Neutral Citation Number: [2025] EWCA Civ 548

Appeal No: CA-2024-000936
Case No: AC/2021/LON/002527

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
ADMINISTRATIVE COURT
Mr Justice Lane [2024] EWHC 418 (Admin)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 02/05/2025

Before:

SIR GEOFFREY VOS, MASTER OF THE ROLLS
LORD JUSTICE BEAN
and
LORD JUSTICE EDIS

- -

Between:

THE KING on the application of THE DUKE OF SUSSEX	**Claimant Appellant**
- and –	
THE SECRETARY OF STATE FOR THE HOME DEPARTMENT	**Defendant Respondent**

- -

Shaheed Fatima KC, Jason Pobjoy KC, Gayatri Sarathy and **Marlena Valles (**instructed by **Schillings International LLP)** for **the claimant/appellant** (the Claimant)

Sir James Eadie KC, Robert Palmer KC, Christopher Knight and **Aaron Moss (**instructed by **the Government Legal Department)** for **the defendant/respondent** (the SSHD)

Hearing dates: 8 and 9 April 2025

- -

JUDGMENT

SIR GEOFFREY VOS, MASTER OF THE ROLLS:

Introduction

General Introduction

1. Prince Harry, the Duke of Sussex (the Claimant) sought a declaration in these judicial review proceedings to the effect that the protective security arrangements applied to him on his visits to the UK since June 2021 have been and continue to be unlawful. The defendant to the claim is the Secretary of State for the Home Department (the SSHD) because she is responsible and accountable to Parliament for national security, including matters concerned with personal protection. Sir Peter Lane (the judge) granted the Claimant permission to apply for judicial review on three grounds, but dismissed his claim. Lord Justice Bean granted the Claimant permission to appeal on two grounds.

2. The main issue raised by the Claimant's grounds of appeal is whether the judge was right to conclude that the responsible body, called the Executive Committee for the Protection of Royalty and Public Figures (known as "RAVEC"), had good reason not to follow its policy document, its Terms of Reference 2017 (the ToR 2017). The Claimant contends that RAVEC had not followed the ToR 2017 when, on 28 February 2020, it made its decision in a letter of that date (the decision letter) that protection would be withdrawn from the Claimant and the Duchess of Sussex (together the "Sussexes") by 31 March 2020. It is common ground both that: (a) [20] of the ToR 2017 provided that RAVEC would "[e]valuate the risk analysis conducted by the Risk Management Board in order to determine which individuals … should receive vulnerability mitigation and/or protection measures", and that (b) RAVEC did not commission any risk analysis from its Risk Management Board in respect of the Claimant immediately before the decision letter or at any time thereafter. At or about the time of the decision letter, the Sussexes moved out of the UK to live first in Canada, and then later in California.

3. The subsidiary issue raised by the Claimant's grounds of appeal is whether the judge was right to decide that the Claimant was not in an analogous position to certain other individuals for whom protection is provided by RAVEC. Those individuals are in a category referred to as the "Other VIP Category", which includes persons who have never carried out any public functions on behalf of the State.

4. In the course of argument, it became clear that, in order to address the substance of the Claimant's argument, it would be necessary to look somewhat beyond the decision letter of 28 February 2020. Whilst the decision letter, as I have said, withdrew the security that the Claimant had previously been afforded, the Claimant's real complaint was encapsulated in the declaration that he sought in his original statement of facts and grounds, namely that "the ongoing security arrangements for the Claimant when he is in the UK and as applied to the Claimant in June 2021 were and continue to be unlawful". The reference to June 2021 was a reference to his first visit to the UK after the Covid restrictions were eased. The Claimant has made several visits since then, including for the hearing before us, and the complaint is made about the security arrangements on every one of those visits and for the future.

5. Part of the two-day hearing before us was conducted in private, because of the confidentiality of the security arrangements provided for members of the Royal Family and other individuals. It is intended that this judgment will be public, but, at various stages, I shall refer to a Confidential Annex that contains the material that I have relied upon that cannot be made public in case it puts any of the persons protected by RAVEC at risk. I have also, of course, relied on the judge's comprehensive unredacted judgment.

6. The judge dealt with a number of grounds beyond those for which permission to appeal has been granted, about which I need say no more. The ones that were appealed were, in effect, those labelled 6A and 6B below. The judge granted the Claimant permission to apply for judicial review on those grounds, but dismissed his claims. The Claimant's explanation of those grounds from [7.9] of his re-amended statement of facts and grounds was as follows:

> Ground 6 is that RAVEC's decision as communicated in the [decision letter] and applied in relation to subsequent visits is unlawful because: (a) RAVEC misapplied the RAVEC Policy by failing to consider, properly or at all, and/or by failing to treat the Claimant as within the "Other VIP Category" in the RAVEC cohort or in an analogous position to those in that category (Ground 6A); alternatively, (b) RAVEC acted irrationally/unreasonably by failing to treat the Claimant as within the RAVEC cohort (Ground 6B).

An outline of the judge's approach

7. The judge's reasons for dismissing the application for judicial review on these grounds are set out at [150]-[212] of his judgment. In broad terms he accepted the evidence of the SSHD's three main witnesses: (i) Sir Richard Mottram, the Chair of RAVEC until April 2021 (Sir Richard), (ii) the Chair of RAVEC from April 2021 to the present time (the current Chair), and (iii) Shaun Hipgrave, who was from 2019 the Director of Protect and Prepare in the Homeland Security Group, formerly known as the Office for Security and Counter-Terrorism (Mr Hipgrave). Mr Hipgrave has responsibility for the Royalty, VIP and MP Security Unit, which provides a Secretariat to RAVEC. He attended RAVEC meetings on behalf of the Home Office, and only became involved in the Claimant's security in June 2021.

8. The judge decided at [156] that the ToR 2017 were justiciable by means of judicial review. Though the judge does not say so expressly, I infer that he reached the same conclusion about RAVEC's successor policies, which included RAVEC's Evaluation Criteria of 27 May 2021 (the Evaluation Criteria) and the Terms of Reference 2021 introduced in June 2021 (the ToR 2021).

