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Honest Opinion: Which Way Is the Wind Blowing?

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Introduction

On paper, honest opinion in section 3 of the Defamation Act 2013 looks like a modest corner of defamation law. But for clients it can be the issue that makes or breaks a case. Whether words are fact or opinion decides whether a defendant must prove them true, or need only show that an honest person could have held the view expressed.

That question is now usually answered early. Whether a tweet, a post or a column is fact or opinion is generally settled at a trial of preliminary issues, often within the first months of the claim. For the client, that one hearing can fix the shape of the litigation, its cost and, very often, whether or not it settles.

I will address the question in the title, *which way is the wind blowing*, in three parts:

(i) **Meaning.** The test remains the same, but the analysis depends on the medium and its typical readership.

(ii) **Fact and opinion on social media.** Each case depends on its facts, but that impressionistic reading has, on the whole, favoured defendants. Heated online exchanges are being treated as comment, and the "basis" requirement in section 3(3) is being satisfied by context, threads and general notoriety.

(iii) **Inference and innuendo.** This is where the wind can be turned. Context and how a case is presented and pleaded are critical.

1. Meaning: the court's approach to fact and opinion

The test for meaning is well known. The starting point in every meaning hearing remains Nicklin J's summary in *Koutsogiannis v Random House* [2019] EWHC 48 (QB) at [11] to [17]. The governing principle, at [12], is reasonableness. The hypothetical reader can read between the lines, but is not avid for scandal. There is one meaning, and the author's intention is irrelevant.

On whether a statement is fact or opinion, the test was recently restated by Steyn J in *Berg v Jones* [2026] EWHC 564 (KB):

> "*First, the statement must be recognisable as opinion, as distinct from an imputation of fact.*

Secondly, opinion is something which is or can reasonably be inferred to be a deduction, inference, conclusion, criticism, remark, observation etc.

Thirdly, the test is an objective one and the ultimate determinant is how the words would strike the ordinary reasonable listener or reader.

Fourthly, the subject-matter of words and their context may be important indicators of whether they are fact or opinion.

Fifthly, not every inference counts as opinion: context is everything. The bare statement of an inference, without reference to the facts on which it is based, may well appear as a statement of fact. Whereas the more clearly a statement indicates that it is based on some extraneous material, the more likely it is to strike the listener or reader as an expression of opinion."

At a trial of preliminary issues on meaning, the court commonly decides whether the meanings it has found are, or contain, statements of fact or opinion. Sometimes no opinion is found at all. In ***Chandale v Sovereign Network Group & Ors*** [2026] EWHC 2775 (KB), although the issue of fact or opinion was raised, Hill J held that the meaning was one of fact only, with no opinion. The meanings were that (i) the claimant had harassed her neighbours; (ii) SNG, with partner agencies, had taken legal action against her for that conduct; (iii) after a full trial, the court found that she had harassed her neighbours; and (iv) the court considered her conduct serious enough to impose a restraining order on her.

Often, however, the position is more nuanced, and judges now underline the parts of a meaning that are fact, so that the difference between fact and opinion can be clearly seen. This is important so that the parties understand what defences are available and to prevent satellite issues from arising.

2. Fact and opinion on social media

Social media posts: the approach to meaning

I have been asked to look specifically at fact and opinion on social media. It is therefore necessary first to consider how the court approaches the meaning of social media posts. The most useful recent decision on this is Linden J's judgment in ***Kaur v Fox*** [2026] EWHC 1743 (KB), handed down on 10 July. Narinder Kaur, a broadcaster and commentator, sued Laurence Fox over 18 tweets and videos posted over about a year on his X account and YouTube channel. The trial of preliminary issues covered meaning, defamatory tendency, fact or opinion, and whether each opinion indicated its basis.

At paragraphs 19 to 22 the judge drew the social media authorities together, in a passage well worth turning to when addressing this issue. Four propositions emerge:

(i) **Don't over-analyse.** *Stocker v Stocker* [2019] UKSC 17 at [43]: "it is wrong to engage in elaborate analysis of a tweet". *Monroe v Hopkins* [2017] EWHC 433 (QB) at [35]: this is "a conversational medium".

(ii) **The reaction is impressionistic.** *Stocker* at [44]: the reader's reaction is "impressionistic and fleeting".

(iii) **Readers scroll.** *Monir v Wood* at [90]: "People will tend to scroll through messages relatively quickly."

(iv) **The same goes for broadcasts.** For the YouTube material the judge applied *Bond v BBC* [2009] EWHC 539 (QB) at [9]: meaning is largely a matter of impression, and the court must not be over-analytical.

