Neutral Citation Number: [2018] EWHC 3239 (Admin)

Case No: CO/1120/2018

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
(ADMINISTRATIVE COURT)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date**:** 29/11/2018

Before:

LORD JUSTICE DAVIS

MR JUSTICE OUSELEY

- -

Between:

THE QUEEN ON THE APPLICATION OF JEFFERIES AND OTHERS	**Claimants**
- and –	
(1) THE SECRETARY OF STATE FOR THE HOME DEPARTMENT	**Defendants**
(2) THE SECRETARY OF STATE FOR DIGITAL, CULTURE, MEDIA AND SPORT	

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Helen Mountfield QC and **Julian Milford** (instructed by **Payne Hicks Beach**) for the **Claimants**
Nathalie Lieven QC and **David Pievsky** (instructed by **GLD**) for the **Defendants**

Hearing dates: 1 & 2 November 2018

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Approved Judgment

Lord Justice Davis:

Introduction:

1. The claimants in these judicial review proceedings have in the past variously been the victims of outrageous and unlawful treatment on the part of certain elements of the press. The distress to them has been immeasurable. It is felt by them to this day. It was by reason of their experiences – and the experiences of others – that an Inquiry relating to the press, chaired by Lord Justice Leveson, was established by a decision announced by the then Prime Minister, Mr David Cameron MP, on 13 July 2011. The Inquiry was, as announced, to be split into two parts.

2. Part 1 of the Inquiry was concluded by a report published on 29 November 2012. In the House of Commons on that date Mr Cameron stated that it was the Government's intention to go ahead with Part 2 of the Inquiry.

3. But that has not happened. Part 2 of the Inquiry has not gone ahead. Instead, following a consultation, the defendant Secretaries of State on 1 March 2018 announced their decision to terminate the Inquiry.

4. The claimants (and doubtless many others also) were and are much aggrieved by that decision. By these proceedings, commenced on 15 March 2018, they seek to challenge its lawfulness. They seek to invoke the principles of legitimate expectation, in the sense as used in the law, for this purpose. As will appear, they do so in rather unusual circumstances.

5. Permission to apply for judicial review on this basis was granted by Andrews J, on the papers, on 15 May 2018. She refused permission to apply with regard to another aspect of the claim seeking to challenge the decision of the first defendant not to bring into force the provisions of s. 40 of the Crime and Courts Act 2013. Although limited permission on that latter aspect of the claim was subsequently granted after an oral hearing by my Lord, Ouseley J, the eventual upshot has been that the claim relating to s. 40 is no longer pursued in any respect.

Background facts

(a) The Claimants

6. The first claimant, Christopher Jefferies, is a retired school teacher.

7. The body of a young woman called Joanna Yeates was discovered in the outskirts of Bristol on Christmas Day 2010. The first claimant was her landlord. He was arrested, in circumstances of great publicity, by the police on 30 December 2010 on suspicion of her murder. He was entirely innocent. In due course a neighbour, a man called Vincent Tabak, in May 2011 admitted killing Joanna Yeates. His defence of manslaughter was rejected by a jury at trial and he was found guilty of murder in October 2011.

8. In the interim, the first claimant had been the subject of what he described, without exaggeration, in his witness statement as a "campaign of vilification" on the part of elements of the press. He was variously described in articles – with accompanying photographs – as "strange" and "creepy"; "effeminate"; a "loner" and "odd"; a "nutty

professor with blue rinse hair"; and so on. He was said to have links to a nearby unsolved murder and to be a close friend of a convicted paedophile. He states in his witness statement: "I was, in effect, 'monstered' by the press". He was in consequence forced to leave his home at that time and change his appearance.

9. In due course, two of the tabloid newspapers involved were found guilty of contempt of court. In subsequent libel actions brought by the first claimant against eight newspapers for allegations contained in 40 articles, liability was admitted.

10. In addition, the first claimant has always had grave concerns about the relationship between the police and the press with regard to him. A subsequent civil claim brought by him against the Avon and Somerset police was settled. A letter of apology was also provided by the police in August 2013.

11. In the course of the Part 1 report of the Leveson Inquiry the first claimant was stated to be "the victim of a very serious injustice perpetrated by a significant section of the press."

12. The second and third claimants, Gerry and Kate McCann, are married. They are both senior doctors. As is all too well known, their daughter Madeleine went missing on 3 May 2007 when the family were on holiday in Portugal. Madeleine remains missing. Their anguish as parents is inevitably profound and lasting.

13. In the later aftermath of Madeleine's disappearance the second and third claimants were the subject of vicious misreporting at the hands of elements of the press, with lurid headlines. One suggestion, for example, was that they had sold off Madeleine into white slavery in order to pay off their mortgage. Many of the allegations were purportedly based on articles in the Portuguese press. There was also constant press intrusion and photography. One newspaper even published extracts of the third claimant's private diary which had been taken by the Portuguese police. And so on.

14. Subsequent libel proceedings against various newspapers were settled on payment of substantial sums and published apologies.

15. The Part 1 report of the Leveson Inquiry was highly critical of the press in its treatment of the second and third claimants. It among other things found that a number of titles were guilty of gross libels; that there had been a serious and total failure to apply anything approaching the standards to which they claimed to aspire; and that some of the reporting involved was "outrageous". It was said that a rigorous search for the truth was the first principle to be sacrificed: as was any respect for the dignity, privacy and well-being of these claimants. Their treatment was described as "frankly appalling."

16. As for the fourth claimant, Jacqui Hames, she is a former Metropolitan Police Officer. In that capacity she had also regularly appeared on the BBC programme "Crimewatch."

17. In 2002 the then husband of the fourth claimant, Detective Chief Superintendent David Cook, made an appeal on Crimewatch seeking information in connection with an unsolved murder (in 1987) of a private investigator called Daniel Morgan. Intelligence was then received that one suspect intended "to make life difficult" for DCS Cook. Thereafter he and the fourth claimant were subjected to sustained surveillance, harassment and intrusion: including at the hands of the News of the World newspaper.

Moreover, details about the fourth claimant were revealed to the press which could only have come from her (confidential) Metropolitan Police Service file. Subsequent legal proceedings commenced by her were settled and an apology issued. Further detail is not necessary for present purposes.

(b) The Leveson Inquiry

18. Each of the claimants was in due course categorised as a core participant in Part 1 of the subsequently established Inquiry.

