot Scheme) which applies to claims for judicial review (§2.2). PD51O §2.3 provides:

*To file a document using Electronic Working, a party shall – (a) access the Electronic Working website address specified by Her Majesty’s Courts and Tribunals Service (“the Website”); (b) register for an account or log on to an existing account; (c) enter details of a new case or use the details of an existing case; (d) upload the appropriate document; and (e) pay the appropriate fee.*

PD51O §2.5 says that “The Website contains further details, updated from time to time, on how to complete a filing ...” PD51O §5.1 makes provision about the format which filed documents “must” have.

10. As to the issuing of new claims, PD51O §5.4(2) takes “the date and time of payment” of the relevant fee as “the date and time of issue for all claim forms ... submitted using Electronic Working.” PD51O §7.1 describes “a claim form ... which has been submitted using Electronic Working and accepted by the Court”, providing that “when the Court issues” the claim form “the Court will electronically seal the claim form ... with the date on which the relevant Court fee was paid and this shall be the issue date”. PD51O §8.1 adds that “the Court will electronically return the sealed and issued claim form ... to the party’s Electronic Working online account and notify the party that it is ready for service.”
11. As to the mechanism for claim forms being “submitted ... and accepted by the Court” (PD51O §7.1), the “submission of any document using Electronic Working will generate an automated notification acknowledging that the document has been submitted and is being reviewed by the Court prior to being accepted (the ‘Acceptance’)” (§5.3(1)). “Once a document filing is accepted, a notification will appear on the Electronic Working online account registered to the filing party to confirm that the document has been accepted and to confirm the date and time of issue or the date and time of filing ...” (§5.4(4)). “If the submission fails Acceptance, notice of the reasons for failure will be given to the party on that party’s Electronic Working online account and if the submission was of a claim form ... it will be deemed not to have been issued” (§5.4(5)).
12. PD51O §5.4(5) provides:

*The date and time of issue or the date and time of filing of a document submitted using Electronic Working will not be delayed by Acceptance, unless the submission fails Acceptance because the filing error is more serious than an error of procedure, or the Court orders that it has failed Acceptance for some other reason.*

13. PD51O §5.3(2) provides:

*The court may make an order to remedy an error of procedure made while using Electronic Working, in accordance with CPR 3.10(b). When the court makes such an order, a document filing will not fail Acceptance because of the error of procedure made.*

The rule to which reference is there made (CPR 3.10) provides:

*Where there has been an error of procedure such as a failure to comply with a rule or practice direction – (a) the error does not invalidate any step taken in the proceedings unless the court so orders; and (b) the court may make an order to remedy the error.*

### Guidance

14. The JR Guide says this at §§7.8.10 and 21.5.5:

*E-filing allows court users to issue and file documents, pay court fees and review and track their cases online... 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...*

*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). fn. HM Courts and*

*Tribunals Service, Administrative Court Information for Court Users, 2022. Available at [hyperlink]*

15. As has been seen, PD51O §2.5 says “the Website contains further details, updated from time to time, on how to complete a filing ...” There is online HMCTS Guidance, as flagged up in the Guide. It is entitled “HMCTS E-Filing service for citizens and professionals” (main guidance page) and entitled “Submit and manage your filings”. The main guidance page includes this about failed-Acceptance (the numbering in square brackets is mine):

*Once we have received your filing, you will receive a notification in the E-Filing service or an email ... We will review the filing and send you another notification or email to say that it has been accepted or rejected. If rejected, we will explain why. It is usually that [i] a form has been completed incorrectly, [ii] the incorrect fee has been paid or [iii] the correct document has not been sent. You will be able to resubmit rejected filings.*

The reference at [i] is to the online form, for which the “details of a new case” are required to be entered (PD51O §2.3(c)).

#### Entering Details Online

16. E-filing thus involves using the relevant HMCTS website (§2.3(a)). Whether for an “existing case” or “a new case”, the party has to “enter details” (§2.3(c)) and then upload any document (§2.3(d)). The online form has some asterisks which work as mandatory fields, without which the user cannot proceed. There are boxes into which details are typed by the user. There are drop-down options. After completing a filing there is an automated acknowledgment (§5.3(1)). After review by the Court (§5.3(1)) there will be notified Acceptance (§5.4(4)) or notified failed-Acceptance with reasons (§5.4(5)). Where a filing leads to Acceptance, the date of filing is recorded as the date when the party completed the acknowledged filing. Filings with failed-Acceptance can be refiled. The process of a filing “being reviewed by the Court” and then Acceptance or failed-Acceptance reflects the human evaluative element. Members of Court staff have training, guidance, individual understanding, learned knowledge and experience.