9. The judge applied the principle that a public body must, in the absence of good reason, follow its own policies (see *R (Nadarajah) v. The Secretary of State for the Home Department* [2015] EWCA Civ 1363 per Laws LJ at [68] (*Nadarajah*), *Mandalia v. The Secretary of State for the Home Department* [2015] UKSC 59, [2015] 1WLR 4546 per Lord Wilson at [29] (*Mandalia*), and *R (HZ) v. The Secretary of State for the Home Department* [2023] EWHC 660 (Admin), [2024] 1 WLR 1003 per Henshaw J at [107]). He held, however, at [158] that this principle was limited because the subject matter, and the expertise and the constitutional responsibilities, of the relevant decision makers were relevant: (i) to the court's task of interpreting the terms of the policy and the nature and scope of the practice, and (ii) to whether the court concludes that a good reason has

been shown for departing from that policy or practice (see *The Secretary of State for the Home Department v. Rehman* [2001] UKHL 47, [2003] 1 AC 153 per Lord Hoffmann at [49] (*Rehman*), and *Regina (Begum) v. Special Immigration Appeals Commission* [2021] UKSC 7, [2021] AC 765 per Lord Reed at [55]-[56] (*Begum*)). Moreover, the good reason principle was protean (i.e. flexible). That was underscored by the fact that decision making in this case was an aspect of the Royal Prerogative. The case was close to a complaint about the adequacy of investigation, which, under *Secretary of State for Education and Science v. Metropolitan Borough of Tameside* [1977] AC 1014, needed to be founded on irrationality.

10. On that basis, the judge held at [162] that the ToR 2017 (and later documents) could not be treated as hard-edged policy documents, so that the requirement in [20] of the ToR 2017 for a risk analysis to be commissioned from the Risk Management Board could not be taken at face value. In any event, Sir Richard had a good reason for not calling for such an analysis before writing the decision letter. The judge explained that good reason at [166]-[178]. It was encapsulated in a contemporaneous email exchange of 26 and 27 February 2020 between Sir Richard and the person who was both RAVEC's Secretary and Chair of the Risk Management Board (the RMB Chair). Sir Richard confirmed in that exchange that there would not be a "further/final RMB" (i.e. RMB risk analysis) for the Claimant on the grounds that this was "no longer required given alternative governance arrangements" to be established on a case-by-case basis in future. The judge held that what was described by the SSHD before us as the "bespoke arrangement" was, in effect, that good reason. The Claimant came out of the cohort protected by RAVEC, when he changed his status, but re-entered it when bespoke arrangements were made for his post-February 2020 visits to the UK. For that reason, the judge accepted that the ToR 2021 never applied to the Claimant. RAVEC had not considered commissioning a risk analysis from the Risk Management Board after February 2020, in essence because that was, in the opinion of the relevant experts, unnecessary. The judge applied at [175] the principle referred to above concerning the need to respect the expertise of specialist decision makers (see *Hopkins Homes Ltd v. Secretary of State for Communities, Local Government* [2017] UKSC 37, [2017] 1 WLR 1865 per Lord Carnwath at [25] (*Hopkins Homes*)). The Claimant had adopted a mechanistic and overly literal approach to the ToR 2017.

11. The judge dealt at [179]-[197] with the Claimant's argument that he had unlawfully been treated differently from other individuals protected by RAVEC. I have said rather more about this ground in the Confidential Annex at [8]-[11]. But for present purposes, it can be recorded that, in this respect too, the judge accepted the evidence of the SSHD's witnesses to the effect that the Other VIP Category was wholly exceptional, there had been no public law error in Sir Richard's treatment of the Claimant, largely for the reasons explained above, and the Claimant's position was different from that of the comparators that he chose.

The Claimant's main arguments

12. The Claimant criticises the judge's decision in four main areas.

13. First, the Claimant submits that the judge wrongly identified the standard of review, as a matter of law, in relation to whether or not there is a good reason to depart from a justiciable policy (like the ToR 2017). The reason had to be cogent and compelling and had to be spelled out clearly, logically and convincingly (see *R (Munjaz) v. Mersey*

Care NHS Trust [2005] UKHL 58, [2006] 2 AC 148 per Lord Bingham at [21] and Lord Hope at [69] (*Munjaz*), and *R (X) v. Tower Hamlets London Borough Council* [2013] EWHC 480 (Admin), [2013] 3 All ER 157 per Males J at [31] and [35] (*Tower Hamlets*)). The judge was wrong to think that a good reason had been shown for failing to order a risk analysis from the Risk Management Board. There were no cogent or compelling reasons for the approach that Sir Richard followed.

14. Secondly, the judge wrongly deferred to the judgment of Sir Richard (and the other decision makers). Once the court had determined what the policy meant as it was obliged to do, there was no room, anyway in this context, for a presumption that the decision maker's interpretation and understanding of the policy was correct. *Hopkins Homes* was not applicable here. (See *Re McFarland* [2004] UKHL 17, [2004] 1 WLR 1289 per Lord Steyn at [24] (*McFarland*), *R (Hemmati) v. The Secretary of State for the Home Department* [2019] UKSC 56, [2021] AC 143 per Lord Kitchin at [69] (*Hemmati*), *Mandalia* per Lord Wilson at [31], and De Smith's Judicial Review, 9th edition at [5-191]-[5-192]).

15. Thirdly, something had gone wrong with the process since there cannot have been a good reason for the withdrawal of protective security that the Claimant had had all his adult life, when the risks that he faced, and the impact of those risks, had not reduced at all as a result of his change of status.

16. Fourthly, it was simply not open to Sir Richard to decide that the Claimant was not in the Other VIP Category without commissioning a risk analysis from the Risk Management Board. It was irrational to conclude that he was not in an analogous position to those other individuals protected by RAVEC.

The SSHD's main arguments

17. The SSHD argued that the judge was right for the reasons he gave. The bespoke arrangement was an entirely reasonable, if not beneficial, way of dealing with a unique situation. The Claimant would be protected appropriately on his future visits to the UK on the basis of his actual plans, once they were known. There would have been nothing to be gained by a risk analysis commissioned from the Risk Management Board. Sir Richard's expertise and experience gave him all he needed to decide appropriately as to future protective security for the Claimant in his new circumstances. As the judge explained at [45]-[47], Sir Richard commissioned and obtained three threat assessments concerning the Claimant during February 2020 before writing the decision letter.

18. In addition, the SSHD raised one important point by way of Respondent's Notice. It pointed out that the judge rightly: (a) described the good reason test as protean, (b) noted that it should not involve the court substituting its own value judgment, and (c) respected the decision makers' expertise. The SSHD argued, however, that the judge wrongly rejected the proposition that the review of a decision maker's reasons for departing from a policy should be undertaken on the basis of unreasonableness or irrationality (see *Associated Provincial Picture Houses Ltd v. Wednesbury Corporation* [1948] 1 KB 223 (*Wednesbury*)). The identification of a good reason was an exercise of discretion.

Summary of Decision

19. I have decided that the judge was right to hold that it was open to RAVEC, in the very unusual circumstances of this case, to depart from its usual policy of obtaining a risk analysis from the Risk Management Board. Accordingly, neither RAVEC's decision letter, nor the protective security arrangements made for the Claimant on his visits to the UK from June 2021 onwards, were unlawful.

