



Neutral Citation Number: [2026] EWHC 2411 (Admin)

Case No: AC-2025-LON-004215

AC-2025-LON-004527

AC-2026-LON-000293

AC-2026-LON-000602

AC-2026-LON-000577

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 21/09/2026

Before :

Mr Justice Sheldon

Between :

The King (on the application of)

Claimant

- (1) AYA
- (2) EXR
- (3) GIP
- (4) HRE
- (5) KAG

- and -

Secretary of State for the Home Department

Defendant

Sonali Naik KC, Gordon Lee, Josephine Fathers, Catherine Meredith (instructed by
Duncan Lewis Solicitors) for the Claimant: AYA
Sam Grodzinski KC, Shu Shin Luh, Jennifer MacLeod, Agata Patyna (instructed by
Bindmans LLP) for the Claimant: EXR
Sam Grodzinski KC, Shu Shin Luh, Jennifer MacLeod, David Sellwood (instructed by
Wilson Solicitors LLP) for the Claimant: HRE
Sam Grodzinski KC, Shu Shin Luh, Jennifer MacLeod, Grace Capel (instructed by
Deighton Pierce Glynn) for the Claimant: GIP
Sonali Naik KC, James Robottom, Eleanor Mitchell, Jessica Sutton (instructed by Duncan
Lewis Solicitors) for the Claimant: KAG
**Kate Grange KC, Cathryn McGahey KC, Edward Brown KC, Mark Vinall, Jack
Anderson, Naomi Hart** (instructed by Government Legal Department) for the Defendant

Hearing dates: 23rd July 2026

Approved Judgment

This judgment was handed down remotely at 2pm on 21/09/26 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE SHELDON

Mr Justice Sheldon :

1. On 10 July 2026, I handed down judgment in the claims brought by *AYA, EXR, HRE, GIP and KAG* against various decisions of the Secretary of State for the Home Department: [2026] EWHC 1742 (Admin). The judgment addressed the decision taken by the Secretary of State to remove the right to request reconsideration of negative trafficking decisions with respect to, among other persons, individuals who had arrived in the United Kingdom on “small boats” and were considered for removal to France under the “Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic on the Prevention of Dangerous Journeys” (“the Treaty”). The judgment also addressed decisions made in the cases of each of the individual claimants.
2. I issued an Order on 10 July 2026 which dealt with a number of issues, and directed an oral hearing to consider the remaining consequential matters. That hearing took place on 23 July 2026, at which I heard from counsel for each of the parties. In advance of the hearing, the parties produced detailed submissions as to their positions on consequential matters and draft Orders were prepared.
3. I made a number of Orders on the 4th of August 2026 with respect to each of the consequential matters, save for the question of costs. I am making an Order today with respect to costs and my reasons for that Order are as follows. The Secretary of State accepted that she should make some payment of costs to each of the Claimants, and submitted that the Court should make a global costs order of 50% to each Claimant, subject to some carving out for particular issues with AYA and EXR.
4. It was contended that a costs order must do justice between the parties, but the Court should be content to do broad justice if an attempt to do exact justice is likely to involve the parties and the costs judge in complicated attempts to attribute what are essentially common costs between different claims and different issues within those claims. That is particularly true in these proceedings, where these were separate sample actions directed to be tried together.
5. I do not accept that a global costs order would be appropriate in this case. Such an order would be too blunt a tool for reflecting the individual circumstances of the various Claimants’ cases. It would be unjust to those Claimants who were more successful than others, which is particularly significant given that the Claimants were represented by legal-aid practitioners and the Court is alive to the practicalities of their funding. Furthermore, it would not adequately capture the way in which the claims were progressed, the way in which the “rolled up hearing” on 29-30 April and 1 May 2026 was conducted by the parties. Based on what I have been told about the actual costs of instructing expert witnesses to deal with the situation in France (which are relatively small in the overall scheme of things), and the fact that there is no difficulty in those costs being attributed to two of the Claimants only, I do not consider that making individualised claims will be complex for the costs judge on assessment. It should also be possible to allocate legal representatives time to different claims, even though some of the Claimants were represented by the same personnel.
6. In essence, and as reflected in the judgment that I handed down on 10 July 2026, the issues raised by the Claimants (save for AYA who did not address (i) as this was no longer relevant to him) were divided into two: (i) the challenge to the Secretary of

State's amendment to *the Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015)* ("the Guidance"); and (ii) the specific challenges made by the individual Claimants to the various decisions made in their particular cases. Whilst there was an element of overlap on (ii), as there were some legal issues that were common to many of the individual Claimants' cases (eg. the territorial application of Article 4 of the European Convention of Human Rights, and the approach to decision-making in trafficking claims), and there were factual issues that were common to many of the individual Claimants' cases (how France treats trafficking victims), the bulk of the material and argument related to the particular circumstances of each Claimant.

