



HM Attorney General v BBC

R (Beth) v Investigatory Powers Tribunal

Press Summary: For release at 2.15pm, 2 July 2025

This summary is provided by the court for the assistance of those reporting the judgment, which was handed down today (neutral citation [2025] EWHC 1669 (KB)). It does not form part of that judgment.

- 1 The Divisional Court (the Lady Chief Justice of England and Wales, the President of the King’s Bench Division and Mr Justice Chamberlain) today handed down a judgment addressing issues arising from the giving of false evidence by MI5 in two cases.

Background

- 2 Both cases relate to the activities of a man, “X”, who—it can now be confirmed—was a covert human intelligence source (a “CHIS” or “agent”) for MI5.
- 3 In late 2021, following an investigation led by the journalist Daniel de Simone, the BBC planned to broadcast a programme. It included the allegations that X was a dangerous extremist and misogynist who physically and psychologically abused two female partners; that he was also an MI5 CHIS; that he had told one of these women (“Beth”) that he worked for MI5 in order to terrorise and control her; and that MI5 should have known about X’s behaviour and should not have used X. The BBC intended to name X.
- 4 In early 2022, the then Attorney General sought an injunction to prevent the BBC from broadcasting or publishing a story about X. There were hearings, some in OPEN and some in CLOSED under the provisions of the Justice and Security Act 2013. An interim injunction was granted preventing the BBC from identifying X but allowing it to report on other aspects of the story.
- 5 Once further issues had been resolved by the court, the BBC broadcast programmes and published stories on its website about X, without naming or identifying him. Later in 2022, the injunction was made permanent, but the parties were permitted to apply to vary it if there was a material change of circumstances.

MI5’s evidence

- 6 In support of the claim, evidence was given in January 2022 by a senior MI5 officer (“Witness A”) that, throughout its dealings with Mr de Simone, MI5 had adopted its usual “neither confirm nor deny” (“NCND”) stance as to whether X was a CHIS. MI5 affirmed

this evidence, and added further detail, in response to enquiries from special advocates appointed to represent the BBC's interests in the CLOSED part of proceedings.

- 7 The current Attorney General admits that Witness A's evidence was false and that the court and the special advocates were misled. In fact, another individual ("Officer 2"), who at the material time was head of communications at MI5, had been authorised to tell Mr de Simone that X was a CHIS and had done so in a series of conversations in June 2020.
- 8 This came to the court's attention only because Mr de Simone later found notes and recordings of the relevant conversations. By that time, Witness A's false evidence had also been relied upon by MI5 in proceedings brought by Beth in the Investigatory Powers Tribunal ("IPT") and in a judicial review claim in the High Court challenging an interlocutory ruling by the IPT.
- 9 So, Witness A's false evidence misled the High Court (in two separate cases) and the IPT.

Explanations and investigations

- 10 In January 2025, the Attorney General and MI5 accepted that false evidence had been given, apologised and set out the steps taken to investigate how this had occurred.
- 11 In February 2025, the injunction was varied by consent to allow the BBC to report on the fact that, and the circumstances in which, false evidence had been given. At the same time, directions and a hearing was fixed to consider two issues:
 - (a) How did the Attorney General and MI5 come to deploy false evidence before the court and what further steps (if any) should now be taken by the court? This issue arises because giving false evidence in a witness statement can in some circumstances amount to a contempt of court. Where the court considers that a contempt "may have been committed", rule 81.6 of the Civil Procedure Rules requires the court to consider of its own initiative whether to proceed against the person concerned in contempt proceedings.
 - (b) Should the Attorney General be permitted to maintain NCND on the question whether X was a CHIS? Very shortly before the hearing, the Attorney General indicated in a written submission that, in the exceptional circumstances of this case, he no longer maintains NCND as to X's CHIS status.
- 12 MI5 has apologised to the court in statements from Witness A and Witness B, its Director of General Strategy. It has also commissioned two investigations into the circumstances. One is an internal investigation which has involved many hours of interviews and which has reported to an internal panel, which may decide to take disciplinary action against individuals. The second is an external investigation by Sir Jonathan Jones KC (hon). We have seen the OPEN and CLOSED versions of Sir Jonathan's investigation and the documents from the internal investigation.
- 13 The essential conclusion reached by these investigations is that false evidence was given because of a series of mistakes, some systemic and some personal, but that there was no deliberate attempt by any MI5 staff member to mislead the court.

The court's conclusions

14 The court's conclusions may be summarised as follows:

- (a) The special advocates, the High Court, the IPT and the Investigatory Powers Commissioner were all misled on the key question whether MI5 had departed from NCND in relation to X's CHIS status. The proper operation of each of these safeguards is dependent upon high standards of candour on the part of the agencies. Any evidence of a departure from these standards must be promptly and effectively investigated.
- (b) NCND was maintained until shortly before the hearing on 3 June 2025, long after MI5 had filed evidence making clear that Witness A's evidence was incorrect and any justification for its maintenance had disappeared. Thought should have been given at a much earlier stage to the question whether it was realistic to maintain NCND in the circumstances, particularly given that the effect of doing so was to cast formal doubt on the veracity of Mr de Simone's evidence.
- (c) It is regrettable that MI5's explanations to this court were given in a piecemeal and unsatisfactory way—and only following the repeated the intervention of the court.
- (d) The investigations carried out by MI5 to date suffer from serious procedural deficiencies. Their conclusions cannot presently be relied on.
- (e) In those circumstances, it would be premature to reach any conclusions on whether to initiate contempt proceedings against any individual. Consideration of that question is adjourned pending the outcome of a further investigation. The court considers that this further investigation should be carried out under the auspices of the Investigatory Powers Commissioner.
- (f) Separately, the court gave more general guidance about the way in which evidence from an agency such as MI5 should be presented and received in future. Parties should take care to ensure that evidence is given either by the person with most direct knowledge of the matter in question or, if given in a "corporate" witness statement, that the deponent makes clear from which other (named) persons the evidence derives, and precisely what, if any, independent scrutiny they have given to the evidence being proffered. The requirements of the CPR must be observed.

15 The court expressed the hope that events such as these would never be repeated and directed that a copy of the judgment be sent to the Home Secretary, who has Ministerial responsibility for MI5, and to the Investigatory Powers Commissioner.

Ends