19. The Inquiry was announced in Mr Cameron's statement to the House of Commons on 13 July 2011. The Inquiry had, as I have said, been prompted by the behaviour of elements of the press towards individuals such as (but by no means limited to) these claimants: one aspect, for example, had involved the unlawful hacking in to the mobile phone of the murdered school-girl, Millie Dowler, and serious misreporting in consequence. There was all-party support for the proposed Inquiry.

20. As announced, the Inquiry was to fall into two parts. The first part was, among other things, to inquire into the culture, practices and ethics of the press and to make recommendations for a more effective regulatory regime. It also, among other things, was to inquire as to the conduct of relations between politicians and the press and between the police and the press.

21. It was contemplated that the second part would take place only after the conclusion of any intervening criminal prosecutions. There were several aspects to Part 2, which were described as follows in the Terms of Reference agreed and announced on 20 July 2011:

> "3. To inquire into the extent of unlawful or improper conduct within News International, other newspaper organisations and, as appropriate, other organisations within the media, and by those responsible for holding personal data.
>
> 4. To inquire into the way in which any relevant police force investigated allegations or evidence of unlawful conduct by persons within or connected with News International, the review by the Metropolitan Police of their initial investigation, and the conduct of the prosecuting authorities.
>
> 5. To inquire into the extent to which the police received corrupt payments or other inducements, or were otherwise complicit in such misconduct or in suppressing its proper investigation, and how this was allowed to happen.
>
> 6. To inquire into the extent of corporate governance and management failures at News International and other newspaper organisations, and the role, if any, of politicians, public servants and others in relation to any failure to investigate wrongdoing at News International.
>
> 7. In the light of these inquiries, to consider the implications for the relationships between newspaper organisations and the

> police, prosecuting authorities, and relevant regulatory bodies – and to recommend what actions, if any, should be taken."

22. It thus can be seen that Part 2 of the Inquiry would, among other things, involve a factual investigation into the alleged unlawful and improper conduct of the various media investigations: as put shortly, "who did what, to whom, when?" It is stated by all four claimants (and is not disputed) that all accordingly gave evidence at the first stage of the Inquiry in somewhat restricted terms: it being anticipated that much fuller evidence would be given in Part 2 of the Inquiry.

23. The Part 1 report was published by Lord Justice Leveson on 29 November 2012. It was an immensely detailed and thorough report. It made a considerable number of very significant recommendations. Of the 47 recommendations, the great part related to establishing an independent regulatory body (to replace the Press Complaints Commission). There were recommendations for data protection so far as the press was concerned. Recommendations with regard to the modification of aspects of the criminal and civil law also were made.

24. On that same date, 29 November 2012, Mr Cameron made a statement to the House of Commons. Amongst other things, he said this:

> "When I set up the inquiry, I also said that there would be a second part to investigate wrongdoing in the press and the police, including the conduct of the first police investigation. That second stage cannot go ahead until the current criminal proceedings have concluded, but we remain committed to the inquiry as it was first established."

25. In answer to a question from Mr Keith Vaz MP, who had indicated welcome for the Prime Minister's commitment to Part 2 of the Inquiry and who stressed the need to provide resources for that purpose, the Prime Minister said this:

> "The right hon. Gentleman is entirely right. One of the things that the victims have been most concerned about is that Part 2 of the investigation should go ahead – because of the concerns about that first police investigation and about improper relationships between journalists and police officers. It is right that it should go ahead, and that is fully our intention."

At a later stage in the debate, Mr Clegg MP, then leader of the Liberal Party and Deputy Prime Minister, stated:

> "…the Prime Minister did refer to Part 2 of the Report and reiterated that the Government's attitude to Part 2 and to the Inquiry as a whole has not changed from the day it was established…"

26. It is nevertheless to be emphasised here and now that, in circumstances which I will come on to explain, the claimants in these proceedings do not rely on these statements made in the House of Commons on 29 November 2012 as the legal basis for asserting a legitimate expectation on their part. Instead, their case in essentials is founded on

what was said at a prior meeting on 21 November 2012 held between Mr Cameron and themselves (along with certain other victims of press misconduct).

(c) The meeting of 21 November 2012

27. For a significant period of time there has been established an organisation called "Hacked Off". This was set up in 2011 to campaign for a press which was not only free but also accountable. As its title suggests, one particular prompt for its establishment was as a response to the emerging revelations of unlawful phone hacking (in particular, of celebrities) by elements of the press, along with other gross invasions of privacy and serious misreporting. At the relevant times its Executive Director was Dr Evan Harris, who has considerable political and media experience.

28. As explained by Dr Harris in his witness statement in the present proceedings, those committed to the campaign to secure press reform were "acutely aware of the need to get politicians 'on the record' and committed to deliver reform". He explained how satisfied they were in this respect when Mr Cameron stated his commitment to the two-stage inquiry in July 2011.

29. Shortly before the Part 1 report was anticipated to be published, a meeting was arranged between various victims of press intrusion (some of them accompanied by lawyers), other members of Hacked Off and Mr Cameron. This was arranged for 21 November 2012, with further meetings with Mr Clegg and then with Mr Milliband MP (then leader of the Labour Party) scheduled to follow later in the day.

30. In advance of such meetings, Dr Harris and others were in contact with the Prime Minister's office. On 20 November 2012 an email from Hacked Off was sent. It, among other things, said that there would be no celebrities present at the meeting and that "there will be no media inside the room". It indicated that topics which victims would like to discuss "may include", among others, "commitment to part 2 of Leveson".

31. A briefing note for the Prime Minister dated 20 November 2012 was prepared by his Director of Communications, Craig Oliver, accordingly. It is not clear if the Prime Minister in fact saw this briefing note. At all events, it among other things indicated that the meeting was to be private; and that the group wanted, among other topics, to ask him about four areas. One of those was identified as "(i) They believe part two of the inquiry is very important, will it happen...?" Even if Mr Cameron did not actually see this briefing note it is a reasonable inference that he would have had an oral briefing prior to the meeting.

32. The meeting took place as planned. Mr Cameron attended with Mr Oliver. A number of victims of press intrusion (some with lawyers) attended: about 30 in total. The first, third (on behalf of herself and her husband) and fourth claimants attended: the last-named arriving late. Dr Harris was also there.

