
The Corona Scandal - Dolan against the UK governments illegal lockdown

THE CASE AGAINST THE UK GOVERNMENTS UNSCIENTIFIC, ILLEGAL, AND DISPROPORTIONATE LOCKDOWN

In the cases against the promoters of the corona panic different judges see things differently, some may be blinded by the pandemic panic, and not take these cases seriously. These are times where one would do well to understand a little more about law, human rights, and legal procedures. There are enough facts and expert witnesses, but the judges need to take this seriously. Understand how the cases against the promoters of the corona panic is being met in court, and use this to prepare for future cases.

Here is a summary of the case of lawyer Francis Hoar and businessman Simon Dolan against the governments lockdown measures:

21 April 2020 - Article by lawyer Francis Hoar A disproportionate interference with right and freedoms - the coronavirus regulations and the european convention on human rights

Article by lawyer Francis Hoar A disproportionate interference with right and freedoms - the coronavirus regulations and the european convention on human rights - The lockdown measures imposed are some of the most extreme restrictions on fundamental freedoms imposed in the modern era. They are a disproportionate interference with the rights and freedoms protected by the European Convention on Human Rights and therefore unlawful.

Francis is a leading election lawyer (Chambers and Partners) who also increasingly focuses on constitutional cases, as well as specialising in public law, commercial law and employment law. Francis is currently acting in judicial reviews of the lawfulness of the 'lockdown' and 'quarantine' regulations imposed as a result of the coronavirus epidemic. In 2019 he acted in two constitutional cases, challenging the lawfulness of the government's initial decision not to hold European Parliamentary elections and of the first extension of the period for leaving the European Union under Article 50.

Breach of European Convention on Human Rights - The lockdown measures imposed by the Health Protection (Coronavirus, Restrictions) Regulations are some of the most extreme restrictions on fundamental freedoms imposed in the modern era. They are a disproportionate interference with the rights and freedoms protected by the European Convention on Human Rights and therefore unlawful. In considering their proportionality, the failure to derogate from the European Convention on Human Rights (under Article 15) is a relevant factor, as it might suggest that the public health crisis is not one that threatened the 'life of the nation'.

Failure to use the Civil Contingencies Act - Likewise, the failure to use the Civil Contingencies Act is both relevant to the question of whether the Regulations could lawfully have been passed under the delegated powers of the Public Health (Control of Disease) Act 1984 and to proportionality, given that the Civil Contingencies Act requires much more regular Parliamentary scrutiny and has specific limitations on the extent of any regulations passed under its delegated powers.

The Regulations gravely impact a number of rights and freedoms, including at least to:

- * family and private life (Article 8),
- * religious practice (Article 9),
- * association and assembly (Article 11),
- * property (Article 1 of Protocol 1) and
- * education (Article 2 of Protocol 1) and probably to
- * liberty (Article 5).

They represent an unprecedented intrusion into the freedoms and livelihood of the public at large and the gravity of this impact is a key consideration in determining whether they are the least restrictive means of tackling, proportionately, the spread of the virus. Article 2 of the Convention (the right to life) does not impose a positive obligation to impose Draconian restrictions as a public health measure and is limited (in so far as is relevant) to imposing positive obligations on states to ensure a functioning criminal justice system and to react proportionately to immediate and individual threats to life.

Siracusa Principles - The means by which proportionality should be judged are the Siracusa Principles, developed and recognised by international law to determine the proportionality of quarantines and measures responding to public health crises. These require such measures to be:

- * provided for and carried out in accordance with the law;
- * directed toward a legitimate objective of general interest;
- * strictly necessary in a democratic society to achieve the objective;
- * the least intrusive and restrictive available to reach the objective;
- * based on scientific evidence and neither arbitrary nor discriminatory in application;
- * and of limited duration, respectful of human dignity, and subject to review.

The 5 tests for the continuance of the Regulations declared by the First Secretary of State on 16 April, were as follows:

- * That the NHS is able to cope;

- * a “sustained and consistent” fall in the daily death rate;
- * reliable data showing the rate of infection was decreasing to ‘manageable levels’;
- * that the supply of tests and Personal Protective Equipment (PPE) could meet future demand; and
- * that the government can be confident that any adjustments would not risk a second peak.

It is submitted that these tests:

- * a) impose an over-rigorous and unreasonable fetter on the government’s discretion to remove or reduce the restrictions and are wholly incompatible with an application of the Siracusa Principles;
- * b) would (if applied) retain the restrictions (if, for example, there was not a ‘sustained and consistent’ fall in the death rate) even if an objective evaluation showed that less restrictive measures might have the same effect; and
- * c) fail to require the Secretary of State to have any regard to the impact of the Regulations on the important rights and freedoms they restrict.