20. In this judgment, I shall address the issues raised in the following sequence: (i) RAVEC's Terms of Reference and the Evaluation Criteria, (ii) the decision letter, (iii) further detail on the judge's judgment, (iv) the authorities on departing from a justiciable policy and the respect to be given to a decision maker, (v) whether something went wrong with the process, (vi) whether Sir Richard ought, by comparison with others protected by RAVEC, to have placed the Claimant in the Other VIP Category, (vii) whether the judge was right to decide that Sir Richard had a good reason for departing from the ToR 2017, and (viii) conclusions.

RAVEC's Terms of Reference and the Evaluation Criteria

21. RAVEC's ToR 2017 provide as follows under the heading "Role":

> 1. [RAVEC] is responsible for which individuals should receive vulnerability mitigation and/ or protection measures at public expense and to what level.
>
> 2. The Home Secretary is responsible and accountable to Parliament for national security, including protection matters. The Home Secretary delegates decision-making responsibility for which individuals should receive vulnerability mitigation and/ or protection measures at public expense to an independent Chair of [RAVEC]. …
>
> 3. The Chair is responsible for decisions on vulnerability mitigation and protection measures for individuals who are present in England, Wales and Scotland. … . Decisions on protective security for any overseas travel are taken by the Cabinet Office chaired Royal and Ministerial Visits Committee.
>
> 4. The Chair of [RAVEC] is the owner of any residual risk arising from decisions on who should or should not receive vulnerability mitigation and/ or protection measures; and to what level. Any decisions will reflect the risk tolerance that the Chair is willing to accept, having consulted with the Home Secretary on the Government's risk appetite and having taken into account [RAVEC] members' views of what would represent a proportionate response to the assessed risk faced by individuals.

22. RAVEC's ToR 2017 provide as follows under the headings "Responsibilities" and "The Royal Household":

> 10. The Royal Household will provide Royal representation and input into the work of [RAVEC], advising the Chair on any specific matters relating to members of the Royal Family. This is to help inform the Chair's decision on whether any vulnerability mitigation and/ or protection measures are appropriate at public expense.

> 11. Individual Private Secretaries and Private Offices should be consulted as to the practicalities of the vulnerability mitigation and/ or protection measures which have been agreed. The respective Private Secretaries will be advised by the Home Office and/ or the police, dependent upon the measures agreed, on the translation of threat levels and risk assessments into practical arrangements for members of the Royal Family and their Households.

23. RAVEC's ToR 2017 provide as follows under the heading "The role of Home Office":

> 15. The Home Office is the national lead for the formulation of policy on the protection of Royalty and public figures in England, Wales and Scotland. The Home Secretary is responsible within Cabinet and accountable to Parliament for delivery of this policy, which seeks to ensure the continued and effective assessment of threat and evaluation of risk to determine who requires any form of vulnerability mitigation or protection; and then ensuring its proportionate delivery for those who are deemed to require it.

24. RAVEC's ToR 2017 provide as follows under the heading "Key tasks":

> 20. [RAVEC] will:
> - Exercise the national policy on the provision and delivery of vulnerability mitigation and protection measures for members of the Royal Family and public figures.
> - Determine on an annual basis (or more frequently as necessary), a set of reasonable worst-case scenarios against which potential threats to an individual will be assessed [See Confidential Annex].
> - Evaluate the risk analysis conducted by the Risk Management Board in order to determine which individuals [see Confidential Annex], should receive vulnerability mitigation and/or protection measures. [See Confidential Annex]
> - At a minimum, review annually arrangements that have been agreed and put in place to ensure they remain commensurate to threat and risk.
> - Promote effective relationships between all parties involved in the delivery of vulnerability mitigation and protection measures.
>
> 21. [RAVEC's] risk evaluation is based on the Risk Management Board's risk analysis, but takes into account judgements about the risk appetite of Government. [See Confidential Annex]
>
> 22. The Chair of [RAVEC] or the Chair of the Risk Management Board will write to, or brief and then follow up in writing, any individual who has been through the risk assessment process … [see Confidential Annex].

25. RAVEC's Evaluation Criteria of 27 May 2021 and the ToR 2021 expanded the ToR 2017, but also repeated much of the ToR 2017's substance. I am only reciting in the following paragraphs those passages that could be said to be significant to what we have to decide. It will be remembered that the judge actually held: (a) at [163] that caution was required in using these 2021 documents to determine if the decision letter of 28 February 2020 was unlawful, and (b) at [172]-[173], that on the evidence of Mr

Hipgrave and the current Chair, the 2021 documents did not apply to the Claimant, as a result of the bespoke approach adopted in the decision letter.

26. [1] of the Evaluation Criteria provided that RAVEC discharged its function by "evaluating the risk assessment provided by the associated Risk Management Board (RMB) and any security recommendations the RMB might make". That was in line with the recommendations of the Tesh review (*Risk Assessment and Decision Making Review of Royalty and VIP Protection* by John Tesh, 31 July 2016).

27. [3] of RAVEC's Evaluation Criteria noted that the ToR 2017 had been significantly updated.

28. [5] of RAVEC's Evaluation Criteria was particularly relied upon by the Claimant. It adopted Tesh's differentiation between **analysis** and **evaluation**: "Risk analysis [is] "an objective, dispassionate, inventory" of what the risks are, including what would have to be reckoned with in terms of impact, and what the associated likelihood is", and "Risk evaluation [is] a "policy-making process in which social values and risk tolerance levels are factored in by Ministers and officials in order to decide about the objectives of policy, what measures can or must be taken to achieve those objectives, and whether the residual risk is tolerable".

29. The "Criteria for Evaluation" contained in RAVEC's Evaluation Criteria were at [9] as follows:

> It is worth exploring each of the criteria for evaluation set out in Tesh and how they might best be applied on an ongoing basis. Crucial to that consideration is the parallel review of the RMB. [See Confidential Annex] The RMB review has recommended that the RMB assesses the risk to any individual principal more holistically, and in more detail, than under current processes. This will in turn provide a more in-depth and tailored set of proposals for the security package that an individual principal should receive. With that increasingly detailed focus on an outcome, the aim is to provide a set of proposals which better support the evaluation process, and in some respects start that process, recognising that the decision on security measures rests with the Committee.