33. We have seen a transcript of that meeting. There were some introductory remarks by Dr Harris. Mr Cameron then spoke some introductory words. He said this among other things:

> "Obviously it's difficult to say a lot because we're now quite close to the publication of the Leveson Report. Obviously the

> closer we get the more difficult it is to say anything without sparking off huge debates and all sorts of things. I have to be very careful about what I say because I've asked this man to do this report… and I want to see what they come up with and I want to absolutely add that I've no idea what's in it… I don't have any insight into particularly what he will do. I think it's been right to set it up. I like the way he's carried out the work. I think he's been very comprehensive. I remain committed to the report as we established it, so part 1 and part 2…"

34. Dr Harris then spoke. He thanked the Prime Minister for attending. He then said this:

> "And what we'll do is. we'll ask – we've made clear to people that, and to colleagues here, that what is said in this room stays in this room. It's a, it's a – no verbatim record is being kept and – so we want to speak freely."

35. The meeting then continued. Various people spoke. Various questions were asked. On more than one occasion Mr Cameron referred to the need to wait and see what the Part 1 report said. He also at one stage said "I am glad this meeting is off the record." He then at another stage said:

> "In the end, you know, the Government has to decide, Parliament has to legislate and in the end Parliament has to make a decision. That is the decision-making body of the country. You can't in turn contract out responsibility for this, but I think we've put a lot of weight behind this report…"

And a little later on, in answer to a question relating to statutory regulation of the press, he said this:

> "That's a very good question. You know, because we don't know what Leveson's recommending, and we don't know whether there's – you know, what the next steps will be, all I can say is that clearly there will be a statement in Parliament, and then I think there'll have to be a debate in Parliament. There are different views. There are different views across the parties…"

36. The fourth claimant had arrived rather late. When she did arrive, she is recorded as almost immediately asking this question:

> "We are very interested to know what your view is about Part 2, because obviously a number of the victims' stories were, you know, reduced in terms of their impact because we could not talk about the horrendous amount of things that actually happened. And what would your - your view be on whether Part 2 should go ahead and would you support it?"

37. That is the question which she asked. In fact the group had prepared in advance of the meeting various questions which they proposed to put to Mr Cameron. In the case of the fourth claimant, it was proposed that she preface her intended question by saying

that only half the inquiry had been done, by then setting out the remaining terms of reference for Part 2 and by then concluding with these words: "These have to wait until after prosecutions, we understand that, but it must take place. Please make a commitment that that inquiry will take place."

38. That, however, as will be gathered, is not what she actually put to Mr Cameron. In answer to the question which she did actually put, his recorded answer, according to the transcript, was as follows:

> "Well, as far as I am concerned, the Inquiry as set up with the parts in it is what – you know, we should still be committed to (?) [the defendants suggest the word possibly may be "debating"]. I understand the judge has made some remarks about his concern about the time (?) or whatever but I mean, you know, if we set up something it should finish – in my view, it should finish to the end."

The recording is not entirely distinct here. Having listened to the tape, I am prepared to take it for present purposes that the words are "committed to" rather than "debating". At all events, that answer having been given Dr Harris then said:

> "Well, we feel very strongly about that, because so much could not be dealt with because…quite rightly, because of the prosecutions, but at the end of the day…"

To which Mr Cameron responded:

> "And that is going to take a while. I think what we are seeing is, you know, the wheels of justice as such do turn quite slowly and these court cases take a very long time, so I think we will have to return to this issue."

39. After a few more questions the meeting concluded. There was a suggestion of a possible further meeting. Dr Harris concluded by saying:

> "It was very useful and this is an ongoing process."

All the indications are that the meeting had been conducted frankly and with courtesy and with a minimum of formality on all sides.

40. Following that meeting, a letter dated 29 November 2012 was sent to the Prime Minister's office on behalf of a number of those affected by the conduct of the press, including the four claimants. It was designedly sent before Mr Cameron was due to make his statement to the House of Commons that afternoon, on publication earlier that day of the Part 1 report. The letter referred to the meeting of 21 November 2012. It at the outset stated (the words being underlined): "We were particularly pleased by your commitment to ensure that Part 2 of the Inquiry takes place after the criminal prosecutions are completed, because this is vital to ensuring that the whole truth comes out about the latest scandal." In the last paragraph it is stated (the words again being underlined): "We have faith that when the report is published, you will not let us down and that there will be no 'last, last chance' for the press and our own experiences will

not have been in vain." It was confirmed at the time by email from the Prime Minister's office that that letter was seen by Mr Cameron before he made his statement in the House of Commons as set out above. No written reply was sent.

41. How was it that a recording of the meeting of 21 November 2012 came to be made, given that it had in terms been stated that "what is said in this room stays in this room" and that no verbatim record was being kept? At all events, there is no obvious reference to the point about the seeming confidentiality or privacy of the meeting in the claimants' initial witness statements. When the alleged content of the meeting as being propounded was then queried in the evidence put in the course of these proceedings on behalf of the defendants (they having, entirely understandably, no note or record of that meeting) a witness statement was then put in by Dr Harris dated 28 September 2018. Among other things, he stated that "I have now found a recording of the meeting which was made at the time by a colleague." He says that he, Dr Harris, was not aware at the time that the meeting was being recorded. He states: "During my checks of my emails for relevant material I have found the sound files as they were sent to me at the time and I attach relevant extracts…" He does not name the "colleague" in question. The exhibited extracts were also limited (and did not, for example, include the "what is said in this room stays in this room" passage). On the direction of this court, a transcript of the recording of the entire meeting was then made for the purpose of the hearing before us.

42. The defendants have at no stage sought to raise a legal objection to the admissibility of the sound recording and transcript. To the contrary: they rely on them.

(d) Events following 29 November 2012

43. In the aftermath of the Part 1 report a number of criminal prosecutions were commenced and concluded.

44. On 22 January 2015 a Parliamentary written answer by a Minister stated:

> "The Government has been clear that a decision on whether to undertake Part 2 of the Leveson Inquiry will not take place until after all criminal investigations and trials related to Part 1 are concluded. As these are still ongoing, it would be inappropriate to comment further."

45. By December 2015 the outstanding criminal cases were anticipated to be concluded shortly. At that time, the second defendant (by his predecessor) received submissions from officials as to possible options for Part 2 of the Leveson Inquiry. The various options were than discussed between the two relevant departments, the Home Office and the Department of Digital, Culture, Media and Sport. The identified options were (1) to terminate the Inquiry (2) to continue with the Inquiry with the same terms of reference (3) to continue the Inquiry with amended terms of reference (4) to discontinue the Inquiry and establish a non-statutory review or inquiry to fill the remaining gaps.