#### This Case

17. One of the targets for judicial review was a decision dated 6 November 2024. Although DPG submitted that there was a “continuing” unlawfulness, they understandably wanted to file the papers within 3 months (CPR 54.5(1)) of 6 November 2024. Under the Pre-Action Protocol, DPG had written a letter before claim on 19 December 2024. The Home Office had replied on 15 January 2025, giving details for service of any claim. Legal aid was granted on 23 January 2025. Only on 5 March 2025 did DPG received the issue letter from the Court. The printed box on the form N461 gave 25-02-2025 as the Court-recorded date on which the claim was filed. The official court stamp said 05 Mar 2025, as the date of issue of the claim. What followed was certified service (N215, 12 March 2025). The Defendant’s N462 Acknowledgment of Service was filed (31 March 2025), to which the Claimant responded with a reply (4 April 2025). I considered the papers on 10 April 2025. I made an anonymity order, published on the Judiciary’s website. I made an order granting permission for judicial review and making directions for an expedited substantive hearing. In my reasons within the Court Order, I recorded that no point on delay or lack of promptness had been taken by the Defendant, “rightly in my judgment”. I also recorded that there was no permission-stage issue to preserve. The case is

proceeding to its substantive hearing, uninhibited by this consideration of the e-filing difficulties which DPG had encountered.

### E-Filing Difficulties

18. In my order, I made preliminary observations and gave directions to allow for further assistance in relation to the e-filing questions which had arisen. The Defendant's representatives have seen all email traffic between DPG and the Court. Both parties have responded to assist the Court, for which the Court is grateful. I took this course as the paper permission judge, because the communications between DPG and the Court, raising concerns about difficulties encountered in trying to e-file the claim had been brought to my attention. DPG have assisted with a detailed chronological description of the steps that they took, the relevant contemporaneous documents, and with screenshots which show the sequence of screens which they navigated.
19. On 6 February 2025 at 17:25 DPG made an e-filing submission, which was acknowledged by automated email notification at 17:26 that day (PD51O §5.3(1)). On 11 February 2025 at 10:02 and 12 February 2025 at 10:20 DPG emailed the Court, asking for the sealed claim form (CPR 2.6) so that they could effect service on the Defendant (CPR 54.7). On 12 February 2025 at 12:44 they received a failed-Acceptance notification (PD51O §5.4(5)), which gave these reasons:

*This is a notice to inform you that the filings confirmation number [given] submitted on 06-02-2025 17:25 have been rejected by the Clerk for the following reason(s): Other. Clerk's Comments. 1. You have not listed the defendant, all fields within Participant Information must be entered. 2. Your legal representation has been listed as Helen Baron, it must be listed as Deighton Pierce Glynn.*

20. On 12 February 2025 at 13:07, DPG emailed the Court saying "apologies for the error", confirming that "I have re-filed the permission bundle just now", but explaining that "I have filed previously in the same way and it has been accepted". In that email, DPG made this request:

*Please could you ensure that the application is noted as filed on 6 February 2025 as this is important to the limitation issue in this matter.*

The attempted re-filing did not attract an automated acknowledgment was received (PD51O §5.3(1)). On 14 February 2025 at 11:46, DPG emailed the Court explaining that they had "immediately refiled" on 12 February 2025, and asking again for the sealed claim form so that they could serve it. The Court replied on 17 February 2025 at 11:21 to say that CE-filing "could take up to 7-14 days due to a high volume of work". On 25 February 2025, noticing on the website that the permission bundle was showing in the drafts folder, indicating that it had not been submitted, DPG refiled the papers again at 12:49. This time an automated acknowledgment was received (PD51O §5.3(1)), on 25 February 2025 at 12:50. Then on 5 March 2025 at 09:18 DPG received an email notification confirming that "the filings" in the case "have been accepted by the Clerk on 05-03-2025 at 09:16". It was at that point that the stamped N461 was available from the Court, bearing the dates of 25-02-2025 (filing) and 05 Mar 2025 (issuing).