7. I consider that (save for AYA) it would be appropriate to treat the two parts of the cases (challenge to the Guidance amendment and the individual claims) equally for the purposes of costs: that is, to treat each aspect as relating to 50% of the costs of the proceedings. In assessing costs for each aspect, I consider that it is appropriate to apply an issue based approach, as this reflects the reality of the way in which the cases were pleaded and argued. It would not be fair on the Secretary of State to apply a 'winner (on one ground or in respect of one decision) takes all' approach.
8. With respect to the challenge to the Guidance amendment, whilst the Claimants were successful overall, they did not succeed on each of their grounds of challenge (they failed on the *Tameside* point). Furthermore, there is some unfairness to the Secretary of State in having to pay the costs of four Claimants when the challenge to the Guidance amendment could have been made by one set of legal representatives. I consider that justice would be served by requiring the Secretary of State to pay 40% of the Claimants' costs (rather than 50%) so as reflect the Guidance challenge.
9. With respect to the remaining 50% of the costs (for each of the Claimants other than AYA), this needs to be individuated to the particular circumstances of each Claimant.
10. KAG: KAG had asked for 90% of his costs, and payment on account. I will not make an order for payment on account. The other Claimants have not sought this and no explanation has been provided as to why KAG should be treated any differently from them.
11. With respect to his particular claims, KAG was successful in persuading the Court that the Secretary of State's refusal to reconsider her decision of 24 September 2025 that there were no reasonable grounds to consider that he was a victim of modern slavery – as communicated to KAG on 28 October and 4 November 2025 – was unlawful. KAG failed on each of his other claims: I found that (a) the decision to certify his human rights claim as clearly unfounded was not unlawful; and (b) the inadmissibility decision was not unlawful. I also found that the negative reasonable grounds decision made on 24 September 2025 was not itself unlawful on the basis of the materials that were then before the Secretary of State.
12. In circumstances where KAG failed to succeed on many of his individual grounds of challenge it would not be just to award him all or even most of the costs of pursuing those grounds. However, he was successful on an important matter and that should be marked by an award of costs in his favour.

13. I consider that it would be just and appropriate for KAG to receive a proportion of his costs with respect to his individual claim as he was successful on a fundamental point. This was reflected in my Order that (subject to the outcome of his asylum claim in France) there should be reconsideration of his trafficking claim. The appropriate proportion should be 20% (which is 2/5 of the costs that I am allocating to the individual claims).
14. Overall, therefore, the Secretary of State will be ordered to pay 60% of KAG's costs.
15. EXR – EXR contends that he should be entitled to all of his costs as he succeeded on all grounds save for ground 1: the lawfulness of the negative reasonable grounds decision in respect to the alleged trafficking in Belarus and Ethiopia. I do not consider that it would be just and appropriate for EXR to obtain all of his costs. The challenge to the decision with respect to Belarus and Ethiopia was a discrete element of EXR's case and involved separate argument and consideration by the Court. I consider that it would be appropriate to award EXR 80% of the costs that I am allocating to the individual claims: therefore, an additional 40% of his costs.
16. Overall, therefore, the Secretary of State will be ordered to pay 80% of EXR's costs.
17. GIP – GIP contends that he should be entitled to 80% of his costs. He accepts that some reduction from 100% is merited given that he did not succeed on all of his arguments.
18. I consider that an award of 75% of GIP's costs is just and appropriate in this case. The additional 35% for the individual claim represents 70% of the costs allocated by me to the individual claims. That is an appropriate award given that GIP was successful in challenging the negative reasonable grounds decision, including a fresh decision made on 16 April 2026; and that he was unsuccessful in challenging the certification decision, but only because a fresh decision was made on 16 April 2026 very shortly before the rolled-up hearing, and was seemingly prompted by this litigation.
19. Overall, therefore, the Secretary of State will be ordered to pay 75% of GIP's costs.
20. HRE - HRE contends that he is entitled to 60% of his costs. I do not consider that this would be just and appropriate. Whilst HRE will be awarded 40% of his costs due to his involvement in the challenge to the amended Guidance, there is no basis to award him any costs in respect of his individual claims. He failed on each of those claims.
21. Overall, therefore, the Secretary of State will be ordered to pay 40% of HRE's costs.
22. AYA – As already indicated, the consideration of costs in AYA's case needs to be addressed on a different basis to the other Claimants as he took no part in the substantive challenge to the amended Guidance: he was removed from the Operation Hillmore cohort shortly after my determination of the application for interim relief. AYA contends that he should be entitled to costs of the interim relief application, his reasonable costs up until the date that the relevant decisions were withdrawn, and that the costs of the rolled-up hearing should be reserved because his claim for unlawful detention and unlawful selection to have been part of the Operation Hillmore cohort have not yet been determined, alternatively there should be no order for costs.

23. I consider that AYA should be entitled to his costs of the interim relief application: he was successful as an individual Claimant and, although the Secretary of State has suggested that no causal connection can be made, it seems highly likely that AYA's removal from the Operation Hillmore cohort was a consequence of the decision on interim relief. I also consider that AYA should be entitled to his reasonable costs up until the date that the relevant decisions in his case were withdrawn: until that point, it was reasonable for AYA to assume that the claim was being actively defended.
24. I do not consider that AYA should be entitled to any further costs. It is not appropriate for the costs of the rolled-up hearing to be reserved on the basis that other issues between AYA and the Secretary of State remain outstanding. Those are discrete issues which should be dealt with separately for costs purposes. At the rolled-up hearing, the Court did address the various decisions that AYA had initially complained about. However, this was done with a view to providing guidance for other cases that may raise similar issues. I do not consider that AYA should be penalised on costs merely because he failed to persuade the Court that the challenged decisions were unlawful.