46. There was in due course a meeting with Sir Brian Leveson (now President of the Queen's Bench Division). His firm view was that, while it was a political decision for Ministers, Part 2 of the Inquiry should be proceeded with in some form, as some of the original terms of reference had not been dealt with. He also, among other things, said

that he saw no advantages in a non-statutory review. He also estimated that Part 2 would be likely to cost less than Part 1 (which had cost in the region of £5 million).

47. Thereafter, officials engaged in further consultation, including with representatives of Hacked Off. Unsurprisingly, that organisation was viewing all these developments with dismay. On 6 April 2016 the second and third claimants and others wrote to the Prime Minister urging him "to remove any doubt by confirming that the second phase of the Leveson Inquiry will go ahead without fail once the last criminal trials have concluded." Reference was also made in that letter in broad terms to "promises" to that effect which had been given not only publicly but in private meetings. By letter in response dated 12 May 2016 the Prime Minister among other things said: "We have always been clear that a conclusion of these cases must take place before a decision on the second part of the Inquiry is made".

48. Shortly thereafter, Theresa May MP became Prime Minister on 13 July 2016. She requested further advice. There were further meetings on the part of the second defendant and others with Hacked Off and other interested parties. Reassurances as to the implementation of Part 2 were sought. They were not given. In lengthy written submissions provided by Hacked Off to the second defendant on 22 September 2016, following a meeting held on 6 September 2016, the equivocation of the Government in implementing Part 2 was strongly attacked. Lengthy citation in those submissions was made of the statements made in the House of Commons on 13 July 2011 when the Inquiry was first established. It was then shortly said in those submissions: "The Prime Minister personally promised to victims of press abuse and police corruption that Part 2 would happen in a private meeting". This sentence was then immediately followed by further lengthy citation of statements made in the House of Commons on 29 November 2012 and 12 February 2013. It is to be deduced that the reference to "a private meeting" was intended to relate to the meeting of 21 November 2012. But that was not made explicit in the submissions.

49. On 1 November 2016 the Government announced a public consultation on that issue and also on the issue of implementation of s. 40 of the Crime and Courts Act 2013.

50. Judicial Review proceedings were then commenced by the fourth claimant and others, challenging the lawfulness of the consultation decision and process. One of the points raised, among others, was that the fourth claimant had been "personally assured" in November 2012 by the former Prime Minister that Part 2 would proceed. All the numerous grounds raised, however, were rejected as unarguable by Lewis J on 21 March 2017, in a judgment refusing permission to apply. Among other things, Lewis J concluded that it was not necessary for him to deal with the question whether the assurances relied on did or did not give rise to an expectation enforceable in public law: "nor, indeed, does this court have to decide at this stage whether there is even arguably such an expectation" (paragraph 35).

51. The consultation closed on 10 January 2017. There were scores of thousands of responses, many made online: some favoured continuing the Inquiry, others favoured discontinuance. In addition some 130,000 responses favouring Part 2 were received pursuant to petitions.

52. Prior to the general election of June 2017, the Conservative party manifesto stated that a Conservative Government would not proceed with Part 2 of the Leveson Inquiry.

53. Following the general election, there was further consideration. On 7 November 2017 the two Secretaries of State wrote to the Prime Minister indicating, among other things, that they were "minded to" end the Inquiry. There was a meeting with representatives of Hacked Off on 18 November 2017, where references were made to the former Prime Minister having given promises about Part 2. Following a meeting with Sir Brian Leveson on 4 December 2017, the defendants then wrote to Sir Brian on 21 December 2017 formally to seek his views on Part 2.

54. He replied on 23 January 2018. He stated in that letter his opinion that he "fundamentally disagreed" with the view that Part 2 was not necessary. He referred to the way in which the terms of the Inquiry had been announced in 2011 when it was established. He said: "These statements highlight the legitimate expectation on behalf of the public, all parties in Parliament and the alleged victims of media intrusion that Part Two would follow at the appropriate time." He made further detailed observations. He recognised that there had been developments in the intervening six years and recognised the need to take stock of the progress made, while identifying gaps that might still remain. Among other things, in this regard, he pointed out that Term of Reference 6 had not been met; and he also said that "self-certification of compliance is hardly sufficient to generate public confidence when so much has been revealed about wrongdoing..." He acknowledged, of course, that whether the Inquiry was to be brought to an end was a matter for the Secretaries of State under the Inquiries Act 2005 and that he could only give his own view. The letter concluded in this way:

> "For the reasons I have explained, however, I have no doubt that there is still a legitimate expectation on behalf of the public and, in particular, the alleged victims of phone hacking and other unlawful conduct, that there will be a full public examination of the circumstances that allowed that behaviour to develop and clear reassurances that nothing of the same scale could occur again: that is what they were promised. For the reasons given above, I do not believe that we are yet even near that position and would urge you to give further consideration to the need for at least the bulk of Part Two to be commenced as soon as possible."

A meeting was thereafter held between the defendants and Sir Brian on 5 February 2018.

The Decision under challenge

55. In due course further detailed submissions were presented by officials to the two Secretaries of State in the course of February 2018. Those submissions sought to summarise the various views expressed. Among other things, it was also recorded that "various high profile stakeholders" had stated that "those involved in Part 1 were assured that further evidence would be heard in Part 2". There were summarised at some length Sir Brian's views, including the reference to the "legitimate expectation" of public, Parliament and victims which the Secretaries of State were reminded to take into account. Hacked Off's views were also summarised. This summary included, among other matters, the following: "They also argue that the former Prime Minister, David Cameron, had given promises to victims that they would get the opportunity to put forward their case during Part 2."

56. The decision was published in the combined form of a letter to Sir Brian dated 1 March 2018 (with annexed formal notice of termination) and a written Government Response of that date on behalf of both the then Secretaries of State (Amber Rudd MP and Matt Hancock MP). The overall decision, in sum, as stated in the letter to Sir Brian, was that continuing with the Inquiry "is no longer appropriate, proportionate or in the public interest, not least thanks to the changes we have seen since, and as a result of, your Inquiry." Mr Hancock then made a statement in the House of Commons that day (when he was then criticised by the Opposition for, in effect, kowtowing to the press).