On context, at paragraphs 23 to 29, Linden J considered Nicklin J's three categories in *Riley v Murray* [2020] EWHC 977 (QB) at [16] (common knowledge, material treated as part of the publication, and directly available context) and the test set out by Warby J (as he then was) in *Monroe* at [38] and [39]: material sufficiently closely connected in time or content, such as an earlier tweet on the same page. At [29] he held that the two formulations do not materially differ. The question is whether all the notional readers would be likely to have read the material; it is not an empirical enquiry into who actually saw what.

Five recent examples

Let me now turn to five recent cases on fact and opinion involving social media, before drawing together what they tell us about the court's approach.

(i) Bridgen v Hancock [2026] EWCA Civ 991

In January 2023 Andrew Bridgen tweeted that, as one consultant cardiologist had said to him, the Covid vaccine programme was "the biggest crime against humanity since the Holocaust". Matt Hancock replied that the "disgusting and dangerous antisemitic, anti-vax, anti-scientific conspiracy theories" spouted by a sitting MP were unacceptable. Mr Bridgen sued for libel over the word "antisemitic".

Collins Rice J held that Mr Hancock's description of the tweet as antisemitic was a statement of opinion, but that it was unsuitable for strike-out or summary judgment because it needed fuller exploration of the evidence at trial. Mr Hancock appealed. The Court of Appeal allowed the appeal and granted summary judgment.

The sections under scrutiny were sections 3(4) and 3(5) of the Defamation Act 2013. The question under section 3(4), "the Objective Honesty Condition", was not whether the tweet *was* antisemitic, but whether an honest person could, however unreasonably or even irrationally, have held that opinion [60]. The outer limits are set by the court objectively [48]. That is a matter of argument, not evidence [38]–[39], so neither outside commentators nor the International Holocaust Remembrance Alliance (IHRA) definition could show the opinion was untenable [55]–[56]. The defendant's purposes are irrelevant [51], and what an honest person could think is a matter for the court [60]. Because the statement was opinion, the presumption of falsity played no part, and Mr Hancock did not have to prove it true [58].

Mr Bridgen also failed in his argument that whether Mr Hancock genuinely held the opinion, under section 3(5), had to be decided at trial. Warby LJ called this the "dishonesty disqualification". The defence is defeated if the claimant shows that the defendant did not hold the opinion. The bar is high: generally, a claimant must show that the defendant acted dishonestly, and a heightened standard of proof applies [67]–[68]. That an opinion is "objectively unreasonable" can never be enough *in itself* to satisfy section 3(5) [78]. The burden lay on Mr Bridgen, and he did not meet that heightened standard [80].

(ii) Kaur v Fox [2026] EWHC 1743 (KB)

Kaur is a catalogue of the boundary. Linden J went through all 18 tweets and videos Laurence Fox posted about Narinder Kaur over about a year. He determined the meanings and, where appropriate, underlined the factual words in each meaning and treated the rest as opinion. Two publications show how fine the line is.

Publication C, 22 May 2024: fact and opinion. Ms Kaur had tweeted a link to her guest column in the Times, headed "Laurence Fox posted and [sic] obscene image of me online: Narinder Kaur on what happened next". Above it she wrote:

> "What Laurence Fox did to me was humiliating. Every day is like being assaulted since #revengeporn. Here is my guest column for @thetimes…." [72]

At 1.21pm Laurence Fox quote-tweeted it, writing:

> "Woman with Only fans account gets a spread in the Times because she forgot to wear knickers on a night out knowing there would be paparazzi everywhere. The cry bully attention seeking victimhood of

> these people is beyond pathetic. Grow up and stop selling your bits for fame." [73]

Linden J found the meaning to be that the claimant was disingenuous to portray herself in the Times as a victim, when she sold pictures of her genitalia to get publicity: she had deliberately not worn underwear with the intention of being photographed by the paparazzi and she posted naked sexual images of herself on her OnlyFans account [74]. He underlined the factual elements of that meaning and held that "All of the words other than the underlined words are statements of opinion" [75]. At the heart of the Defendant's words was an allegation that the Claimant was seeking to capitalise on a false public image of herself and was therefore cynical and lacking in integrity [77].

Publication J, 3 January 2025: opinion only. Laurence Fox quote-tweeted a post about Stand Up To Racism, saying:

> "The British people have stood up and told you lot to fuck off. Britain is not a racist country. And race baiting gash flashers like @narindertweets don't do you any favours. She'll jump on any bandwagon for £50."

The "gash flashers" remark was held to be vulgar abuse and not defamatory. The rest was all opinion: that the claimant "was willing to embrace any popular cause of money and it was damaging to the cause of antiracism for it to be associated with her" [114]. The judge explained that Laurence Fox was saying she would embrace any cause for money and was insincere, mercenary and unprincipled. None of this calls for a defence of truth. The issues are whether an honest person could hold that opinion, and whether Laurence Fox did.