30. The "objectives of policy" contained in RAVEC's Evaluation Criteria were at [10] as follows:

> reflecting the discussion in the Tesh review, and the updated terms of reference for the Committee, RAVEC's policy objectives are to ensure that proportionate and effective security arrangements are in place for protected principals, aligned with their risk assessment. That includes a focus on moving towards greater flexibility in the packages provided and a more tailored, holistic assessment of what measures are needed to ensure the safety of each principal. This should also ensure capabilities and resources, including financial, match the necessary security arrangements. As policy owners, it will be the responsibility of the Home Office to advise the Committee of any relevant developments in these objectives, although it is considered they are likely to remain stable. That must be done openly and transparently so that the Committee always has a clear, pre-determined policy framework in which to make its decisions, ensuring RAVEC does not have to decide what its policy objectives are with reference to individual cases. In practice,

> RAVEC should then simply have to test the recommendations of the RMB to ensure they meet the Committee's agreed objectives.

31. As I have said, the ToR 2021 expanded the ToR 2017. Notably, however, it changed the SSHD's delegation of powers to the RAVEC Chair at [1]-[4] of the ToR 2017 to delegation to RAVEC itself at [1]-[3] of the ToR 2021. The ToR 2021 largely retained the same form of words as had appeared at the third bullet point of [20] of the ToR 2017. The revised form was as follows: "[RAVEC] will: [e]valuate the risk analysis conducted by the Risk Management Board in order to determine which individuals … should receive protective security measures proportionate to the assessed risk".

The decision letter

32. The decision letter was addressed to the Rt Hon Sir Edward Young, Private Secretary to Her Late Majesty Queen Elizabeth II. The letter was headed "Security arrangements for the Duke and Duchess of Sussex". Sir Richard wrote as follows:

> I am writing to you about security arrangements within Great Britain [for the Sussexes] in the light of the change in their roles from full-time working members of the Royal Family to privately-funded members of the family and of their decision to spend the majority of their time in Canada for the next 12 months at least. …
>
> I understand that [the Sussexes] will travel back to the United Kingdom to pursue their private charity work and that Her Majesty the Queen may from time to time invite them to attend Royal occasions in the United Kingdom in their private capacity and to participate in family events.
>
> As you know RAVEC essentially focuses on [see Confidential Annex] and who are considered to be at sufficient risk to justify publicly-funded measures to mitigate that risk. RAVEC is responsible for risks arising within Great Britain as they affect principals who are in almost every case resident within Great Britain. The future arrangements for the [Sussexes] do not fit readily within this framework.
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> As further context we have commissioned up-to-date threat assessments. [see Confidential Annex]. RAVEC will continue to monitor the security of the Sussex family, including through periodic threat assessments. Should anything change in terms of specific threat this will be communicated to the Home Office through established channels with the police and [see Confidential Annex] and actioned as necessary.
>
> [see Confidential Annex] the existing provision of [see Confidential Annex] by the Metropolitan Police Service (MPS) will no longer be appropriate and will be withdrawn by no later than 31 March 2020.
>
> Against the background set out above there is no basis for publicly-funded security support for [the Sussexes] within Great Britain in relation to [see Confidential Annex].
>
> It is difficult to judge what might be appropriate without knowing the Duke of Sussex's forward programme or what private arrangements if any are being made

> for his security in Great Britain to link with and complement those which are being put in place in Canada. It may be sensible to put in place liaison arrangements between HM the Queen's Private Office, the MPS and the Home Office to look periodically at any forward engagements that may potentially warrant additional security attention. Could I suggest there should be a tripartite meeting to follow-up these detailed points which the Home Office might convene. In the light of that meeting I would then intend to look at what guidance should be issued about the support to be provided and the mechanisms for liaison and the approval of support in individual cases. …
>
> Finally, I understand that the arrangements reflecting the changed roles of the [Sussexes] and their move to Canada will be reviewed in 12 months' time. If this review were to lead to material changes then RAVEC would look again at appropriate security provision.

Further detail on the judge's judgment

33. I shall neither summarise nor refer to the whole of the judge's meticulous 252-paragraph judgment. It contains the complete factual background to which reference should be made. There is a useful *dramatis personae* at [11]-[21], the detailed factual background to the decision letter at [22]-[62], and a chronology of the events following the decision letter at [63]-[70].

34. The judge dealt at [83]-[94] with threat assessments (which were undertaken at various times for the Claimant, even after the decision letter), and with RMB risk assessments (which were not done for the Claimant after the decision letter). The judge explained at [90] the types of indicators of the degree of impact of any successful attack that would be considered by the Risk Management Board in a risk analysis. The details do not matter, but they are plainly qualitatively different (as the Claimant submitted) from a threat assessment. The judge referred at [94] to the last risk analysis that was completed for the Claimant on 23 April 2019.

35. The judge dealt with the Other VIP Category at [98]-[103]. The details of the people concerned can be found in the unredacted version of the judgment. For these purposes, however, I would note that RAVEC also recognised (but did not use on a day-to-day basis) a Role-Based Category (based obviously on a person's current role - which comprises most of those protected) and an Occasional Category. The small Other VIP Category was marked by facts peculiar to the individuals concerned and ultimately determined by the Government's risk appetite.

36. At [104] to [135], the judge dealt in detail with the Claimant's various visits to the UK after the decision letter. The judge recognised at [104] that the Claimant made specific challenges in relation to visits he made in June 2021, and March, May and June 2023. These specific challenges have not been renewed before us, but I can note that it is said on this appeal that the failure, without good reason, to obtain a risk analysis from the Risk Management Board persisted through all these visits. The details of these visits are not, therefore, relevant to what we have to decide, but can be seen from these paragraphs of the judge's judgment. It is also perhaps worth recording that the judge was fully aware of two disturbing security breaches dealt with in the Claimant's evidence. The first took place at Kew Gardens following a charity event on 30 June

2021, and the second took place in New York City on 16 May 2023. Both involved car chases by paparazzi. Again, the details are not material to our decision.

37. The remainder of the judge's judgment dealt with his decision, which I have already summarised so far as relevant. The core of the judge's reasoning, taken from an exhaustive study of the evidence, is found in [170]-[176] of his judgment, which I recite here in an abbreviated form:

> 170. I therefore consider that the contemporaneous evidence is entirely compatible with [Sir Richard's evidence] … [He] clarifies that the "core of my point on the RMB was that it would no longer be required because alternative governance arrangements would will [note that the duplication is in the original] be in place, through RAVEC, for considering individual requests on a case by cases basis in context. To the extent that that was a departure from the existing processes, that was because we were formulating a decision … which was to place him outside existing processes and a new structure was instead being designed for him". … Sir Richard explains that "it made much more sense to assess the threat and risk issues" arising from the Claimant's occasional visits to the United Kingdom "by reference to their particular context; rather than conduct [a risk analysis] for a principal who was no longer based in Great Britain and whose activities when he was present were not likely to be regular …". … The Claimant does not explain why this conclusion was incorrect.
>
> 171. I am entirely satisfied that legally sufficient reasons existed for RAVEC to depart from its policy [or] practice, to the extent that this would otherwise have resulted in an RMB assessment being conducted in respect of the Claimant in 2020, prior to a decision being taken on whether he should receive vulnerability mitigation and/or protection measures at public expense. … the [2021 Evaluation Criteria] support the fact that, at the time, an RMB assessment of the claimant would have been likely to be of less practical utility than the visit … specific arrangements described in [the decision letter].
>
> 172. The point is reinforced in [Mr Hipgrave's evidence]. This explains that the [ToR 2021] do not apply to the Claimant and instead RAVEC applies the bespoke decision-making model devised in [the decision letter]. … Mr Hipgrave says that the same rationale [as Sir Richard applied] has continued to apply. He explains that "if there were no alternative process available which enabled RAVEC to consider the full range of circumstances applicable to the claimant, then the RMB assessment could be used, even if it would not work as effectively for the reasons Sir Richard explains. … in the Claimant's case – and uniquely – RAVEC has in place for him a bespoke process whereby his intended presence in Great Britain is considered in advance, by reference to the specifics of what is planned and why". This means that a "much more focussed consideration can be given, informed in particular by the views of the [MPS] as the experts in the delivery of protective security and the risks likely to be posed by the various contexts". It will also be "informed by relevant threat assessments …
>
> 173. A similar point is made [by the current Chair]. He has seen and agrees with [Sir Richard and Mr Hipgrave's evidence] and confirms that what is there said "represents the continuing view of RAVEC". [The current Chair] says that "to be clear, RAVEC continues to treat the Claimant as not being within its cohort, but

> that when a request for protective security results in an authorisation by RAVEC, the Claimant re-enters the cohort for those purposes and to that extent. The Claimant is not treated as a principal to which the [ToR 2021] apply, both because he is not within the cohort and because he has in place specific bespoke processes applicable to him". [The current Chair] says that RAVEC "does not, and would not usually expect to, commission an RMB assessment of the claimant for the reasons both of the other two statements set out". … Since [the decision letter], RAVEC has not actively considered or taken a decision as to whether or not to commission an RMB for the Claimant. [The current Chair] does not believe that any member of RAVEC has suggested such a course but he does "not consider that surprising, or as evidence that RAVEC has ignored the value of an RMB; RAVEC is intimately familiar with what the RMB can add to its decision-making, but is also increasingly familiar with how to approach notification of visits to Great Britain by the Claimant".
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> 174. … I nevertheless consider that significant weight can be placed on this evidence. For the reasons I have given, the contemporaneous evidence does, on proper analysis, disclose a rationale for the change in approach adopted by [Sir Richard] in late February 2020, to which [the RMB Chair] did not demur. …
>
> 175. Standing back, what emerges clearly from the evidence before the court is that [Sir Richard], [the current Chair] and [Mr Hipgrave] all speak from positions of significant knowledge and expertise in the highly specialist area with which we are concerned. They can be taken to have a thorough understanding of the RAVEC terms of reference. …
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> 176. The Claimant's response is that one cannot extrapolate from [*Hopkins Homes*] any general proposition that bears on the facts of the present case. I disagree. The fact that Lord Carnwath was making a broader point about the proper approach to expert adjudicative bodies is borne out by his citation of [*AH (Sudan) v. Secretary of State for the Home Department* [2008] AC 678 per Baroness Hale at [30]] which involved the concept of internal relocation in relation to the 1951 Refugee Convention, a subject as far removed from town and country planning as can be imagined. The broader point is that courts should be wary of concluding that expert adjudicators have fundamentally misunderstood how to go about their allotted tasks. That point applies with particular force where, as here, we are in an area in which the courts should be particularly wary of venturing across the constitutional divide identified by Lord Hoffmann in *Rehman*.

<u>The authorities on departing from a justiciable policy and the respect to be given to a decision maker</u>

38. In this section, I will deal briefly with the most significant of the authorities cited to us in chronological order. It is sometimes harder to understand the progression when cases are referred to without proper regard to the time when they were decided.

39. *McFarland* (decided in April 2004) concerned the appropriate method of interpretation of a published *ex gratia* compensation scheme for people wrongly convicted established by ministerial policy statements. Lord Steyn dissented from the majority, and said this at [29] in a passage that has been much cited since:

> … in respect of the many kinds of "soft laws" with which we are now familiar, one must bear in mind that citizens are led to believe that the carefully drafted and considered statements truly represent government policy which will be observed in decision-making unless there is good reason to depart from it. It is an integral part of the working of a mature process of public administration. Such policy statements are an important source of individual rights and corresponding duties. In a fair and effective public law system **such policy statements must be interpreted objectively in accordance with the language employed by the Minister**. The citizen is entitled to rely on the language of the statement, seen as always in its proper context. The very reason for making the statement is to give guidance to the public. The decision-maker, here a minister, may depart from the policy but until he has done so, the citizen is entitled to ask in a court of law whether he fairly comes within **the language of the publicly announced policy**. That question, like all questions of interpretation, is one of law. And on such a question of law it necessarily follows that the court does not defer to the Minister: the court is bound to decide such a question for itself, paying, of course, close attention to the reasons advanced for the competing interpretations. This is not to say that policy statements must be construed like primary or subordinate legislation. It seems sensible that a broader and wholly untechnical approach should prevail. **But what is involved is still an interpretative process conducted by a court which must necessarily be approached objectively and without speculation about what a particular Minister may have had in mind** [emphasis added].

40. In *Munjaz* in the Court of Appeal (decided in July 2003) (*Munjaz CA*), the court was considering a Code of Practice issued under the Mental Health Act 1983 as to the use of seclusion for psychiatric patients. Hale LJ gave the judgment of the Court of Appeal including this passage at [74]:

> The judges in both these appeals proceeded on the basis that, having considered the Code, a hospital was free not to follow it unless to do so would be *Wednesbury* perverse. There is a considerable difference between this approach and the *Rixon* approach [*R v. London Borough of Islington, ex parte Rixon* [1998] 1 CCLR 119] in which the Code should be followed unless there is a good reason to the contrary. It would fly in the face of the original purposes of the Code if hospitals or professionals were in fact free not to follow it without a good reason.