An evaluation of the scientific evidence would be unavoidable for any court reviewing the lawfulness and proportionality of the Regulations, as it would otherwise be unable to consider whether the measures were the least restrictive necessary in a democratic society. This scientific evidence is far more uncertain than is generally accepted and there is, in particular, a great deal of uncertainty about the effectiveness of lockdowns in containing spread, the true mortality and infection rates and the accuracy of the modelling from Imperial College that has been key to government policy.

In conclusion, the application of the Siracusa Principles in a judicial review, taking account of the gravity of the removal of so many and such important rights and freedoms with so little democratic scrutiny, is likely to conclude that the measures are disproportionate to their object, were imposed following an unreasonable fetter on the government’s discretion and are thus unlawful.

READ THE ARTICLE IN FULL - This is an executive summary of a more in-depth article which is available from the link below. Inevitably. Read the article in full: A disproportionate interference with right and freedoms - the coronavirus regulations and the european convention on human rights -- <https://fieldcourt.co.uk/wp-content/uploads/Francis-Hoar-Coronavirus-article-on-ECHR-compatibility-20.4.2020-2.pdf>

Francis Hoar, barrister: “The state decided without debate to restrict our rights and freedoms in ways that are unimaginable in a democratic system. This is not the way a normal liberal society operates. I don’t mind being an outsider. There are a number of times that the establishment has got it wrong before. I’m in a profession where one is supposed to protect the outliers and the vulnerable. The great heroes of mine have often done that, even when the prevailing opinion was extremely unpopular. That’s what a barrister should do.” Hoar implores lawyers to do their part: “The rule of law does not exist in isolation. It depends upon lawyers and judges prepared to defend it against government power: not just through their cases but through condemning the state for stripping individual liberty. It is our responsibility as lawyers to do so.”

On reading lawyer Francis Hoar’s article, a businessman, Simon Dolan, who also believed that the government had acted illegally and disproportionately, contacted him. Dolan has put the health secretary on notice that he intends to issue proceedings for a judicial review, unless the government reverses some of the lockdown measures and reinstates freedom of movement. Dolan says ministers must also disclose the science behind lockdown.

Simon Dolan said he received an unsatisfactory response to his challenge over the legality of the lockdown in a “letter before action” sent two weeks ago. He and his lawyers intend to go to the high court to seek permission for an urgent judicial review of the background to the lockdown imposed on 23 March. He had sought to obtain minutes from meetings of the government’s Scientific Advisory Group for Emergencies (SAGE). “We are pressing ahead with the case and expect to be heard within the next 10 days or so,” Dolan said. “I believe it is absolutely crucial in holding the government to account – they have introduced entirely unprecedented restrictions on basic freedoms, caused the losses of millions of jobs, destroyed businesses, incurred eye-watering amounts of debt, which will take generations to pay back, and yet they refuse to share the basic information they say they rely on to make these devastating decisions.”

Dolan says he is not opposed to the lockdown in principle, but to what he describes as a “totalitarian” approach involving lack of transparency over SAGE advice and other key government advice. “What is [the government] afraid of? Why won’t it let the public see the advice that it continually says it is following? Surely we all have a right to see why we remain in lockdown, why millions of people are not allowed to earn a living or see family or friends,” he said.

The government has said it will not ease lockdown until it is sure the NHS can cope, there is a “sustained and consistent” fall in daily deaths, the rate of infection has decreased, there is enough PPE and there is no risk of a second wave. Dolan was seeking disclosure of the minutes of SAGE meetings this year to give the government the opportunity to fully explain its justifications for the five tests Boris Johnson has set out for lifting the lockdown. “It is now apparent that the five tests are nothing more than another example of empty rhetoric,” he said. “Remember ‘flatten the curve?’ The curve is flat [but] we are still in lockdown. Remember ‘Save the NHS’? It’s been running at 60% capacity across the board for the entire period.” Dolan argued that economic tests should also be part of the publicly argued tests for continuing a strict lockdown.

Dolan’s lawyers are challenging the government on three points:

1. First, that the lockdown is “ultra vires” (Latin: “beyond the powers”), outside of legal authority under UK law, because it implemented regulations under the Public Health Act 1984 instead of the Civil Contingencies Act 2004 or the emergency Coronavirus Act 2020;
2. Second, that the government reimposed the lockdown on a “disproportionate” basis in law, using an “over-rigid” test regarding its effect on containing the disease, but failing to take account of the economic and social impacts of lockdown., jobs and wider health;
3. Third, that it breached the European convention on human rights covering the right to liberty, family life, education and property.

