

Neutral Citation No: [2026] NIKB 48

Ref: McA13131

*Judgment: approved by the court for handing down
(subject to editorial corrections)**

ICOS No: 25/53505

Delivered: 28/08/2026

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

**KING'S BENCH DIVISION
(JUDICIAL REVIEW)**

**IN THE MATTER OF AN APPLICATION BY CONRADH NA GAEILGE
FOR JUDICIAL REVIEW (No.2)**

**Karen Quinlivan QC and Aidan McGowan (instructed by KRW Law Solicitors) for the
applicant**

**Philip McAteer (instructed by the Departmental Solicitor's Office) for the Executive
Committee for Northern Ireland, first respondent**

**Dr Tony McGleenan KC and Ms Laura Curran for the Minister for Communities, second
respondent**

**Mr Jamie Bryson, litigant in person as notice party to these proceedings and applicant in a
related judicial review in which he challenges the lawfulness of a decision by the
Department for Infrastructure to direct the deployment of dual language signage in the
new Grand Central Station, Belfast**

**Review and Hearing Dates: 15 January 2026, 28 January 2026, 6 February 2026,
13 May 2026, 14 May 2026, 15 May 2026, 18 May 2026, 2 June 2026 and 3 June 2026**

McALINDEN J

[1] Further to my earlier judgment in this matter delivered electronically on 17 August 2026, additional facts have come to light which necessitate me providing a second and supplementary judgment. When the parties received the first judgment in this matter, the solicitor on record for the Department for Communities ("DfC") wrote to the court and the other parties to inform them that, contrary to what is stated in para [80] of the first judgment, Mr Lyons MLA, the Minister for Communities, did substantively respond to his civil servants and this response was provided during the period when this judicial review challenge was at hearing.

[2] The correspondence written by Ms Arlene Madden, Director of the Departmental Solicitor's Office is dated 20 August 2026. It refers to the draft judgment

sent to the parties on 17 August 2026. The first point to clarify is that it is not a draft judgment and that was made abundantly clear to the parties when the judgment was delivered by email on 17 August 2026. However, this is a minor point.

[3] The correspondence goes on to state that the submission from DfC was sent by the Minister's Private Office to his Special Advisor on 27 February 2026. The correspondence goes on to indicate that the Special Advisor sent it to the Minister on 24 April 2026. The Special Advisor is not named in the correspondence but it would appear that this may well be a reference to Mr Peter Johnston, a local councillor on Mid and East Antrim Borough Council. The Council's website has a public facing registration of interests form for each councillor and the form relating to Mr Johnston informs the reader that Mr Johnston is Minister Lyons' Special Advisor. The correspondence from Ms Madden does not offer any form of an explanation as to why it took Minister Lyons' Special Advisor, be it Mr Johnston or someone else, just short of two months to send the submission to the Minister.

[4] In any event, the Minister informally responded to his Department by email dated 7 May 2026 and, later on the same day, the Minister formally responded to the submission through his Private Office to Iain Greenway and these responses, it would appear, followed on from a series of meetings which took place between the Minister and his officials on 21 April 2026, 5 May 2026 and 6 May 2026. The emails do not help identify the Special Advisor as the email address for this individual appears as spad@communities-ni.gov.uk. In this formal response, the Minister stated that:

"I am content for the strategies (unamended), though not the action plans, to go to the Commissioners. It should be noted that DfE have not submitted their actions for them and they are incomplete. As discussed, I am content for these to go to the Commissioners, but these are strategies that do not have funding and do not have the agreement of DfC or the Executive."

[5] The substance of this response certainly does not give one any hope that any Irish Language Strategy will be presented to the Executive Committee any time soon. But it has to be said that the response is not significantly out of step with the responses received from a number of other Ministers, some of which were highlighted in the first judgment. But that is not the issue that gives rise to this second judgment. The fact is that I was critical of Minister Lyons MLA for not responding to his Department before the last day of hearing of this case on 3 June 2026 and I was critical of the fact that I had received nothing by way of an explanation for this failure by the Minister to provide a response. It now transpires that the Minister did, indeed, respond to his Department on 7 May 2026 and, therefore, any such criticism of the Minister was unwarranted.