21. What followed was a sequence of emails between DPG and the Court between 5 and 18 March 2025. The tone and content of those emails was professional and courteous on all sides and at all times. Within these emails, the Court (four times) referred to "errors" in

the “documents” that had been filed, but DPG pointed out that the “documents” had been identical on 6, 12 and 25 February 2025. There were references to DPG’s options to make an “application” or a “formal complaint” or “submissions” for consideration by a judge dealing with the papers, but DPG was looking for an explanation and an informal solution, and in the event no delay point was raised. In the email exchanges, DPG explained the sequence of events. They repeated (5 times) the original request (12 February 2025 at 13:07) that the Court record the filing date as 6 February 2025, which elicited this eventual response: “I’m afraid we are unable to change the filing date”. They queried the CPR source of any obligation to provide the information identified in the email rejection notification (12 February 2025 at 12:44). As to those grounds of rejection the Court gave this amplification (14 March 2025):

*The guidance for our issues department is that if the e-filing application has not been completed then they are to reject the claim. In this instance the defendant and Legal representation details were not entered into the system. As I’m sure you can appreciate we have a large number of cases being lodged through e-filing and this will obviously increase considerably when the system becomes mandatory. If issue staff have to input all the missing details on every case that this has happened it will have a huge impact on our resources...*

#### Online “Details of a New Case”

22. DPG agree that CPR PD51O §2.3(c) makes clear that the arrangements for e-filing can involve “details of a new case” which a judicial review claimant is required to “enter” in the form on the website. They agree that required “details” could be identifiable from the design of the online form (eg. asterisks connoting mandatory fields or content within the form) or from relevant guidance from HMCTS or the Administrative Court about what is needed within the online form. They recognise the force in the reference to “a large number of cases” and the “huge impact” if Court “staff have to input all the missing details”.

#### New Cases and Details of All Parties

23. DPG point out that there is no online asterisked mandatory field requiring the entry of details relating to a defendant or interested party. The online form allows the user to enter only one party’s details. Nothing in the form says that other details are needed. DPG point to the HMCTS Guidance “Submit and Manage Your Filings” which says:

*Party information. It is mandatory for at least one party to be added to a filing. You only need to complete this section for new cases. If you are filing for an existing case, you can skip to Filing Information [hyperlinked]...*

There is then a 10 step process where Step 1 is:

*1. Select ‘Add Case Party’. A ‘party’ is any one of the participants in the case who has a personal interest in the outcome – such as the person making a claim (claimant) or the defendant of a claim.*

24. As it seems to me, a potential for confusion regarding mandatory fields and asterisks may arise for this reason. E-filing has a dual-function. Selecting “Create Filing” can mean one of two things. A user may be uploading a document in “an existing case”. Or they may be uploading documents in the act of starting a “a new case”. These are both actions within PD51O §2.3(c). But they are obviously very different. Asterisked mandatory fields could distinguish between these two situations. But unless they do that, they may

instead work as a ‘lowest common denominator’. What they would require is sufficient information to file a document in an existing case, but insufficient information for a new case. It would not make sense for all case details to be re-entered for every single filing of every document in every existing case. The system should have all the details needed, from the first filing of the “new case”. This dual-function may lead to the impression that full details are not needed when commencing a new claim. And, say DPG, the online form for “Add Case Party” does not alert the user to a need for fuller party details, when starting a “new case”. Be that as it may, turning to the HMCTS Guidance, the statement about “at least one party” and “a filing” is linked to “skip to Filing Information”. That is describing filing a document in an existing case. For “new cases” it is spelled out that the user will “need to complete this section”. That means all 10 steps. DPG have pointed to Step 1. In relation to “Add Representative”, they have pointed to Steps 5 and 6 (see below). But Step 9 of the process clearly says:

*9. Repeat the relevant steps above for other parties to your action. You will need to select the appropriate representation type for each party.*

So, having done “one of the participants” at Stage 1, it is necessary at Stage 9 to do the others. As it seems to me, the instruction in the Guidance to “complete this section for new cases” combined with Step 9 are spelling out that all parties need to be identified within the required “details of a new case”. That makes sense. The Court system is getting all the case details for the new case. The claimant has them readily to hand. They are in the Form N461. The onus is on the claimant, not court staff, to input the data.

#### “Details” of Firm and Individual Solicitor

25. DPG again point out to the absence of an online asterisked mandatory field requiring the entry of details of the solicitor’s firm as well as the individual solicitor. There is a drop-down menu where either of these will suffice. Nothing in the online form tells the user that the name of the firm is needed. DPG point to the HMCTS Guidance which says (Steps 5 and 6) (emphasis added):

*5. If you are a representative, select ‘Representative’ and choose ‘Organisation’ in the ‘Type dropdown’. Enter the organisation’s name and choose a country.*

*6. You should then select ‘Add Representative’ and enter the representative type – individual representative, representative of solicitor’s firm. Enter the name of the representative, organisation or firm. Search and then select the appropriate result. Review your details and select ‘Save’.*

