



Neutral Citation Number: [2025] EWHC 345 (KB)

Case No: KB-2022-004388

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/02/2025

Before:

THE HON. MR JUSTICE BOURNE

Between:

MR ANDREW HALE-BYRNE

Claimant

- v -

**(1) SECRETARY OF STATE FOR BUSINESS
AND TRADE**

Defendants

AND

**(2) SECRETARY OF STATE FOR FOREIGN,
COMMONWEALTH AND
DEVELOPMENT AFFAIRS**

Andrew Hale-Byrne (instructed by **Moore Barlow LLP**) for the **CLAIMANT**
Adam Heppinstall KC and James Purnell (instructed by **Government Legal Departments**)
for the **DEFENDANTS**
Stephen Cragg KC and David Lewes (instructed by the **Special Advocates' Support Office**)
as **Special Advocates to the Court**

Hearing date: 12 December 2024

Approved Judgment

This judgment was handed down remotely at 10.30am on [19/02/2025] by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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HON. MR JUSTICE BOURNE

Hon. Mr Justice Bourne:

1. The background to this case is set out in the OPEN judgment of Chamberlain J dated 24 April 2024, giving reasons for his decision to make a declaration under section 6(1) of the Justice and Security Act 2013 that these are proceedings in which a closed material application may be made. I will summarise a few essential details. The case arose from a leak to a journalist of a number of diplomatic telegrams from the then UK Ambassador to the USA, Sir Kim Darroch (now Lord Darroch), containing disparaging comments about the administration of President Trump at that time. Details were published in the press on 7 July 2019. Sir Kim resigned on 10 July 2019. By his claims, the Claimant alleges that officials from the Department of International Trade and the Foreign and Commonwealth Development Office, acting in bad faith, falsely identified him to police as the source of the leak, leading to his arrest on 13 October 2020, and then informed the press of his arrest to create a distraction from adverse reporting about alleged misconduct by Lord Darroch. The claims allege misfeasance in public office, infringement of the Claimant's rights under ECHR Articles 3, 8 and 18 and unlawful processing of personal data contrary to GDPR Article 5.
2. On 23 February 2024 the Defendants applied for summary judgment on the basis that the claim has no real prospect of success and there is no compelling reason why the case should be disposed of at trial. On 26 February 2024, the Claimant applied to join Lord Darroch as Third Defendant. Both applications remain to be heard.
3. Directions were made by Chamberlain J on 29 February 2024, dealing among other things with the filing and service of evidence and the question of permission for any sensitive material to be withheld. In accordance with those directions, the Defendants on 15 March 2024 made an application under section 8 of the 2013 Act for permission to withhold sensitive material from the Claimant and his representatives.
4. The evidence and disclosure issues have been narrowed by the parties.
5. Giving appropriate weight to the expertise of the Defendants, I accept their opinion that OPEN disclosure of the material which the Special Advocates say should go into OPEN would create a relevant risk of harm to national security.
6. Giving appropriate weight to the expertise of the Defendants, I accept their opinion that OPEN disclosure of the material which the Special Advocates say should go into OPEN would create a relevant risk of harm to national security.
7. I will therefore grant permission to the Defendants to withhold the requested material from the Claimant and his representatives.