57. In the letter to Sir Brian, under the heading "Legitimate Expectation and Consultation Responses", it was stated: "We recognise that when the inquiry was established there was a determination to undertake Part 2". The letter went to refer to the passage of time and to intervening changes; and stated that the Government had "taken the views of the public, parliamentarians and victims expressed through the consultation into account". The letter went on to outline subsequent changes and reforms, and stated the Government's view that "the risk of the kind of behaviour that led to the Inquiry being established has been significantly and proportionately addressed."

58. In the lengthy Government Response of the same date it was stated in the Foreword that "we have listened to all views and representations". In the section on Part 2 the Response referred expressly to victims of press abuse and to the fact that they were "overwhelmingly supportive of continuing the Inquiry with unchanged terms of reference." It was also recorded that they "felt terminating the Inquiry would show disregard for victims' concerns and would break the promise made to them by the then Government (under the premiership of David Cameron)..." It was stated that the Government had considered the petitions and direct responses to the consultation, including from the victims of press abuse: the strength of their feelings was recognised.

59. The reasons given for the decision, as conveyed on 1 March 2018, can be summarised as follows:

(1) The media landscape had changed significantly since the Inquiry reported in 2012. In particular, newspaper circulation continued to decline; online media was more powerful; and so on. The focus should now be on looking forward - not looking back. Further, a new Internet Safety Strategy and Digital Charter were being developed.

(2) There had since been extensive investigations to hold wrong-doers to account, which has sent a "clear message that illegal misconduct by press, police and public officials will be dealt with robustly." There had been extensive reference to police and press practices: the body IPSO (Independent Press Standards Organisation) had since been established with regard to the press, albeit by way of voluntary self-regulation; and there had been a "raising of standards."

(3) The terms of reference for Part 2 had "largely", even if not entirely, been met.

(4) Part 2 was no longer in the public interest and was disproportionate to the public benefit, especially given the sums already spent.

The grounds of challenge

60. As I have said, the claim form had also included a challenge to the decision not to bring into force s. 40 of the Crime and Courts Act 2013 but that is no longer pursued. Nor are any grounds based on irrationality pursued.

61. The remaining part of the claim, which asserted breach of a legitimate expectation, had initially been put very broadly, not least in the witness statements. For example, the fourth claimant had said that she considered that "the Government is reneging on all its promises and undoing all the previous agreements which had been so hard fought for by the victims." Dr Harris subsequently referred with emphasis to a meeting with Mr Cameron on 13 July 2011 when he says Mr Cameron "gave a promise" that Part 2 would happen; and so on.

62. However, no doubt in the light of legal principles which I will come on to mention, the claim had become much more focused and delimited by the time it came on for hearing in this court. In particular, Ms Mountfield QC, appearing with Mr Milford for the claimants, both accepted and asserted the following:

(1) The claim was founded on what was said at the meeting of 21 November 2012, as giving rise to a legitimate expectation recognisable in law: albeit that meeting was also to be set in the context of what had gone before and what happened thereafter.

(2) The claim was, for this purpose, further founded on the proposition that, in making the decision of 1 March 2018, the defendants had failed to take into account a material consideration: viz that a promise giving rise to a legitimate expectation had been made to the victims by Mr Cameron at the meeting of 21 November 2012. She made clear, as I have said, that she was *not* saying that a legitimate expectation, in the sense known to law, had arisen by reason of Mr Cameron's public statements in the House of Commons on 29 November 2012.

(3) It was not being argued that the remedy sought was an order requiring continuation of Part 2 of the Inquiry. Rather what was being sought was an order quashing the decision of 1 March 2018 and a reconsideration of the decision to terminate the Inquiry, this time having due regard to the fact (as alleged) that Mr Cameron had on 21 November 2012 made a promise giving rise to a legitimate expectation. She further said that there was no sufficient justification in law for the decision as made on 1 March 2018 resiling from the assurance given.

63. For the defendants, Ms Lieven QC, appearing with Mr Pievsky, submitted that the entire argument on behalf of the claimants was misplaced. She asserted that nothing had been said at the meeting of 21 November 2012 which could properly be relied on as giving rise to a legitimate expectation in the sense known to law; that the victims could not reasonably have, and did not, rely on it as such to their detriment; that in any event it had been taken sufficiently into account in the decision making process; and, finally, that (if it be necessary, which she said it was not) the defendants had in any event provided ample justification for the decision to terminate the Inquiry.

The law

64. I can deal with the applicable legal principles relatively shortly, as they were not really in dispute between the parties. The real issue arises from the application of those principles to the facts and circumstances of the instant case.

65. The underpinning rationale for the protection of legitimate expectations as a matter of public law is grounded in the requirement of fairness and in the requirement that power must not be misused. One key issue in that context is to ascertain (in any given case where an expectation actually exists) whether that expectation is indeed "legitimate", in the sense that it will be protected by law.

66. The following propositions are in point for present purposes.

67. First, the starting-point is that the assurance relied on "must be clear, unambiguous and devoid of relevant qualification": see *R (Bancoult)* v *Secretary of State for Foreign and Commonwealth Affairs* [2009] AC 453 at paragraph 60 (per Lord Hoffmann). If it is not, a claim will necessarily fail.

68. Second, whether an assurance is to be regarded as clear, unambiguous and devoid of relevant qualification is objectively assessed by reference to how it would have been reasonably understood by those to whom it was made: see *Paponette* v *Attorney-General of Trinidad and Tobago* [2012] 1 AC 1 at paragraph 30 (per Lord Dyson).

69. Third, the doctrine has been invoked primarily with regard to legitimate expectations as to procedure: for example, a promise to a defined group that there will be consultation before a particular decision is made affecting that group. But it is also established that a legitimate expectation may be capable of arising, in appropriate circumstances, where the expectation relates to a substantive decision.

70. This is borne out by the well known decision of the Court of Appeal in *R* v *North and East Devon Health Authority, ex p. Coughlan* [2001] 1 QB 213. In that case the claimant and a group of seven other disabled people were moved from a hospital which the health authority wished to close to another unit, on an assurance that that unit would be their home for life. Subsequently, following public consultation, the health authority decided to close that unit and transfer care of the claimant to the local authority without identifying any alternative placement. The decision was quashed. It was held that the frustration of the expectation that had legitimately arisen by reason of the assurance could not be justified in the circumstances. It is to be noted, all the same, that in so deciding, Lord Woolf MR giving the judgment of the Court, said this at paragraph 59:

> "Nevertheless, most cases of an enforceable expectation of a substantive benefit (the third category) are likely in the nature of things to be cases where the expectation is confined to one person or a few people, giving the promise or representation the character of a contract."