41. *Munjaz CA* was overruled by a majority in the House of Lords (*Munjaz HL*) (decided in October 2005). At [20]-[21], Lord Bingham enunciated the principles as follows:

> … These considerations [the consultation that preceded the Code, parliamentary approval, and the importance of protecting vulnerable mental health patients], it is said, show that the Code was intended to be very much more than advice which hospital authorities might choose to follow or not to follow.
>
> 21. It is in my view plain that the Code does not have the binding effect which a statutory provision or a statutory instrument would have. It is what it purports to be, guidance and not instruction. But the matters relied on by Mr Munjaz show that the guidance should be given great weight. It is not instruction, but it is much more than mere advice which an addressee is free to follow or not as it chooses. **It is guidance which any hospital should consider with great care, and from which it should depart only if it has cogent reasons for doing so**. … In reviewing any

> challenge to a departure from the Code, **the court should scrutinise the reasons given by the hospital for departure with the intensity which the importance and sensitivity of the subject matter requires** [emphasis added].

At [69], Lord Hope agreed saying that he, like Lord Bingham, would go further than the Court of Appeal: the decision makers "must give cogent reasons if in any respect they decide not to follow it. These reasons must be spelled out clearly, logically and convincingly. I would emphatically reject any suggestion that they have a discretion to depart from the code as they see fit".

42. *Nadarajah* (decided in November 2005) concerned the interpretation and application of a Third Country Family Links Policy promulgated by the SSHD. Laws LJ said this about the principle of good administration at [68]. This passage has since been frequently approved:

> The search for principle surely starts with the theme that is current through the legitimate expectation cases. It may be expressed thus. Where a public authority has issued a promise or adopted a practice which represents how it proposes to act in a given area**, the law will require the promise or practice to be honoured unless there is good reason not to do so**. What is the principle behind this proposition? It is not far to seek. It is said to be grounded in fairness, and no doubt in general terms that is so. I would prefer to express it rather more broadly as a requirement of good administration, by which public bodies ought to deal straightforwardly and consistently with the public. … a public body's promise or practice as to future conduct may only be denied, and thus **the standard I have expressed may only be departed from, in circumstances where to do so is the public body's legal duty, or is otherwise, to use a now familiar vocabulary, a proportionate response (of which the court is the judge, or the last judge) having regard to a legitimate aim pursued by the public body in the public interest**. **The principle** that good administration requires public authorities to be held to their promises **would be undermined if the law did not insist that any failure or refusal to comply is objectively justified as a proportionate measure in the circumstances** [emphasis added].

43. In *R (Raissi) v. Secretary of State for the Home Department* [2008] EWCA Civ, [2008] QB 836 (decided in February 2008), the Court of Appeal managed to follow Lord Steyn's approach in *McFarland* at least to hold that the test to be applied in interpreting a ministerial *ex gratia* scheme policy statement was to ask what a reasonable and literate man's understanding of it would be, and not whether the meaning attributed by the minister to the words of the policy was a reasonable one.

44. In *Tower Hamlets* (decided in March 2013), Males J was merely summarising and applying at [28]-[35] the effect of the passages in *Munjaz HL* that I have already cited at [41 above].

45. Both parties referred to *R (Lord Carlile) v. Secretary of State for the Home Department* [2014] UKSC 60, [2015] AC 945 (*Carlile*) (decided in November 2014) in connection with the deference that should be paid to the views of the executive in national security matters. Lord Sumption's judgment in *Carlile* at [22]-[34] drew heavily on Lord Hoffmann's speech in *Rehman*. The passage I have mentioned repays study, even though the context in *Carlile* was rather different (the question of whether or not an

Iranian dissentient politician should be denied entry to the UK). I shall content myself with citing a short passage from [22] of Lord Sumption's judgment which gives some of the flavour:

> As a tool for assessing the practice by which the courts accord greater weight to the executive's judgment in some cases than in others, the whole concept of "deference" has been subjected to powerful academic criticism. … At least part of the difficulty arises from the word, with its overtones of cringing abstention in the face of superior status. In some circumstances, "deference" is no more than a recognition that a court of review does not usurp the function of the decision-maker, even when Convention rights are engaged. Beyond that elementary principle, the assignment of weight to the decision-maker's judgment has nothing to do with deference in the ordinary sense of the term. It has two distinct sources. The first is the constitutional principle of the separation of powers. The second is no more than a pragmatic view about the evidential value of certain judgments of the executive, whose force will vary according to the subject-matter.

46. *Mandalia* (decided in October 2015) concerned the court's interpretation of a "process instruction", which was unknown to the applicant concerned, but was issued to officials dealing with applicants for tier 4 student visas. The question was whether the instruction required officials expressly to request missing financial evidence, which there was reason to believe existed, before refusing the application for a visa. Lord Wilson decided that it did, approving at [29] the passage from *Nadarajah* that I have cited at [42] above.

47. The most acute legal dispute between the parties in this case concerned the proper application of certain *dicta* in *Hopkins Homes* (decided in May 2017). There, the policy in question was the National Planning Policy Framework, and the relevant question was the extent to which the court should respect the expertise of specialist planning inspectors. The Claimant submitted that the planning context rendered what was said by Lord Carnwath at [22]-[25] inapplicable here. Lord Carnwath said at [25] that "the courts should respect the expertise of the specialist planning inspectors, and start at least from the presumption that they will have understood the policy framework correctly". For my part, I do not think that statement can be read directly across to RAVEC and the ToR 2017. In any event, the question here is not really whether RAVEC understood its own policy, because the normal practice of obtaining a risk analysis is not disputed. The question here is about whether RAVEC was justified in thinking that its ToR 2017 should be departed from in the unusual circumstances of this case.

48. In *Hemmati* (decided in November 2019), Lord Kitchin summarised the law at [69], as I have already stated it, saying that policy statements had significant legal effects: "the law requires that promise or practice to be honoured unless there is good reason not to do so". The court was the final arbiter of what a policy meant.

49. In *Begum* (decided in February 2021), which did not, of course, concern whether or not an authority had good reason to depart from a policy, Lord Reed reiterated at [51]-[62] the points to be drawn from Lord Hoffmann's speech in *Rehman*. At [70], Lord Reed said that the Secretary of State's assessment should be accorded appropriate respect, for reasons both of institutional capacity (notwithstanding the experience of members of SIAC) and democratic accountability, as Lord Hoffmann explained in *Rehman* and Lord Bingham reiterated in *A* [2005] 2 AC 68 at [29].

50. Finally, the SSHD pointed to the recent judgment of this Court in *R (Good Law Project Ltd) v. The Prime Minister* [2022] EWCA Civ 1580, [2023] 1 WLR 775, where I drew attention at [55]-[59] to the different kinds of policies promulgated by Government, when holding that policies concerning WhatsApp messaging were not of a kind that gave rise to a duty to follow them. It was not, however, in dispute in this case that the ToR 2017 ought to have been followed absent a good reason not to do so.

51. It will, by now, be clear that the legal question at the heart of this case is whether Sir Richard had a good reason not to follow the ToR 2017, which suggested that RAVEC would "evaluate the risk analysis conducted by the Risk Management Board in order to determine which individuals … should receive … protection measures". Obviously, such an evaluation could not take place without a risk analysis having first been commissioned.

