



SUPREME COURT
BRITISH INDIAN OCEAN TERRITORY

Before:

THE HONOURABLE JAMES LEWIS KC
CHIEF JUSTICE OF THE BRITISH INDIAN OCEAN TERRITORY

B E T W E E N:

THE KING, on the application of
(1) LOUIS MISLEY MANDARIN as himself and as First Minister
of the Chagossian Government, and through him his co-claimants are
(2) LOUIS MICHEL MANDARIN
(3) LOUIS ANTOINE LEMETTRE
(4) GUY SHANE ADRIEN CASTEL

Claimants

-V-

HIS MAJESTY'S COMMISSIONER FOR THE
BRITISH INDIAN OCEAN TERRITORY

Defendant

Lewis CJ

1. This is an urgent application for interim relief sought on an 'immediates' (and out-of-hours suitable) basis. It is essentially an *ex parte* application on notice. There are at present no representations before me from the Defendants. The Claimant has undertaken that an N461 claim form shall be issued to commence judicial review proceedings within 7 days absent the Defendant taking the decisions requested of her.
2. The very brief facts which I have taken *verbatim* from the application are:

3. “On 8 October 2025 the Claimants’ solicitors raised the potential for a visit to be made to the Chagos Islands, as native Chagossians. The email was sent to BIOTAdmin@fco.gov.uk. An automatic response was received, from the British Indian Ocean Territory Administration. *Inter alia*, it stated that “If your email relates to a yacht permit application, please be aware that it can take up to 6 weeks from receipt of your application to issue your permit”.
4. On 17 October 2025 a second email was sent, seeking a response without delay. Again, an automated response was received.
5. On 23 October 2025 a response was provided, by email, that stated:

“This is a matter for the FCDO rather than the BIOT Administration. However, I have liaised with the FCDO and they have indicated the following. Chagossian visits to the Chagos Archipelago were paused in 2020 due to the Covid-19 pandemic, after which there were the sovereignty negotiations. Following the conclusion of negotiations, the UK is working with Mauritius to initiate resumed visits to the Archipelago. However, no dates are available for such visits at this moment.

More information will be available in due course.”
6. On 6 February 2026 an email was sent in terms:

“My client still awaits news on arranging a visit. The message below some 3 months ago promised more information – please now supply it.

FCDO agreed with Mauritius to resume heritage visits in 2025, we are now in 2026 and there have been none.

Please respond by Monday with when my client can visit.”
7. On 16 February 2026, the Claimants, who are Chagossians by birth or descent (father and son), and include the elected First Minister of the Chagossian Government-in-Exile¹, Mr Misley Mandarin, landed in their homeland, the Chagos Islands, also known as the BIOT². His father Mr Michel Mandarin, 74, was removed from the island when he was 14.

¹¹ <https://fotbot.org/chagossians-announce-government-in-exile>

² <https://www.bbc.co.uk/news/articles/ce8w2jknk0o>

8. They landed on an island situated 120 miles from the military base at Diego Garcia; on Île du Coin, the largest island and part of the coral atoll of Peros Banhos. GB News television reported on 19 February 2026 a statement of the Foreign Office in which the UK government has already confirmed that they pose no security threat of any kind to the base.
9. On 18 February 2026 a boat arrived at the landing site and issued to the Claimants Removal Orders signed and issued by or on behalf of Acting Principal Immigration Officer Pete Goddard [under section 12]. This is in terms that he "...Hereby Order that you [named Claimant] being a person unlawfully present in the Territory shall be removed from the Territory and shall remain out of the Territory until further notice". It continues that:

This order shall be carried into effect by the master of the vessel on which you were carried into the Territory receiving you on board that vessel and conveying you to a place outside the Territory (including its territorial sea).

If you breach this order and return to the Territory you will commit a criminal offence and be liable on conviction to imprisonment for 3 years or to a fine of £3,000, or to both such imprisonment and such fine. In addition, you may face further penalties if you return to the Territory and commit further offences.