The contrast is instructive: the same author, the same subject and similar vocabulary. Where Laurence Fox referred to specific events, as in Publication C, the judge found statements of fact. Where he offered a generalised characterisation, as in Publication J, it was opinion, even though it included a specific sum of money.

(iii) Vince v Tice [2026] EWCA Civ 844

This case warns of the difficulties with appeals on meaning. Richard Tice quote-tweeted an interview with Dale Vince, with a caption suggesting that Mr Vince supported Hamas ("So major Labour donor is pro the murderous antisemitic Hamas…Mmmmm"). Pepperall J held that the meaning, that Dale Vince "supports the murderous and antisemitic terrorist organisation, Hamas", was opinion, with its basis indicated by the embedded clip. On 1 July 2026 the Court of Appeal dismissed

the appeal. Warby LJ said that a statement need not be "obviously" opinion to be opinion, as that would set the bar too high [48], and that an appeal court will show "disciplined restraint" before interfering with findings on meaning and fact or opinion. In the absence of an error of law, an appeal against a finding that a meaning was opinion rather than fact will succeed only if the finding was wrong [3]. A new argument, that quote-tweeting republishes the underlying facts contained in the Guido Fawkes tweet and article which ought to have been taken into account by the Judge, could not be run for the first time on appeal.

(iv) Paul Little Construction v Byrne [2026] EWHC 2577 (KB)

This is last month's online review case, decided by Eardley J on 12 October 2026. A builder sued over two negative reviews. In the first, the general attack on competence was opinion, "firmly rooted" in the reviewer's own experience [32], but the cost of corrective work and an unhonoured promise were facts [33]. The second review was similar, but without the photographs attached to the first. Because the images being commented on were not included, it was "closer to the line" [37]. So the same reviewer, saying much the same thing, moved towards fact because the photographs were missing, although the relevant part was still ultimately held to be opinion.

(v) Munim v Rahman [2025] EWHC 3051 (KB)

Finally, a reminder that abuse online can still be fact. The defendant posted three Facebook threads about a former business associate. The Third Thread, posted on his own page, carried a photograph of the claimant and a screenshot of the ARTA awards credits. It stated:

> (a) "I been getting loads of message about my recent post about who is the culprit who stole my idea and my business. His name is Mohammed Munim Salik. Be careful of this crooked man and a cheat. This man is justifying that someone else has developed the whole ARTA. This man is a crook and a thief. Be careful of this guy."
>
> (b) [In response to Nargis Sundori's comment, referring to Mr Munim] "His good at what he does … cheat and a crook."

The defendant took an active part in the litigation through his solicitors until shortly before the hearing, which he did not attend and at which he was not represented. The hearing proceeded in his absence. He pleaded honest opinion as part of his defence, but identified no words in the posts as opinion and instead relied on the claimant's meaning, which included that the claimant was a "dishonest exploitative crook". Steyn

J pointed out at [59] that section 3(2) asks whether the *statement complained of* is opinion, not its meaning. The posts consisted of statements of fact, not opinion, so the defence failed at the first condition. Read in context, "crook" and "thief" were tied to a specific allegation: that he had stolen the business. In any event, no honest person knowing the true facts could have held the opinion [62]. Summary disposal was granted, with £10,000 in damages and an injunction.

3. Inference and innuendo

This is where words and context can make the difference. It helps to keep the distinctions clear. A *false* innuendo is simply an inference the ordinary reader draws from the words themselves, using general knowledge. It is part of the natural and ordinary meaning and needs no extrinsic facts. A *true* or legal innuendo depends on extrinsic facts known only to some readers. It is a separate cause of action, and the facts and the readers must be pleaded. Reference innuendo, which identifies an unnamed claimant through outside knowledge, is a species of the second.

Inferences from the words complained of alone

Since *Lewis v Daily Telegraph* [1964] AC 234, the natural and ordinary meaning has included what the ordinary reader infers, without any extrinsic facts.

In ***Kaur v Fox***, Ms Kaur pleaded natural and ordinary meanings only, with no innuendo and no supporting facts. Even so, Linden J found substantial inferential meanings in the words themselves. For example, Publication A, a tweet about an OnlyFans account ("Guys, what should I be charging for what? - @narindertweets on her recently deleted @OnlyFans page"), was read as meaning (broadly) that she had charged for sexual images of herself and then deleted the account to conceal it (see [58] for full meaning). The ordinary reader was taken to understand what OnlyFans is, so no innuendo meaning was needed.