52. The written arguments focused on the test to be applied to the question of whether or not the decision maker had a good reason to depart from its policy. The Claimant and the judge at [157] said that that was a question for the court to decide. The SSHD argued that the court could only disturb the exercise of the decision maker's discretion as to whether he had a good reason if it were *Wednesbury* unreasonable.

53. In oral argument, I asked counsel whether both sides were excessively compartmentalising the tests they contended should be applied. In truth, I suggested, there might be just a single question for the court in this situation, namely whether the authority had failed to follow the policy (as interpreted by the court) without a good reason. Such an approach allowed the court to consider where the subject matter of the decision lay on the spectrum of deference to the decision maker, as well as considering the nature of the policy itself on the spectrum mentioned in *Good Law Project*, without also departing from the line of authorities I have mentioned on the need for a good reason. Neither side was enthusiastic about my suggested conflation of the process. I shall return to this question when I deal with the "good reason" issue below. First, I shall consider the Claimant's essential factual complaint.

Did something go wrong with the process?

54. Ms Shaheed Fatima KC, leading counsel for the Claimant, submitted in closing that this case had an important human dimension. The Claimant's life, she said, was at stake because of the decision making in this case. That was, perhaps, a shorthand for the point that Ms Fatima made in opening, namely that the bespoke process adopted by RAVEC had singled the Claimant out for especially inferior treatment as compared to all others protected by RAVEC. In effect, it had been pre-determined in the decision letter that, on future visits to the UK, the Claimant would be provided with a lower level of security than had been provided for him throughout his adult life. This demonstrated that something had gone wrong with the process. Ms Fatima submitted that the Claimant was still subject to the same risks as he was before he stepped back from Royal duties, and that the impact of an attack upon him was obviously still just as significant as it had always been. His military service placed him at particular risk.

55. Moreover, under this heading, the Claimant pointed to the detail of the security that had been provided for him on each of his visits to UK from June 2021 onwards. The details do not matter. As indicated in the decision letter, the Claimant was provided with a lesser level of security than that which he had had before the change in his status. It was

not suggested that no security provision had been made, but the Claimant strongly criticised the adequacy of what RAVEC had determined was appropriate.

56. These were powerful arguments. Nobody could have failed to have been moved by them. Plainly, the Claimant feels that he has been badly treated by the system. I completely understand the Claimant's point of view. I have studied the extensive documentation placed before the court, both confidential and open, in detail with his point of view closely in mind. I have tried to see how and whether the Claimant's sense of grievance translates into a legal argument for the challenge to RAVEC's decision. It seems to me, however, having given the matter most anxious consideration, that it is correct, as the parties effectively accepted during the bulk of the argument, that the legal question, indeed the only question, for this court is the one I posed above, namely whether, applying the legal principles I have adumbrated, Sir Richard failed to follow RAVEC's ToR 2017 without good reason.

57. From the Duke of Sussex's point of view, something may indeed have gone wrong, in that an unintended consequence of his decision to step back from Royal duties and spend the majority of his time abroad has been that he has been provided with a more bespoke, and generally lesser, level of protection than when he was in the UK. But that does not, of itself, give rise to a legal complaint. The legal question is the one I have identified, and I shall, in a moment, answer it.

Ought Sir Richard, by comparison with others protected by RAVEC, to have placed the Claimant in the Other VIP Category?

58. It is difficult to deal with this question in an open judgment, because the argument depends on a comparison between the position of the Claimant and the position of other persons protected by RAVEC. None of those persons is directly comparable to the Claimant, whose position was and is unique. I will say something more about the details in the Confidential Annex, but, in essence, I think the judge was right to find, on the evidence, material distinctions between the Claimant's position and the position of each of the supposed comparators.

59. Under this heading, I think the Claimant makes the mistake of confusing superficial analogies with the position of others with the crucial legal question of whether the SSHD has shown there was a good reason, in all the circumstances of the Claimant's case, for Sir Richard to depart from the ToR 2017 so as to create a bespoke arrangement for future events that remained uncertain.

60. It is true that the Claimant, anyway whilst within or visiting the UK, remained subject to RAVEC's aegis. The clue is, perhaps in RAVEC's full name: The Executive Committee for the Protection of Royalty and Public Figures. The Claimant remained Royalty after he stepped back from Royal duties, but RAVEC was responsible for deciding "which individuals should receive … protection measures at public expense and to what level". And RAVEC was to "[e]xercise the national policy on the provision and delivery of … protection measures for members of the Royal Family" (see [20] of the ToR 2017 at [24] above). The decisions that Sir Richard made in the decision letter were not to deprive the Claimant of all protection for all time. The decision letter recorded that decisions would be made about the appropriate protection for him on a case-by-case basis when more was known about his visits to the UK. The key decisions in the decision letter (see [32] above) were: (i) "RAVEC will continue to monitor the

security of the Sussex family, including through periodic threat assessments", (ii) existing [protection] provision would be withdrawn by 31 March 2020, and (iii) whilst it was difficult to judge what was appropriate without knowing the Claimant's programme and other security arrangements, there would be periodic looks at any forward engagements that might "potentially warrant additional security attention".

61. In these circumstances, since there was no other senior Royal who had stepped back from Royal duties and gone to live abroad in recent times, it seems to me that the steps taken in relation to comparator individuals added nothing to the legal question that I have more than once identified.

Was the judge right to decide that Sir Richard had a good reason for departing from the 2017 ToR?

62. I come then to the crucial question in this case.

63. It is common ground that the interpretation of the policy, in this case the ToR 2017, is a legal question for the court (see *McFarland* at [24], *Mandalia* at [31], and *Hemmati* at [69]). The argument about whether the decision maker's views as to the proper interpretation are to be given significant weight or even whether there may be, in some cases, a presumption that the decision maker properly understands its own policy, seems to me to be of less than central importance in this case, because neither Sir Richard nor the SSHD have suggested that a risk analysis would not normally, under the ToR 2017, be commissioned from the Risk Management Board. The question is not, therefore, whether Sir Richard failed to follow the letter of [20] of the ToR 2017. He did indeed fail to follow it. The question is whether there was a good reason for his having done as he did.

64. I am also not sure that it really matters whether that question is approached, as I would instinctively prefer to approach it, as a single question of whether Sir Richard failed to follow RAVEC's policy without a good reason, or whether it is better approached as two questions: (i) did Sir Richard fail to follow RAVEC's policy, and (ii) did Sir Richard have a good reason, cogently expressed, for having departed from it. Either way, it seems to me, the same factors come into play.

