

THE KING

Claimants

on the application of

(1) D1914

(2) AAA

- and -

SECRETARY OF STATE FOR
THE HOME DEPARTMENT

Defendant

SPEAKER OF THE HOUSE OF COMMONS

Intervener

AC-2024-LON-003384

THE KING

Claimant

on the application of

AVY

- and -

SECRETARY OF STATE FOR
THE HOME DEPARTMENT

Defendant

SPEAKER OF THE HOUSE OF COMMONS

Intervener

PRESS SUMMARY

1. At a rolled-up hearing, the Claimants applied for permission to challenge the Defendant's response to the report of the Brook House Inquiry ('BHI'), a statutory inquiry into the mistreatment of individuals detained at Brook House Immigration Removal Centre ('BH'), which was presented to Parliament and published on 19 September 2023. The BHI found, in the case of D1914 and others, that there was credible evidence that the acts of mistreatment identified were capable of amounting to inhuman and degrading treatment in breach of Article 3 ECHR. The findings also pointed to systemic failings.
2. The Court held that AAA did not have standing to bring his claim as he was never detained at BH and he was not directly affected by the specific act or omission in issue in this claim, namely, the Defendant's response to the BHI report.
3. At the outset of the hearing, the Court granted the application by the Defendant, supported by the Speaker of the House of Commons as Intervener, that the Claimants' extensive reliance upon parliamentary proceedings was a breach of Parliamentary Privilege (see Annex 1 to the judgment).

Grounds 1 and 2

4. The Claimants submitted that the Defendant failed to discharge the investigative duty imposed by Article 3 ECHR, contrary to section 6 of the Human Rights Act 1998

(‘HRA 1998’). An essential element of the investigative duty is that lessons are learned and dangerous practices are rectified. In breach of Article 3 ECHR, the Defendant had failed to address adequately each of the BHI’s 33 recommendations and implement measures to rectify the dangerous practices identified in the report. This amounted to a breach of the systems duty in Article 3 ECHR.

5. The ‘Government Response to the Public Inquiry into Brook House Immigration Removal Centre’ was presented to Parliament in March 2024. In its introductory remarks it stated:

“2. The aim of the Inquiry was to establish the facts of what took place and ensure that lessons were learnt to prevent those events happening again. We expect the highest standards from all contracted service provider staff. The documentary footage was utterly shocking, and the Government has been clear from the outset that the sort of behaviour on display from some of those staff was totally unacceptable.

3. The Government has made significant reforms to immigration detention over the past few years in line with external reports and recommendations and is grateful to the Chair of the Brook House Inquiry (BHI), Kate Eves, for her review. We welcome this important contribution to ensuring the safety and welfare of those in detention. The Government has carefully considered and accepts the broad thrust of the recommendations, and this paper sets out the Government’s response to the 10 key issues of concern raised in the report.”

6. A cross-departmental working group has met approximately monthly since September 2023 to consider and monitor delivery of the BHI’s recommendations. On 22 May 2025, Dame Angela Eagle DBE MP, Minister for Border Security & Asylum, wrote to Ms Bell Ribeiro-Addy MP providing a further update. She confirmed that “positive progress continues to be made against the 30 accepted or partially accepted recommendations as set out below, and I am fully sighted on this work. 20 recommendations have been met and closed, with the remaining recommendations on track for closure by summer 2025.”
7. The Court rejected the Claimants’ submissions. None of the cases cited by the parties supported the proposition that the investigative duty in Article 3 ECHR extends beyond the investigation (which is carried out by an independent body), so as to include the State’s response to the findings and recommendations made in the investigation. Furthermore, there is no legal obligation upon the Defendant to comply with the BHI recommendations. They are recommendations, not directions. The Defendant’s response to the report is a matter for her discretionary judgment.
8. The Court also rejected the Claimants’ submission that the Court must now undertake the task of assessing whether measures taken in response to the recommendations are effective, and whether they meet a minimum standard, and order the Defendant to undertake a fresh review. The Administrative Court is not a mechanism which is practically or constitutionally suited to a wide-ranging review of the current state of immigration detention. In its expanded Ground 2, the Claimants were seeking to use the Court as a form of second inquiry, which goes beyond the confines of its supervisory jurisdiction. The Court accepted the Defendant’s submission that if any breaches of Article 3 ECHR are apparent or imminent, the appropriate role for the Court would be to adjudicate upon a claim brought by a victim which set out the individual and systemic breaches alleged. Where the evidence is disputed, as in AVY’s case, a trial with witnesses will be ordered.
9. The Court also accepted the Defendant’s alternative case that, even if the investigative duty did extend to her response, the Defendant has sufficiently addressed, or is in the course of addressing, the BHI’s recommendations, and implementing the measures