71. Similar sentiments on this particular aspect were expressed by Laws LJ in the case of *R (Bhatt Murphy)* v *Independent Assessor* [2008] EWCA Civ 755. Having, in paragraph 43 of his judgment, referred to the need for "a specific undertaking, directed at a particular individual or group" he went on in paragraph 46 to say this:

> "These cases illustrate the pressing and focussed nature of the kind of assurance required if a substantive legitimate expectation is to be upheld and enforced. I should add this. Though in theory there may be no limit to the number of beneficiaries of a promise for the purpose of such an expectation, in reality it is likely to be

> small, if the court is to make the expectation good. There are two reasons for this, and they march together. First, it is difficult to imagine a case in which government will be held legally bound by a representation or undertaking made generally or to a diverse class…
>
> The second reason is that the broader the class claiming the expectation's benefit, the more likely it is that a supervening public interest will be held to justify the change of position complained of."

72. Fourth, where a promise giving rise to a legitimate expectation has been given it is a general requirement that, if there is to be a departure, the fact that the contemplated step will amount to a breach of that promise should be taken into account.

73. We were referred in this regard to the case of *R (Bibi)* v *Newham London Borough Council* [2002] 1 WLR 237. Ms Mountfield drew attention to and placed particular reliance on what was said by Schiemann LJ at paragraph 39:

> "But on any view, if an authority, without even considering the fact that it is in breach of a promise which has given rise to a legitimate expectation that it will be honoured, makes a decision to adopt a course of action at variance with that promise then the authority is abusing its powers."

The same point was made at paragraph 51 where he said this:

> "The law requires that any legitimate expectation be properly taken into account in the decision making process."

This was endorsed by the Privy Council in *Paponette* (at paragraph 46 of the judgment of Lord Dyson). That, says Ms Mountfield, corresponds to the present case.

74. Fifth, another proposition also potentially comes into play. It is generally accepted that the more a decision lies in the "macro-political" field the less intrusive will be the court's supervision: see, for example, *R* v *Secretary of State for Education, ex p. Begbie* [2000] 1 WLR 1110 at p. 1131 (per Laws LJ). It was rightly accepted before us that a "macro-political" context can be relevant at the first stage in determining whether an assurance engendering a legitimate expectation, recognisable in law, has been made at all: as well as being relevant to any subsequent debate, where it arises, as to justification for departing from such an assurance. As observed by Richards LJ in *R* (*Wheeler*) v *Office of the Prime Minister* [2003] EWHC 1409 (Admin) there in fact may be promises which are so "macro-political" that the courts simply will not entertain a case that such a promise gives rise to a legitimate expectation in the sense of an expectation which will be protected by law: see at paragraphs 41 and 43. The remedy in such a case lies with Parliament or the electorate, not with the courts.

75. Finally, for present purposes, I would touch on the question of reliance. It is plain, on authority binding at this level, that detrimental reliance is not required, as a legal condition precedent, to make good a claim based on legitimate expectation. That is

made explicit by Peter Gibson LJ in his judgment in *ex p. Begbie* at p. 1124 A-B. Nevertheless, having so held, he went on to say this:

> "… in my judgment it would be wrong to understate the significance of reliance in this area of the law. It is very much the exception, rather than the rule, that detrimental reliance will not be present when the court finds unfairness in the defeating of a legitimate expectation."

To which Laws LJ added, at p. 1131 G, that "bitter disappointment" would not be enough.

76. That detrimental reliance should normally be present in this context and is a relevant consideration, albeit it is not a legal requirement, is further confirmed by the various speeches given in the House of Lords in the case of *Bancoult* (cited above). A very clear example of detrimental reliance by a defined class based on an assurance given by a public body to that class in fact can be found in the case of *Paponette* (cited above).

Disposal

77. Although I have a great deal of sympathy for the claimants and although I have no difficulty at all in comprehending their bitter disappointment at the decision not to proceed with Part 2, I am in no doubt that this claim must be dismissed. It seems to me that it fails at almost every level.

78. If one is to look for a clear statement from Mr Cameron as to the intended implementation of Part 2 then one can, on one view, find it. It is in his statement to the House of Commons on 29 November 2012. But Ms Mountfield does not rely on that as of itself generating a legitimate expectation which will be recognised and protected in law. The reason is not hard to see, given the authorities: this statement was a statement of intent, made in an intensely political context and made not to a small or defined class but in effect to the public at large.

79. But, that being so, it in my opinion is an indication at the outset as to just how unsatisfactory it is then to assert the creation of a legitimate expectation by reason of what Mr Cameron said at the prior meeting of 21 November 2012. It is true that Ms Mountfield can thereby claim that the relevant class was relatively small: no more than 30, and on her argument, significantly fewer if the core participant victims are selected as the relevant class. But it seems to me at the outset decidedly odd, indeed decidedly unattractive, that no reliance is placed on the considered public statements made by Mr Cameron in the House of Commons on 29 November 2012 as creating a legitimate expectation; but reliance is placed on his statements made at a private meeting a few days earlier, on the self-same subject-matter, as creating a legitimate expectation. This is particularly so when the meeting was designedly convened shortly before the anticipated publication of the Part 1 report and the inevitable ensuing statement in the House of Commons: the natural inference therefore is that any expectation engendered at the meeting would be subsumed into or superceded by the forthcoming Parliamentary statement. In any event, a host of other difficulties arise on the claimants' case.

80. The first is that, as the transcript of the recording now shows, it was expressly stated on behalf of the group attending that meeting that "what is said in this room stays in this room." That being so, I find it unacceptable that this claim is, in substance, formulated by reference to a breach of that assurance. Indeed, given that the doctrine of legitimate expectation is rooted in fairness (in the public law sense) it seems to me that it would be contrary to fairness to allow what is said in such a meeting, conducted on an agreed private basis, to be permitted to ground the claim.