Lawyers will ask what scientific evidence was used by ministers when they decided to shut down the UK on March 23.

Dolan challenging the lockdown rules and restrictions, as well as the decision to close schools for most children

Dolan is challenging the lockdown rules and restrictions, as well as the decision to close schools for most children. He is pursuing a claim against the health secretary, Matt Hancock, and the education secretary, Gavin Williamson, over the restrictions. He argues that the restrictions are unlawful because they are outside the government's powers under public health legislation and are a "disproportionate breach" of human rights laws.

May 2020 - Government released SAGE minutes - The Government have now released Sage minutes following our demands. Having formally served our Judicial Review on them demanding disclosure on 26 May, 3 days later, they've performed a complete U turn and published them. -- <https://www.gov.uk/search/transparency-and-freedom-of-information-releases?organisations%5B%5D=scientific-advisory-group-for-emergencies&parent=scientific-advisory-group-for-emergencies>

The heralded model of SAGE (Scientific Advisory Group for Emergencies) experts have largely used to guide their coronavirus policies is "totally unreliable," according to experts. The criticisms follow a series of policy turnabouts, including Prime Minister Boris Johnson's decision to extend the national lockdown. The United States also used the model, which predicted upwards of 2.2 million deaths in the US without proper action. The prediction helped influence the White House to adopt a more serious approach to the pandemic.

Professor's model for coronavirus predictions should not have been used - The response to Covid-19 in the UK, the US and other countries was shaped by the dramatic headlines in mid-March, suggesting 550,000 deaths in the UK and 2.2 million in the US. Faced with widely publicised, alarming figures, as demonstrated by Imperial College's Professor Neil Ferguson, governments were forced to react with the unprecedented lockdown to suppress Covid-19. No one looked at his ten years of predictions that were wrong. His previous model produced wildly inaccurate results. - <https://www.thetimes.co.uk/article/professors-model-for-coronavirus-predictions-should-not-have-been-used-z7dqrkzdz>

The Imperial College model of professor Neil Ferguson, on which UK, US, and many other countries based their doom predictions on, is totally unreliable - How Replicable is the Imperial College Model? <https://lockdownsceptics.org/how-replicable-is-the-imperial-college-model/>

June 2020 - We have finally exposed that the whole schools shutdown was a lie - The Govt have admitted that they had no legal basis to close schools, and that they simply 'recommended it'. This was something we suspected all along. The Govt says it is nonsensical for us to say that schools were closed because they remained open for key workers and there had only been a 'request' that schools should shut their doors to other pupils, yet the PM announced on March 18th that "schools will remain closed until further notice". The Government found itself under-fire following the claim in its defence papers that it had not ordered schools to close and that it was merely a "request" that they did. The revelation sparked backlash from schools and parents alarmed over how the trick of words from Prime Minister Boris Johnson has meant more than 11 million children being out of school since March 23. Many private schools declared they would be opening regardless in September "come what may", using hygiene measures and their own test and trace measures.

We have already forced the publishing of the SAGE meeting minutes, and unmasked the closure of schools as a trick of words from a government now trying to weasel its way out of a decision around education which is a stain on the history of this country.

18 June 2020 - New Movement and website: Keep Britain Free

How do you feel about being told where you can go; who you can see; and what you can do? This country has a proud history of fighting for freedom. Yet the Government has used lockdown to strip away our liberties.

Every aspect of our lives is now controlled by draconian rules and regulations.

- * We are told how many friends we can have; whose houses we can visit; where we can travel – even what to think.
- * Our children cannot return to school. Businesses remain shut. For months, churches, mosques and temples were simply locked up. Collective acts of worship remain banned.
- * We cannot go to pubs, restaurants, gyms, cinemas, theatres, or beauty salons.
- * We cannot take a foreign holiday, unless we want to spend two weeks in quarantine when we get back.
- * These measures are devastating the economy.
- * They will ruin lives for generations. Millions of people have already been put out of work.
- * Left to their own devices politicians will seek to control us.

Keep Britain Free is a new movement representing the millions of people who want to think for themselves and take responsibility for their own lives. We are not a political party. We are a group of independent thinkers who seek to influence politicians come polling day. We stand for Freedom: of speech, choice and thought. We champion life, liberty, and the pursuit of happiness.