which she considers appropriate, in the exercise of her discretionary judgment. The Court found that the Defendant had conscientiously considered the report and the recommendations. In the section of the judgment on the recommendations, the judgment sets out where each recommendation has been met or substantially met or rejected, and whether any departure from a recommendation was a reasonable exercise of the Defendant's executive discretion.

10. The Court was not persuaded by the Claimants' submission that the Defendant's response, or lack of response, resulted in an ongoing breach of the systems duty in Article 3 ECHR. The focus of the BHI was the mistreatment of detainees, but it is important to bear in mind that the Defendant has to have regard to other factors too, namely, the requirements of an effective system of immigration control, which may include detention, segregation, and the reasonable use of force, as a last resort, to address the risks of absconding, offending and non-compliance. The BHI report does not grapple in any meaningful way with these factors, presumably because they were considered to be outside its remit. Of course, these factors cannot justify any breach of Article 3 ECHR, but they do serve to explain why the Defendant's approach differs from that of the Inquiry Chair in some instances.
11. The BHI was an investigation into events which took place 8 years ago, in 2017. Whilst the findings are clearly significant, the evidence is not current, and changes have taken place since then. The Court was not satisfied that the Claimants had established an ongoing breach of the systems duty under Article 3 ECHR, at BH.
12. Permission to apply for judicial review on Grounds 1 and 2 was granted, but the claim for judicial review was dismissed.

Ground 3A in D1914's claim

13. D1914 submitted that the Defendant was frustrating, and acting contrary to, the statutory objects and purposes of the Inquiries Act 2005, which had to be construed compatibly with Article 3 ECHR. The Defendant's formal Response to the report lacked transparency; recommendations had not been acted upon, effectively or at all; and the policy choices that the Defendant has taken contravene the commitments given to learn lessons and ensure such mistreatment does not recur.
14. The Court held that the Inquiries Act 2005 does not include any express or implied obligation on a minister to implement inquiry recommendations. Parliament did not mandate whether, how and to what extent any recommendations should be implemented. An inquiry is one among several means of discharging an investigative duty arising under Articles 2 or 3 ECHR, and in such a case the inquiry ought to be conducted in a manner which is ECHR-compliant. However, the HRA 1998 will provide the legal basis for compliance with Convention rights, not the Inquiries Act 2005. There was no legal or factual basis for the submission that the Defendant has frustrated and acted contrary to the statutory objects and purposes of the Inquiries Act 2005.
15. Permission to apply for judicial review on Ground 3A was granted, but the claim for judicial review was dismissed.

Grounds 3, 4 and 5 in AVY's claim

16. AVY alleged substantive breaches of Article 3 ECHR during his detention at BH from 20 January 2024 to 5 November 2024. By consent, at the commencement of the hearing these grounds were adjourned and transferred to the Kings Bench Division for a trial on liability and, if appropriate, an assessment of damages. There is contested factual

evidence, on which witnesses will probably need to be cross-examined, and expert witnesses may be called. Thus, the grounds are not suitable for determination by way of judicial review.