26. As it seems to me, so far as the online form is concerned, the same potential for confusion could arise from the dual-function of e-filing. But that is not true of Steps 5 and 6 of the HMCTS Guidance. Those Steps apply only to “new cases”. Step 6 does say “or firm”. And the screenshots filed by DPG show a dropdown for “Add Representative” which defaults to boxes for an individual solicitor’s first and last name, where “Solicitor’s Firm” is an alternative. All in all, it does not seem clear that Step 5 (“Organisation”) is insistent on securing details of the “solicitor’s firm”. Once the representative has been added for the claimant, Step 9 requires a representative for each of the other parties. I have not been able to find anything which spells out that the name of the firm, and not just the individual solicitor, is among the required “details of the new case”. But it makes sense, for the same reason as details of all the parties, and matches what is in Form N461.



### Order to Remedy an Error of Procedure

27. DPG's position is this. If the Defendant had been raising any point on delay or lack of promptness, the Claimant would in response then be inviting an order pursuant to PD51O §5.3(2) and CPR 3.10(b) – read alongside PD51O §5.4(5) – that errors (if any) made by the Claimant when filing the claim form may be remedied, by directing that the claim be treated as “filed” on the date of attempted filing (6 February 2025) notwithstanding the failed-Acceptance (12 February 2025). That did not need to be spelled out in the reply, because no delay or lack of promptness point had been raised in the Acknowledgment of Service. I can see the force in the submission about the availability of this bespoke power, to remedy a possible injustice where a claimant's representatives have conscientiously endeavoured to comply with all perceived requirements, in their use of the online form.
28. But I make two observations. First, as the permission-stage judge in this judicial review case, I would have taken a different course. I would simply have extended time for the judicial review claim, in all the circumstances, including the explanation (which I now have) as to how the date of issuing came to be 25 February 2025 and not 6 February 2025. Secondly, I would I think be very unlikely to make any order pursuant to PD51O §5.3(2) read with CPR 3.10(b), without a defendant and any interested party first being on notice that this was being sought; or, at minimum, without giving them liberty to apply to discharge the order. In this case, that would not have been a problem if the point had been raised in the reply filed and served on 4 April 2015. If the Defendant considered that the contents of that reply involved new information and called in fairness for a response, it would need promptly to alert the Court.

### Unilateral Communications

29. Finally, there is a point about communications with the Court. Requests to the Court to change the court-recorded date of issue of the claim for judicial review ought not, in my judgment, to be unilateral. The request made on 12 February 2025 at 13:07 was being made because it was perceived as “important to the limitation issue”. So were the five requests after 5 March 2025 to change the court-recorded filing date. Depending on when and how the Court dealt with those requests, the Defendant might have been none the wiser. The cardinal principle, reflected in CPR 39.8, applies even where a claim has not yet been issued and served: see Baz v GDC [2025] EWHC 643 (Admin) at §39. It applies to proactive steps by defendants too, where proceedings have been threatened: R (Jasseh) v SSHD [2025] EWHC 47 (Admin) [2025] 1 WLR 1459 at §20. I do not think communications in a judicial review case making a request to the Court, intended to affect the parties' positions regarding the running of time, are “purely administrative”. It would be the same for filing deadlines and documents from defendants and interested parties. The request may be entirely benign and fully justified, but the other party may have something to say about it. Creditably, DPG have recognised this point and do not disagree with it.

### Shield Correspondence

30. There is a linked point. In any situation where a party is encountering practical difficulties in its interaction with the Court – and where it is doing all that it can – there must, as it seems to me, be a general virtue in writing to the other parties to explain the position. Candidly informing the other parties can surely strengthen the position of the party which is encountering the difficulties. It will help them to show that they did everything they

reasonably could to progress the position. It will serve to ensure that other parties are not prejudicially in the dark. As in this case, lines of communication will be open through adherence with the Pre-Action Protocol. Judicial review thrives on candour and cooperation between the parties. And it may be especially difficult for any party to criticise a delay, when it has been kept fully in the picture by an conscientious opponent who is experiencing filing difficulties or other delays in their interaction with the Court.

### **Conclusion**

31. For the reasons which I have explained, I would not have made an order pursuant to CPR PD51O §5.3(2) and CPR 3.10(b) to back-date the Court-recorded date for the filing of the claim from 25-02-2025 to 6-02-2025. Had an extension of time been needed, I would have granted it. In the event, in light of the position responsibly taken by the Home Office as to delay and promptness, I was able simply to grant permission explaining in my reasons that no delay objection arose. No further order or direction is required.