A government exists to protect its citizens. We need to get back to this simple premise and judge them on this. By co-ordinating our efforts we can ensure that our voice is heard at the heart of government and bring about real change.

Please join us to Keep Britain Free.

- * We believe that the Govt has acted illegally and disproportionately over the COVID 19 lockdown and we are taking action. By forcing people to stay at home, and forcing businesses to close, they are, we believe, in contravention of basic Human Rights offered under English Law, that of the right to enjoy your property peacefully.
- * The lockdown has and will lead to devastating economic impact (massive unemployment, tax increases, closure of businesses, reduced

tax receipts etc) It has, and will lead to far more deaths from suicide, undiagnosed conditions, untreated conditions - indeed far more than would have been potentially saved by the lockdown.

* What we wish to achieve in bringing this case, is simply the freedom of individuals - the freedom to visit friends, freedom to earn a living, to socialise, in essence, the freedom of choice. That, of course, includes the freedom to stay inside - should you choose.

Website: <https://www.keepbritainfree.com>

June 2020 - High Court application for permission to seek Judicial Review over the government's measures

High Court application for permission to seek Judicial Review over the government's measures. The Judicial Review will seek to challenge the Government on three main points:

* Whether lockdown is unlawful because the Government implemented regulations under the Public Health Act 1984 instead of the Civil Contingencies Act 2004 or the Coronavirus Act 2020.

* The legality of the continuation of lockdown, and whether the tests for lifting it are too narrow, failing to take account of the economic and social impacts of lockdown.

* Whether the restrictions brought in by the Government contravene the European Convention of Human Rights, which cover the right to liberty, family life, education and property.

We are represented by Michael Gardner of law firm Wedlake Bell LLP and barrister Francis Hoar of Field Court Chambers. Philip Havers QC, a barrister and Deputy High Court Judge who specialises in public law, human rights and public inquiries, is also instructed as part of the legal team.

July 2020 - High Court disallowed our case, we appealed - The Judge has disallowed our case, essentially this means we have no recourse to the law. 9 July 2020, Appeal, I am reigniting our lockdown battle with the Government by launching an appeal against the decision denying us permission to bring a Judicial Review over the measures. I feel passionately about the rights which lockdown has taken away from everyone and that is why I am appealing. It cannot be right that the power to take away livelihoods, damage businesses and remove basic freedoms can be exercised by a Government Minister, with no adequate checks or balances. I feel the judgment did not engage with, or consider on any analytical level, the vital issues – issues that affect tens of millions of people - that we set out in the case. Neither do I feel the judgment engaged on an appropriate level with the 100s of pages of evidence the legal team put together. It appears incredibly out of touch with the devastating consequences on society.

August 2020 - Appeal for Judicial Review highlights "fundamental" concerns about the accountability of ministers - At first, a High Court judge denied their request for judicial review. But on 4 August the Court of Appeal ruled their case highlighted "fundamental" concerns about the accountability of ministers. The Judicial Review will now proceed to a rolled-up hearing expected to be held at the Court of Appeal. The hearing will decide on whether the case should progress to a full Appeal which would see the Government once again pressed to defend the introduction of measures which were described by the court as "possibly the most restrictive regime on the public life of persons and businesses ever." Lord Justice Hickinbottom said that the legal challenge "potentially raises fundamental issues concerning the proper spheres for democratically-accountable Ministers of the Government and judges."

Simon Dolan Interview, Sweden, Opposing Lockdown and Keeping Britain Free - The KBF Show Episode - 29. sep. 2020

<https://www.youtube.com/watch?v=T2cQqaIEr38>

November 2020 - The Re-Amended Statement of Facts and Grounds

The legal team has made amends to the 2nd Judicial Review meaning that it's arguments are in relation not only to the first national lockdown but also include the SECOND lockdown currently taking place in England. The Re-Amended Statement of Facts and Grounds have been filed with the Court and the Government has been served with them.

Our case will argue that the "evidence" presented by Whitty and Vallance at the press conference on 31 October at which the new lockdown was announced included some old, suspect data and was misleading.

We will argue that in fact there was no serious escalation in the epidemic as evidenced by:

* Use of old data and overinflated warnings as to likely deaths – a subject already aired in the media

* The continuing relatively flat excess death figures compared to the five year average for the same period

* The unreliability of PCR tests as a diagnostic tool given their propensity to produce large numbers of "false" positives by picking up dead virus particles in people who have long since recovered from infection

* Lack of transparency about NHS capacity and bed occupancy and in relation to typical conditions at this time of year in previous years with the onset of the usual autumn/ winter upsurge in respiratory infections

December 2020 - Court of Appeal rule against us. Supreme Court appeal.