81. Statements to the effect that "what is said in this room stays in this room" are, objectively (and no doubt subjectively, too), designed to encourage frankness and to discourage guardedness. Mr Cameron could not possibly, in consequence, have thought (or, objectively, could be expected to have thought) that what he was saying could or would thereafter be relied upon directly by those present as creating a legitimate expectation. If it was to be, why was it ever said that "what is said in this room stays in this room"? Moreover, Dr Harris in his witness statement makes clear that the overall strategy throughout had been to get politicians to commit "on the record." Yet this meeting, at his own volunteering, was *off* the record – not just in the sense of not being attributable but also in the sense of not being reportable. The clear inference was that this was a designed (and entirely understandable) means for endeavouring to get Mr Cameron thereafter to commit *on* the record – as he did in the House of Commons on 29 November 2012. But the court should not, in my opinion, as a matter of public law lend itself for this purpose to deployment of, let alone enforcement of, statements made on a "what is said in this room stays in this room" basis – indeed to do so would be thoroughly counterproductive and would tend to discourage frank and open discussion (cf. without prejudice discussions between lawyers and litigants). If those in the room were proposing to place reliance on what was said in the sense of a having a legitimate expectation in that regard then a privacy commitment of this kind should never have been made: cf. the observations of Bingham LJ in the (tax) case of *R* v *Inland Revenue Commissioners ex p. MFK Underwriting Agents Ltd.* [1990] 1 WLR 545 a p. 1565 F-H.

82. That point of itself, therefore, causes me to hold against this claim. Any expectation engendered by what Mr Cameron said in this meeting, conducted on the basis that it was, cannot, in my judgment, be recognised or protected as a legitimate expectation for this reason alone.

83 In any event, there are, in my judgment, further insuperable difficulties for this claim.

84. Dr Harris had, it will be recalled, also indicated at the meeting that no verbatim record of the meeting was being kept. But it is to my mind also then most unsatisfactory that, in such circumstances, a legitimate expectation could thereafter be asserted by reference to an undocumented oral statement.

85. Take the present case. In her first witness statement, the fourth claimant asserted that at the meeting she specifically asked Mr Cameron for his assurance and: "He gave me that specific assurance. He said to me in terms that once the criminal trials were concluded Part 2 would take place". Likewise, Dr Harris stated in his witness statement that he could "categorically say that Mr Cameron did indeed promise at the meeting on 21 November 2012 that Part 2 of the Inquiry would take place, by way of a response to a question about this from [the fourth claimant]". It is surely not satisfactory, however, that a legitimate expectation should be claimed to derive from the purported recollection

of an oral statement made several years earlier. I do not say, I stress, that a legitimate expectation can *never* arise from an oral assurance. But the very fact that a postulated assurance is given orally may of itself be revealing of there being no intention, objectively or subjectively, that an expectation would or should be engendered.

86. The present case is an illustration of the inherent dangers, in point of fact, in relying on the recollection of an alleged oral assurance for the purpose of founding a legitimate expectation such as to be recognisable in public law. This is because it has transpired, by reason of the recording covertly made and only recently revealed, that Mr Cameron at this meeting in fact, as I conclude, gave *no* such promise, categoric or otherwise, in answer to the fourth claimant or at all.

87. It is true that, as recorded, Mr Cameron stated at the outset that he remained committed to the report as established: "so Part 1 and Part 2." But that clearly was an introductory statement of his then personal position and intent. Moreover, what he said at the meeting was throughout peppered with allusions to waiting to see first what Part 1 of the Leveson Inquiry came up with – he was demonstrably (and understandably) equivocal in that respect. His various answers have to be read as part of the whole and in that context. He plainly also was preserving Governmental discretion in the meantime.

88. As to the actual question which the fourth claimant put, it is to be recalled that it was *not* put in the specific form as previously drafted. Instead, as is now established by the recording, she asked Mr Cameron as to his "view" on "whether Part 2 should go ahead" and whether he would support it. His answer was, as I am prepared to accept, that "we should still be committed to it" and that "it should finish – in my view, it should finish to the end." But that was offered simply as a statement of opinion as to what should (not would) happen: it was not, in my judgment, a categoric or specific promise as asserted by the fourth claimant and by Dr Harris (indeed, Mr Cameron had also later said that "we will have to return to this issue"). In the language of private law moreover (though I accept of course that the analogy is by no means exact), the statements that were made at this private meeting, whether viewed subjectively or objectively, surely reveal no intent to create legal relations.

89. In my view, those considerations, taken together, also would dispose of this claim. Put shortly, no clear assurance that Part 2 would go ahead was ever given at this meeting: and furthermore what was said was in any event qualified. That being so, the claim must fail on that footing as well.

90. Ms Mountfield did, I should add, seek to rely on what was said in the letter of 29 November 2012. But those attending the meeting could not legitimately open up or rewrite the meeting, as it were, by unilaterally thereafter writing such a letter in such terms (the signatories in fact included some who were not even at the meeting) – a letter to which in any event no response was received or confirmation of agreement given.

91. But if more were needed – and, as will be gathered, I do not think that it is – there is yet more.

92. There are these further difficulties for the claim:

(1) Ms Mountfield sought to say that the class of assurees was limited and the assurances were personal to them. I very much doubt that. True no more than 30 attended, and of those only some were victims and even fewer were core participant victims. But this is not a case like *Coughlan* where the class affected truly was very limited. Here there were very many others – not just victims (ascertained or unascertained) but an indeterminate class – who, directly or indirectly, stood to be affected by any decision on Part 2: as illustrated also by the responses to the subsequent consultation and petitions.

(2) This consideration then links to the whole context, viewed objectively, in any event telling strongly against the engendering of a legitimate expectation. Such context – notwithstanding the relatively few numbers attending the meeting – was plainly within the realms of the "macro-political". The issue of Part 2, relating as it did to the freedom and accountability of the press, was in truth a matter of great public importance, as Ms Mountfield herself stressed. (It was of sufficient perceived political importance subsequently to feature in the Conservative Party manifesto at the general election.) That factor also is strongly against the engendering of a legitimate expectation in the sense of an expectation which will be protected by law.

(3) Moreover, could Mr Cameron's statements at this meeting fairly be taken to be such as intended, viewed objectively, to bind his Government in terms of creating a legitimate expectation required thereafter to be taken into account? It was, to my mind, an unappealing feature of Ms Mountfield's argument that they could. She relied on the principles of *R* (*BAPIO Action Ltd.*) v *Secretary of State for the Home Department* [2008] 1 AC 1003 for this purpose. But it is difficult to conceive that Mr Cameron would have unequivocally committed to a position on Part 2 without at least first consulting the relevant Secretaries of State, if not the Cabinet, if it had been understood that the meeting was to be treated as public and as reportable and not, as agreed, private and confidential. Ms Mountfield, in fact, did not shrink from saying – and perhaps she had to say - that *any* subsequent Government, including any subsequent Labour Government, would have been bound both to take into account such alleged assurances given at this meeting as creating a legitimate expectation and not to depart from them without proper justification. Leaving aside the potential constitutional implications of such an argument, to which Ms Lieven alluded, the fact that Ms Mountfield was constrained to advance such an argument seems to me yet further to show that the statements of Mr Cameron at the meeting are not, viewed objectively, to be regarded as creating a legitimate expectation in the first place.

