

[GB] Former MP succeeds on honest opinion defence under Defamation Act 2013

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On 29 July the Court of Appeal allowed a summary judgment appeal by the defendant, Matt Hancock, a former Member of Parliament (MP), disallowing the decision of High Court judge Mrs Justice Collins Rice (the Judge) that the claim for libel by former MP, Andrew Bridgen, was unsuitable for a summary judgment in Mr Hancock's favour on the basis of an honest opinion defence under section 3 of the Defamation Act 2013, and that it should proceed to trial.

Mr Bridgen had posted a tweet (the Tweet) on 11 January 2023 linking to an article by Dr Joshua Guetzkow concerning the adverse effects of Covid vaccinations. Alongside the post of part of the article was a statement: "As one consultant cardiologist said to me, this is the biggest crime against humanity since the Holocaust." Politicians including the government's adviser on antisemitism reacted unfavourably to the Tweet, with the CEO of the Holocaust Educational Trust describing it as "disgraceful", "despicable", "wholly irresponsible", and "appalling".

Mr Hancock posted a tweet containing a video of his question about the Tweet during Prime Minister's Questions (PMQs), stating: "The disgusting and dangerous antisemitic, anti-vax, anti-scientific conspiracy theories spouted by a sitting MP this morning are unacceptable and have absolutely no place in our society." Mr Bridgen sued Mr Hancock for libel arguing that readers would identify him as the unnamed "sitting MP" and as someone who was an antisemite because the defendant was suggesting the claimant was demeaning the Holocaust atrocities by suggesting a deliberate destruction of life was equivalent to an act of nature.

Mr Hancock relied on a defence of honest opinion provided for by section 3 of the Defamation Act 2013 (the Act). Sections 3(2) to 3(4) of the Act set out the factors required to succeed with an honest opinion defence:

(2) The first condition is that the statement complained of was a statement of opinion;

(3) The second condition is that the statement complained of indicated, whether in general or specific terms, the basis of the opinion;

(4) The third condition is that an honest person could have held the opinion on the basis of: (a) any fact which existed at the time the statement complained of was published; (b) anything asserted to be a fact in a privileged statement published before the statement complained of.

However, under section 3(5) of the Act, the defence fails if the claimant can show the defendant did not hold that opinion.

In the High Court, Mr Hancock applied for a summary judgment arguing his opinion was one that an honest person could possess based upon understood facts about the Holocaust, the Covid pandemic and the vaccine rollout. Mr Bridgen responded arguing that no honest person could believe the Tweet was antisemitic; or alternatively, that Mr Hancock did not hold that opinion.

The Judge concluded that the honest opinion defence raised “highly evaluative” issues requiring further evidence and argument at a full trial taking account of other commentators’ evidence reacting to the Tweet, including the fact that Mr Bridgen was entitled to rely on a letter from 26 Jewish doctors stating that his Tweet was not antisemitic. The Judge saw an overlap between the evidence of whether an honest person could hold the opinion and a realistic prospect of proving that Mr Hancock did not hold the opinion given that it was a highly unreasonable opinion and he had improper motives. The Court of Appeal determined that the honest belief test was objective, in that a person could believe an opinion based on established or common knowledge and facts.

Evidence of the opinions held by others was inadmissible as were external definitions of antisemitism used to demonstrate an opinion untenable. The Jewish doctors’ evidence was non-expert opinion and, therefore, inadmissible. The defendant’s purposes or motives were irrelevant. Additional evidence was not needed to determine an honest person could hold the opinion expressed. The issue was whether an honest person could, however unreasonably or even irrationally, have held such an opinion.

The Court of Appeal determined that claiming someone did not hold the opinion they expressed was akin to proving fraud and to do so required establishing on the balance of probabilities that the defendant was dishonest. The Court of Appeal considered the evidence did not support fraud; nor was motivation relevant in determining whether an honest person could hold the expressed opinion.

Mr Hancock is entitled to rely on facts regarding the Holocaust and the pandemic, and using the word ‘since’ is not fatal to the defence, even though the word imputes Covid had less equivalence to the Holocaust. The presumption of falsity does not apply because it was a defamatory statement of opinion rather than fact. A mismatch between the facts used to form the opinion and the opinion derived does not render the opinion dishonest under section 3 (5) of the Act.

Bridgen v. Hancock - [2026] EWCA Civ 991

<https://www.judiciary.uk/wp-content/uploads/2026/07/Bridgen-v-Hancock-2026-EWCA-Civ-991.pdf>

Defamation Act

<https://www.legislation.gov.uk/ukpga/2013/26/contents>