Berg v Jones [2026] EWHC 564 (KB) offers another example, this time an inference about state of mind. The allegation of pro-Israel bias against Raphael Berg, the Middle East correspondent for BBC News Online, made by Owen Jones in his article "The BBC Civil War on Gaza", was opinion, partly because the article took no position on whether the bias was conscious, and the text conveyed that the alleged lack of objectivity might be subconscious [29].

Vince v Tice [2026] EWCA Civ 844 is a further example of an inference drawn from the words complained of and their context, here turning on the word "so". Mr Tice quote-tweeted the clip with "So major Labour donor is pro the murderous antisemitic

Hamas … Mmmm". Pepperall J held that the word "so" signalled "a conclusion drawn from the retweeted material", and that "the very essence of this statement of opinion was that it was drawn from the material that was retweeted" ([2025] EWHC 412 (KB) at [100.3], [103]). The Court of Appeal described the quote-tweet's "two-part format" (here is what he said [fact]; here is what I think about it [opinion]) and held that the judge was entitled to approach the tweet in that way [49].

Bridgen v Hancock: an inference from the claimant's own words, with no extrinsic facts required

Bridgen is also a case about inference, from the other side. Mr Bridgen's tweet said nothing about Jewish people. Mr Hancock's description of it as antisemitic was an inference drawn from the comparison with the Holocaust. The Court of Appeal held that an honest person could draw it, relying on facts of common knowledge about the Holocaust and the vaccine programme. Those facts did not need to be pleaded as extrinsic facts; any reader would know them.

Note too that Mr Hancock's tweet did not name Mr Bridgen. It referred to theories "spouted by a sitting MP this morning". Readers following the row that day would have known who was meant: the kind of directly available context that *Riley* and *Monroe* recognise.

Reference innuendo

Finally, reference innuendo. It was not needed in *Bridgen*, despite Mr Bridgen not being named. However, it did play a part in *Kaur v Fox*. Five of the 18 publications did not name Ms Kaur. Linden J applied *Dyson Technology v Channel Four* [2023] EWCA Civ 884 at [34] and [35]. A claimant can be identified either by the reasonable reader acquainted with her, which is an objective and abstract test, or by reference innuendo, relying on facts known to particular readers. Reference innuendo must be pleaded, and none had been. As a result, Publications H, L, M and N were each held not to refer to her in their natural meaning [104], [123], [126], [129]. When this happens, amendment is usually permitted, and an application to amend was signalled in that case.

Munim v Rahman is another case that shows the contrast. Not every thread named the claimant, but the first two contained his photograph and referred to his role as owner and director of the relevant company. The third thread, posted shortly afterwards, named him expressly and carried his photograph. Steyn J held that reference was established for all three threads, noting at [43] that the third thread named the "culprit" of the earlier posts.

The point matters for honest opinion too. A statement that a reader can connect to the claimant only through outside knowledge may never reach the fact or opinion question at all.

Practical takeaways

(i) **Specific events push words towards fact.** In *Kaur* (Publication C) and *Munim*, abusive words tied to an identified event or transaction were read as fact. If you advise before publication, keep the comment visibly separate from the facts and show the basis, whether by a quote-tweet, a link or a photograph.

(ii) **Capture the evidence.** Context may be critical, and social media posts can and do change and disappear. Saving posts with date stamps is essential.

(iii) **Is reference innuendo needed?** If the claimant is not named, set out the facts relied on and the readers who identified the claimant, and gather evidence of identification early. Don't wait for the meaning hearing to find out that the ordinary reader is held unable to make the link.

(iv) **Consider whether to plead anything beyond general knowledge as an innuendo.** If your meaning depends on knowledge outside the post (including the available online context) and outside general knowledge, plead it as an innuendo meaning, with the extrinsic facts and the readers who knew them. If in doubt, plead it in the alternative.

4. Conclusion: which way is the wind blowing?

So, to answer the question I was given:

On opinion, the wind is blowing towards defendants. *Bridgen*, *Vince* and *Berg* all point the same way. Evaluative labels in political and cultural disputes, such as "antisemitic", "biased" or "supports Hamas", are treated as opinion. The platform itself, through the quote-tweet or the embedded clip, can indicate the basis. So the defendant need not take on the stricter burden of proving truth: it is enough to meet the section 3 requirements, including that an honest person could have held the opinion.

On specific allegations and inference, it is blowing the other way. *Munim*, certain publications in *Kaur* and the reviews in *Paul Little* show that words tied to an identifiable event, or an inference presented as a conclusion, will be read as fact. Honest opinion will not save them.

Underneath both is a procedural current. Meaning and fact or opinion are usually decided early, at a trial of preliminary issues, and the Court of Appeal in *Vince* has

made clear that it will rarely interfere. So, gather the evidence early, and get the meaning, the context and any innuendo right before the preliminary issues hearing, because that hearing often determines the future of the case.

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