65. The first factor is as to the nature of the policy itself. As I said in *Good Law Project*, there is a spectrum of different kinds of policy. The spectrum ranges from the most formal policies made, after public consultation, under a statute at the one extreme to the most informal internal facing guidance, such as the social media policies in *Good Law Project*, towards the other extreme. Here the ToR 2017 were neither informal, nor just in the form of guidance. But neither were they published or the subject of public consultation. Moreover, they concerned an area of national importance that was peculiarly within the expertise of law enforcement agencies, RAVEC and the Royal Household itself. The ToR were not public facing, but the subject matter brought with it Government and democratic accountability.

66. The second connected factor is the deference that the court ought to pay to the decision maker in deciding whether it had a good reason to depart from its policy. Even the Claimant accepts that some level of weight should be attached to the judgment of a specialist experienced decision maker, like RAVEC or Sir Richard. I have paid particular heed to the detailed explanations given by Lord Hoffmann in *Rehman* and by

Lord Sumption in *Carlile* as to why both (a) the separation of powers, and (b) the need for the court to avoid usurping the function of the decision maker, demand that the court treads carefully in a case of this kind. It is critical to understand that the required deference, in relation to whether or not the decision maker had a good reason, is also on a spectrum. At the one end, there will be reasons given for departing from policies on the most sensitive issues of national security where the court can rarely second guess the expertise of Government agencies, and at the other end will be run-of-the mill decisions on routine cases (perhaps on immigration or benefits issues), where deference to the expertise of the decision maker may be less obviously required. That will be particularly so where a cogent explanation is lacking.

67. This second spectrum explains, in my judgment, why the SSHD is wrong to say that the court can only review an authority's reason for departing from a policy if it is *Wednesbury* unreasonable. Good reasons to depart from generally applicable policies followed in immigration cases, for example, would obviously be susceptible to review if they were not justifiable. The decisions in *Mandalia* and *Munjaz HL* make this clear. As Lord Bingham said in *Munjaz HL* (see [41] above): "[i]n reviewing any challenge to a departure from the Code, the court should scrutinise the reasons given by the hospital for departure with the intensity which the importance and sensitivity of the subject matter requires". There is, as I say, a spectrum. There is no bright line rule, in my opinion, that good reasons can only be reviewed if they are irrational or unreasonable.

68. In considering whether a decision maker had good reason for departing from a policy, one considers first where on the spectrum of policies the relevant one lies, and where on the spectrum of appropriate deference to the decision maker, the particular type of decision lies. Here, the policy in question is politically highly sensitive. Where questions of national or Royal security are concerned, the court must inevitably be astute to respect the experts in these fields. As the evidence filed for the SSHD repeatedly emphasises, the Government is responsible and democratically accountable for Royal security. These reasons also explain why the court has to respect the expertise of decision makers in this space, and must be careful not to usurp their functions. That does not, of course, mean that the decisions that RAVEC makes are any the less justiciable. But it does mean that the judge was right, as he did, to place weight on the reasoning of the witnesses, and in particular, Sir Richard, Mr Hipgrave and the current Chair.

69. Applying these principles to the facts of this case, I do not think that the Claimant has been able to demonstrate that the judge was wrong to determine that Sir Richard had good reason to depart from the ToR 2017. I can explain my reasons briefly.

70. First, the ToR 2017 (and the Evaluation Criteria and the ToR 2021 insofar as they were applicable), whilst formal policies, were inward facing and unpublished. Moreover, they concerned, as I have said, an area of national importance that was peculiarly within the expertise of law enforcement agencies, RAVEC and the Royal Household.

71. Secondly, in this area of high political sensitivity, the court will inevitably have considerable respect for Sir Richard as a decision maker, whose expertise and experience in the field of Royal protection is probably unrivalled. The same applied to RAVEC when it took over as the decision-maker under the ToR 2021 insofar as later security decisions are concerned.

72. Thirdly, contrary to the Claimant's suggestions in argument, the steps that Sir Richard was taking in the decision letter and thereafter did find expression and explanation in the contemporaneous documents. The email exchange of 26 and 27 February 2020 between Sir Richard and the RMB Chair revealed (as explained at [10] above) that Sir Richard had confirmed before the decision letter that there would no further risk analyses concerning the Claimant from the Risk Management Board because they were no longer required given the alternative governance arrangements that were to be established on a case-by-case basis for the future.

73. Fourthly, as explained by the judge in detail in his judgment (and in particular at [170]-[174] set out at [37] above), Sir Richard's evidence, endorsed and corroborated by Mr Hipgrave and the current Chair, gave compelling reasons for having reached the conclusion that the appropriate course was to establish bespoke arrangements for when the Claimant returned to the UK on future visits. The Claimant was, in effect, stepping in and out of the cohort of protection provided by RAVEC. Outside the UK, he was outside that cohort, but when in the UK his security would be considered as appropriate depending on the circumstances. It is impossible to say that this reasoning was illogical or inappropriate. Indeed, it seems sensible. It is of no real relevance to determine whether the judge was right at [172]-[173] to say that the ToR 2021 did not apply to the Claimant, because the bespoke arrangement was already in place before April 2021.

74. At one stage in argument, I asked what the Claimant thought that a risk analysis from the Risk Management Board in February 2020 (or later) would have changed. It is true that it would (very likely) have confirmed the threat, vulnerability and impact levels which the Claimant had faced when earlier risk analyses were undertaken. But it would have had nothing to say on the critical features of the changed situation, namely the need for protective security on future uncertain visits and the Government's appetite for risk. In one sense, the Claimant's dissatisfaction with the security that has been provided on visits since June 2021 has nothing to do with the decisions reached in the decision letter or the absence of any risk analysis from the Risk Management Board. It is simply concerned with the outcome of the process that has been followed in augmenting his protection when he has been in the UK for a variety of Royal and other events. The Claimant disagrees with Sir Richard, RAVEC and the current Chair on these matters. But none of that disagreement supports a legally sustainable public law claim to vitiate the decisions taken in the decision letter or subsequently. Those decisions were taken as an understandable, and perhaps predictable, reaction to the Claimant having stepped back from Royal duties and having left the UK to live principally overseas.

75. For these reasons, I have concluded that the judge was right to decide that Sir Richard had good reason for departing from the ToR 2017. On that basis, the challenges to the later protective measures cannot succeed.

Conclusions

76. In these circumstances, I would dismiss the Claimant's appeal from the judge's decision. I would also reject the argument raised by the SSHD as to the need for *Wednesbury* unreasonableness in a challenge to an authority's reasons for departing from a justiciable policy.

LORD JUSTICE BEAN:

77. I agree.

LORD JUSTICE EDIS:

78. I also agree.