10. On the same day, and to the same email address as used for the BIOT Administration previously, the Claimants' solicitors sent a letter by which the Claimants appealed the decision to issue the removal order notice taken by the immigration officer to the Commissioner (pursuant to s.10 of the 2004 Immigration Order, set out below). The letter also stated:

Further our clients have for many months been seeking a permit from you to visit the islands, and so hereby ask you to immediately instruct your immigration officer to issue a permit for our clients to be on the islands under the Order permitting them to remain on the particular island they are on. If you do not accept the appeal or grant the permit, we request written reasons for your decision before any action is taken to remove our clients. We request an undertaking and confirmation that no steps shall be taken to remove the Mandarins from the islands or to detain them pending resolution of (a) the decision-making requested, and (b) the outcome of any judicial proceedings promptly lodged to challenge by way of judicial review any refusal to grant the permit, or refusal to revoke the s12 notice.

11. Today at 10.33am (on 19 February 2026) the Claimants' solicitors wrote for a second time. The letter (by email) referred to yesterday having appealed the deportation orders issued by the Acting Principal Immigration Officer; and asked for a reply "by return with an undertaking that no action to remove our clients will occur pending the outcome of our appeal and any judicial proceedings to challenge by way of judicial review".
12. At 15:02 hours today, having received no such undertaking, the Claimants' solicitors again emailed urgently, and the third letter indicated

Following our urgent letters to you of February 18th, and earlier today (by email timed at 10.33am) we write for a third and final time. You will appreciate that we have corresponded by this email address previously in the longstanding requests for permits to attend the islands that we never received a substantive decision in relation to.

An urgent issue is created by the decision of your Acting Principal Immigration Officer to issue notices under s.12 of the Immigration Order 2004.

Given your failure to give an undertaking as sought (i.e. that no action to remove our clients will occur pending the outcome of their appeal to you, and pending any judicial proceedings to challenge by way of judicial review any refusal of the permits under ss7 or 9, or of the appeal under s.10), we give notice that absent such undertaking by 3.30pm we shall be seeking an urgent injunction from the BIOT Supreme Court.

Please note that we require full reasons to be given for any decision that is taken by the Commissioner.

Please confirm if this email should be used for service of the issued application or proceedings or whether you prefer to nominate legal representation to accept service."

Judicial review grounds

13. The Claimant submits at this stage the grounds of challenge are:
 - i. The unreasonable delay or failure to exercise the power to grant a permit or visitation.
 - ii. The unfair or arbitrary procedure adopted, or failure to follow due procedure, in issuing of the section 12 notices.
 - iii. The unlawful act of removal and threat of removal, which involves:
 1. The commission of a serious crime and so is a decision vitiated by illegality; and/or
 2. A decision that is not compliant with public law duties, including

failing to consider all obviously relevant matters, and/or irrational decision-making (process/outcome irrationality).

Decision

14. The test for interim relief in this case is that (1) there must be a serious issue to be tried with a real prospect of success; and (2) the balance of convenience (balance of harm) must favour the Claimant.
15. Given that in *Bancoult (No.2)* [2009] 1 AC 453 Lord Hoffman explained that “It is true that the Chagossians will now require immigration consent even to visit the islands. But the Government have made it clear that such visits, to tend graves and so forth, will be allowed, and since in practice they are funded by the BIOT administration, **immigration consent will be no more than an additional formality.**” the failure of the BIOT administration to properly and timeously respond to the legitimate requests of the Claimants, and the failure to address the question of appeal and the giving of reasons for the s.12 notice give rise to a serious issue to be tried.
16. There is no doubt the balance of convenience falls on the side of the Claimants. They are 120 miles from Diego Garcia and pose no threat to national security on the evidence before me. If they are deported they will have great difficulties in returning.
17. In my judgment the Claimants have made out their application in the light of no response or engagement by the Commissioner.
18. It follows that I grant a temporary injunction against the enforcement of the s.12 notices. This injunction will remain in place for 7 days to allow the Defendants to file a response. In the absence of a response the injunction will remain in force until determination of the judicial review application. At the expiry of 7 days I will make further order if the Defendant files a response.
19. The Claimant should draw up such order for my consideration and sealing, and service, by the Registrar, but as of now the injunction is in force. I allow service by email.

By The Court