

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT

CO/3665/2014 CO/3667/2014

Before :

LORD JUSTICE BEAN
MR JUSTICE COLLINS

THE QUEEN
ON THE APPLICATION OF
(1) DAVID DAVIS MP
(2) TOM WATSON MP

Claimants

-v-

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

-and-

OPEN RIGHTS GROUP
PRIVACY INTERNATIONAL
THE LAW SOCIETY OF ENGLAND AND WALES

Interveners

ORDER

UPON the judgment in this matter dated 17 July 2015,

AND UPON reading the written representations filed by the parties relating to remedies in these claims,

IT IS DECLARED THAT:

1. Section 1 of the Data Retention and Investigatory Powers Act 2014 is inconsistent with European Union law in so far as:
 - (1) it does not lay down clear and precise rules providing for access to and use of communications data retained pursuant to a retention notice to be strictly restricted to the purpose of preventing and detecting precisely defined serious offences or of conducting criminal prosecutions relating to such offences; and
 - (2) access to the data is not made dependent on a prior review by a court or an independent administrative body whose decision limits access to and use of the data to what is strictly necessary for the purpose of attaining the objective pursued

AND IT IS ORDERED THAT:

2. Section 1 of the said Act is disapplied:
 - (i) in so far as access to and use of communications data retained pursuant to a retention notice is permitted for purposes other than the prevention and detection of serious offences or the conduct of criminal prosecutions relating to such offences; and
 - (ii) in so far as access to the data is not made dependent on a prior review by a court or an independent administrative body whose decision limits access to and use of the data to what is strictly necessary for the purpose of attaining the objective pursued.
3. The effect of paragraph 2 is suspended until after 31 March 2016.
4. There be liberty to apply on notice.

5. There be no order as to costs.
6. The Defendant's application for permission to appeal is granted on condition that the Defendant (a) does not seek costs in the Court of Appeal; and (b) does not seek to disturb the costs order made by the Divisional Court.