



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: CA-2026-000633



THE KING (on the application of GOOD LAW
PROJECT, BOT, BNW and BBS)

-v- EQUALITY AND HUMAN RIGHTS COMMISSION

CA-2026-000633

ORDER made by the Rt. Hon. Lady Justice Andrews

On consideration of the Appellant's notice and accompanying documents, the Respondent's and the Intervener's statements under CPD 52A para 19 but without an oral hearing, in respect of an application by the 2nd, 3rd and 4th Claimants for permission to appeal, an anonymity order and a stay of the order for detailed assessment of costs

Decision: **Adjourned** to an oral permission hearing. Stay on the order for detailed assessment of costs (so far as it applies to these applicants, the 2nd to 4th Claimants below) pending the hearing.

Anonymity Chamberlain J made an order on 30 June 2025 which was a justified and proportionate interference with the principle of open justice for the reasons he gave. I direct that the order shall be extended to cover proceedings in this Court. Until further order no one shall publish or reveal any information which is likely to lead members of the public to identify the applicants. Adopting the nomenclature used in the lower court, the applicants shall be known as BOT, BNW and BBS and any material from which they may be identified should be omitted from any document, including skeleton arguments, which may become available to the public.

An order granting permission may limit the issues to be heard or be made subject to conditions

1. I am not currently persuaded that any of the grounds advanced has a real prospect of success; the Judge's reasoning, particularly at [79], appears compelling. However in the interests of fairness and open justice, and bearing in mind the nature of the issues involved and their importance to the applicants, I consider that they should be afforded an opportunity to persuade the court orally that they do.
2. The new Statutory Services Code came into force on 5 August after receiving ministerial approval and having been laid before Parliament. It has overtaken the challenged Guidance which had been removed from the EHRC's website even before Swift J considered the claim. I have taken into account the letter from Leigh Day dated 1 June 2006 which suggests that the Guidance continued to have an impact notwithstanding its imminent replacement, but there is no supporting evidence of this.
3. If, as they suggest, the alleged errors in the Guidance have been replicated in the Code, the correct course is to challenge the Code rather than to engage in a debate about obsolete Guidance which the Code superseded. I am concerned as to whether, even if the grounds were sufficiently arguable, the case should merit consideration by the Court of Appeal in such circumstances. Again this is something on which I consider the parties should be afforded an opportunity to address the Court before a decision on permission is taken.
4. I have not directed expedition because the Guidance has been superseded and I see no good reason to afford this case priority. However, because there has been a delay since permission was sought, which whilst it was unavoidable was no fault of the applicants, it would be helpful to list the matter this term if at all practicable.
5. The applicants seek to rely on "proportionate use" of resources to justify a stay. An appeal does not normally operate as a stay on costs and the Respondent rightly points out that there is no evidence to suggest that the applicants cannot afford to pay the costs or that refusal of a stay would stifle an appeal if permission were granted. However I am just about persuaded to hold the ring until such time as the application for permission is heard; the question whether the stay should be extended can be addressed if permission is granted.

Information for or directions to the parties

The Respondent and any other interested party may attend and make submissions at the oral permission hearing but these should not be duplicative. The parties are encouraged to liaise to agree a timetable bearing in mind that the hearing is a permission hearing only and will take no more than half a day.

Mediation: Where permission has been granted or the application adjourned:

Does the case fall within the Court of Appeal Mediation Scheme (CAMS) automatic pilot categories (see below)? No

Pilot categories:

• All cases involving a litigant in person (other than immigration and family appeals) • Personal injury and clinical negligence cases; • All other professional negligence cases; • Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual;	• Boundary disputes; • Inheritance disputes. • EAT Appeals • Residential landlord and tenant appeals
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If yes, is there any reason not to refer to CAMS mediation under the pilot?

If yes, please give reason: N/A

Non-pilot cases: Do you wish to make a recommendation for mediation?

No, this is a challenge to the lawfulness of guidance on the law promulgated by the Equality Commission and requires determination by the Court.

Where permission has been granted, or the application adjourned

a) time estimate (excluding judgment) Half a day.

b) any expedition No, but if it can be listed this term that would be helpful

Signed: Lady Justice Andrews

Date: 2 October 2026

Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
 - a) the Court considers that the appeal would have a real prospect of success; or
 - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).