Following the December 1 decision by the Court of Appeal to deny our bid for a Judicial Review of the first lockdown measures, we made it clear that such was our conviction in this battle, that we would go to the highest court in the land. It is the only avenue left to hold the Government to account for the utter demolition it has caused to its people. The next step is for the Supreme Court to decide whether to give permission for the appeal to proceed and if so, how quickly. We will keep you fully posted as we have news. "As I have stressed, this fight is not a one-man crusade. It is on behalf of the families and businesses across the UK whose lives have been wrecked by lockdown policies which were implemented in haste without proper consideration. "Our legal challenge has become one of the largest crowdfunded cases in UK legal history. We have raised over £410,000 from almost 14,000 pledges. This fight is on behalf of all of those

people."

Dolan -v- Secretary Of State For Health And Social Care - <https://www.judiciary.uk/judgments/dolan-v-secretary-of-state-for-health-and-social-care-2/>

Commentary by Resistance GB - Report from outside the High Court (Royal Courts of Justice) on Simon Dolan, 1st December 2020 2pm. Overall a disappointing judgement which is a dark day for liberty in the UK.

<https://www.youtube.com/watch?v=EvO38eF4AS4>

Supreme Court refuses to hear our appeal relating to a Judicial Review into lockdown

This week the Supreme Court has decided to refuse to hear our appeal relating to a Judicial Review into lockdown. The Supreme Court decision to refuse to hear an appeal relating to a Judicial Review into lockdown, means that unelected Judges have set a precedent which now makes it impossible to challenge the Government's use of the Public Health Act 1984 to trample over Civil Liberties and to emasculate Parliament in the process. By not allowing the Appeal to go ahead, this puts a protective shield around Ministers and gives them a free run to lock up people in their homes using the Act, without having to worry any more that their actions in using the Act like this are illegal. This is a chilling development which should not be underestimated.

The Government's ruthless use of the 1984 Act is an effective destruction of democratic process on behalf of the public around the lockdowns we have suffered and any that may happen again in the future. Although lately there has been some pushback from MPs, the decision of the Supreme Court and Court of Appeal gives the Government more power than it should rightfully have. It threatens even to rip up the rights protected by the Magna Carta - the basic premise of you being free unless it is specifically unlawful has now effectively been changed, meaning that you now have to have the Govt's permission to do literally anything. This goes against 800+ years of legal principle.

The Supreme Court route is one we took as we fully believed in the case. It returned its decision in rapid time in an email of just a few lines long. This is a kick in the face for the thousands of people who have supported this case. While the Supreme Court decision is a bitter blow, we have scored many victories and helped give a platform to tens of thousands of people who felt their voices were unheard. We forced SAGE to produce its minutes, got the Government to concede it had not lawfully shut schools, and lit the fire on scrutinizing data and information.

What started for me as a personal crusade against this Government and their shocking ineptitude quickly turned into a campaign for everyone whose lives have been wrecked by lockdown policies which were implemented in haste and without proper consideration.

We started Keep Britain Free to protect the basic freedoms of everyone living in the UK and it has become one of the fastest growing pressure groups in the UK, with thousands of you joining together to fight creeping totalitarianism. Our legal challenge has become one of the biggest crowdfunded legal cases in British history. We have raised over £416,000 from 14,000 pledges – people from all different walks of life from every corner of the UK. This shows the strength of feeling out there for this ongoing battle.

Whilst the Supreme Court decision is far from the outcome we were fighting for, our campaign has been vital in giving individuals up and down the country hope during an unprecedented time and in challenging a Government that was simply ruling by decree without any scrutiny. We also believe our findings and evidence, while not considered properly by the judges, will be of use in the inevitable public inquiries which will follow and will help history judge the PM, Matt Hancock and their advisers in the light that they deserve.

Our fight continues and as ever, I will keep you posted on developments.

LINKS

* Crowdfunder: Has all the updates with the legal procedure - <https://www.crowdfunder.com/case/lockdownlegalchallenge/>

* Website: <https://www.keepbritainfree.com>

* youtube Channel - www.youtube.com/c/KeepBritainFree/videos

Barrister Francis Hoar interview - <https://www.youtube.com/watch?v=YtPwnHu7Rko>

Simon Dolan - <https://www.youtube.com/watch?v=gf73JD-h5oM>