[6] The correspondence from Ms Madden goes on to explain to the court and the other parties that on behalf of the DfC, Mr Greenway filed what was his fifth affidavit on 11 May 2026. Ms Madden states:

“The affidavit did not refer to the DfC Minister’s response nor did it exhibit the emails referred to above or the minutes of the meetings of 21st April and 5th and 6th May 2026.

On reflection this material should have been placed before the Court. The Department acknowledges this oversight and apologises to the Court. The position as outlined in paragraph 80 of the judgment is not correct. The Minister did respond to the submission on 7th May 2026. There is no need for a mandatory order in the circumstances. The Department recognises that the proceedings have concluded but, if required, can file an affidavit providing any relevant documentation.”

[7] Not only was there an omission in relation to the fifth affidavit but this omission was repeated when the sixth affidavit was sworn one week later on 18 May 2026. The correspondence states that “On reflection” this material should have been placed before the court. With respect, I do not consider that much, if any, reflection would have been needed to realise that the court and the other parties should have been provided with this information, particularly when two affidavits were filed shortly after the response from the Minister was received and one of those affidavits dealt with responses from other ministers and departments.

[8] In order to ensure that the material was properly before the court I requested that a further affidavit be filed by the DfC formally exhibiting the material and providing an explanation on oath as to why it was not brought to the court’s attention during the hearing of this challenge. Such an affidavit was sworn by Mr Greenway on 27 August 2026 and, in essence, the explanation for the failure to provide the court with the material is that with everything going on at that time, the issue and the importance of the issue were overlooked. I have to take this explanation at face value. The affidavit gives some contextual background to the content of the Minister’s response. It would appear that Mr Greenway was keen to see some progress and had sought permission to provide the draft strategies to the Commissioners and this step was approved by the Minister.

[9] In light of the above, there is no question of any mandatory order issuing against the Minister. The applicant, in somewhat opportunistic correspondence, bearing in mind that the applicant did not raise the issue of the absence of a response from the Minister during the hearing of this matter, presses the court to maintain its stance in relation to the making of a declaration on the basis, *inter alia*, that there is a significant period of unexplained delay between the date on which the submission was

provided to the Special Advisor and the date on which the Special Advisor furnished it to the Minister. That is true. However, it is not the court's role to micro-manage how a Minister's Office runs and it would be a clear example of judicial over-reach if a court were to conclude that a declaration of irrationality and unlawful delay should issue when a response emanates from a minister three months following a request of this nature from his department. There are other priorities, other workstreams, other issues and other matters in the ministerial in-tray and it is not for the court to tell a minister the order in which these things should be addressed.

[10] In the circumstances, and contrary to my conclusions in the first judgment, I do not consider it either appropriate or necessary to make any form of declaration in relation to the Minister for Communities. In that judgment, I made a declaration and a mandatory order on the basis that the Minister had failed to respond at all to his Department and had not offered any form of explanation for this failure. It transpires he had provided a response in early May 2026. Neither the court nor the other parties to this challenge were informed of the existence of this response or its contents until after the first judgment was issued on 17 August 2026. I will not comment further on that unfortunate omission, the fault for which does not rest with the Minister.

[11] Having considered the submissions of the parties, I am of the view that only one declaratory order should issue in this case and that will issue against the Executive Committee. The parties are in the process of providing a draft of this declaration to the court which the court will consider and finalise in due course. The court has yet to receive submissions on costs from all the parties and the court will consider the same when provided but in an effort to assist the parties in any discussions they may be having in respect of costs, the court does not see anything exceptional in this case which would warrant a departure from the usual costs order where the outcome is substantially the same as the outcome in this case, with the applicant obtaining an order for costs against the Executive Committee and the Department for Communities and Mr Bryson being responsible for their own costs.