93. I have also considered the question of detrimental reliance. Plainly nothing occurring *before* 21 November 2012 can be relied on for this purpose: for example, the (accepted) fact that the claimants gave limited evidence at Part 1 because it was expected that more detailed evidence would be given at Part 2, in accordance with the way in which the Inquiry had been structured at the outset. The second and third claimants do not themselves allude at all in their witness statements to what Mr Cameron said at the meeting of 21 November 2012: to the extent that his statements impacted on them (if at all) they thus do not claim that his statements caused them to act to their detriment. Nor does the first claimant in his witness statement give any details of that meeting (he frankly and understandably accepted that it was difficult to remember details of the meeting) or assert any detrimental reliance.

94. As to the fourth claimant, in her first two witness statements she also did not appear to assert any specific detrimental reliance: albeit she said that she was "very reassured" by what Mr Cameron had said. However, in her third witness statement, made on 30 October 2018 shortly before the hearing, she stated that she settled her claim against News Group Newspapers on 15 February 2013 (although for reasons she explained an apology in open court was only given in 2018). She says that that occurred "a few months after David Cameron provided assurances as to the continuation of Part 2 of the Inquiry in November 2012". She also says that in settling her claim at that time she relied on her expectation that further evidence about News Group Newspapers' actions would be uncovered in Part 2 of the Inquiry.

95. There is no reason to doubt that. But what the fourth claimant conspicuously does not say is that she settled her claim in reliance on the assurances, as she understood them, given at the meeting of 21 November 2012. It would, in truth, be implausible if she had. By February 2013 (when she settled her claim) the Government had made public statements not only in the House of Commons when the Leveson Inquiry was set up in July 2011 but also through Mr Cameron in the House of Commons on 29 November 2012. Her stated general expectation in her third witness statement, at all events, is to be read in that context; and as I say it does not specifically relate to the meeting of 21 November 2012. Besides, as she candidly admitted in her second witness statement, all of the group of victims were "acutely aware from the start" that there was a real danger that Government Ministers would renege on their promises to implement press reform: as had happened so often before. Yet further, this court has no way of knowing what Part 36 offers, funding pressures and so on may have been operative in February 2013 when the claim was settled.

96. Thus the overall conclusion has to be that no detrimental reliance on the statements made by Mr Cameron at the meeting of 21 November 2012 is in any event shown. Ms Mountfield did briefly allude to "moral detriment" (a phrase used in one of the cases); but so vague a notion can have no application in a case such as this. Lack of detrimental reliance, as the authorities make clear and as I accept, is not necessarily conclusive. It is nevertheless relevant to the asserted creation of a legitimate expectation in any given case that the objective interpretation of the language of the asserted assurance does not create the obvious prospect of any detrimental reliance: and the more so where, as here, those who seek the assurance do not, when seeking it, indicate how (if at all) they propose to rely on it. Overall, the absence of detrimental reliance, either foreseeable or resulting, is in the present case strongly confirmatory of the view which I in any event reach: that this claim based on legitimate expectation must fail.

97. For completeness, I will shortly state my present views on the other principal points argued.

98. It was submitted that the defendants could not have taken account of, or given any weight to, the assurances allegedly given on 21 November 2012 if they were at the same time denying their existence: cf. *R* (*Badger Trust*) v *Secretary of State for Environment etc.* [2014] EWHC 2009 (Admin) at paragraph 54 (per Kenneth Parker J.). I see the logic of that. But I am not sure such a proposition sufficiently reflects the particular circumstances of this case.

99. As Ms Mountfield conceded in the light of *Bibi* (cited above), the alleged assurances were only required to be taken into account if they gave rise to a legitimate expectation:

and, for the reasons I have given, they did not. That renders this point academic. But in any event it is not at all clear to me, from the papers placed before us, that prior to making the decision of 1 March 2018 the defendants in fact had been specifically referred by Hacked Off or anyone else to the actual meeting of 21 November 2012 – as opposed to being referred to more generalised statements of "private assurances": let alone that it was at that time being said that those assurances given at that meeting of themselves created a legitimate expectation. In fact this position only really crystallised in the claimants' case in the skeleton argument prepared for the purposes of the hearing before us. At all events, to the extent that the defendants were being presented with a version of alleged events at that private meeting they understandably had no record of it. It was accordingly difficult for them to concede the accuracy of the assertions then being made. But at no stage did they *deny* such statements either. On the contrary, in the submissions of officials to the two Secretaries of State, it was recorded, in general terms, that there were such assertions which the victims were making: and those assertions thus in that way were taken into account. I am not sure what more could have been done given the circumstances. Moreover, it is entirely clear that consideration was in general terms given to principles of legitimate expectation: as had indeed been flagged up by Sir Brian Leveson himself and as was duly recorded in the submissions to the two Secretaries of State.

100. In the circumstances, the issue of justification also does not arise for decision. One can agree with the reasons given by the defendants for terminating the Inquiry. One can disagree with them (many no doubt would). I fully take on board the claimants' criticisms of those reasons and their disagreement with them; and I understand their association with the powerful reasons given by Sir Brian Leveson in his letter of 23 January 2018. Even so, this remained an intensely political decision. It is not for judges in judicial review proceedings, under the guise of an assessment of proportionality and justification, simply to substitute their own views, whatever they may be, of the rights or wrongs of such a decision. Without expressing (or needing to express) a concluded view on the issue of justification, I would shortly indicate that I was left unpersuaded at the hearing that the reasons of justification advanced for the decision could not be sustained in law. In fact, the whole debate before us on this aspect operated on my mind so as to confirm just how intensely macro-political this whole issue was.

Conclusion

101. I have, I repeat, a great deal of sympathy for the claimants. I can readily understand their bitter disappointment at what has eventuated. The third claimant, indeed, has spoken of her "sense of betrayal" at what has resulted. But I am afraid that sympathy cannot override the law; and I can see absolutely no viable basis for these grounds of claim, based on principles of legitimate expectation in the way that they are, achieving the result which the claimants seek. So I would dismiss this claim.

Mr Justice Ouseley:

102. I agree.