Here is why evidence and facts should never be subservient to legal process

Legal process must provide a fair and lawful means of establishing what happened and deciding its legal consequences. It must not become an institutional substitute for examining the evidence. A completed procedure is not, merely by being completed, proof that the underlying account is accurate.

The central proposition is unequivocal:

No institution should present a procedural outcome as a factual determination which the process did not make. Equally, nobody can establish a fact simply by calling their material evidence. Evidence must be assessed, competing explanations considered and conclusions confined to what has actually been established.

Process exists to make judgment dependable

A document can be authentic but incomplete. A witness can be sincere but mistaken. An allegation can be serious but unsupported.

Legal procedures help distinguish those possibilities through disclosure, admissibility rules, questioning, reasoned decisions and applicable standards of proof.

In *Osborn v Parole Board [2013] UKSC 61*, paragraphs 67 - 68, the Supreme Court explained that fair procedure improves decision-making by enabling relevant information to be received and properly tested. It also recognised the independent importance of participation and respect for people affected by decisions.

Procedure protects both the quality of decisions and the fairness of reaching them.

That is why this argument does not place evidence outside the law. Safeguards are part of the means by which evidence is evaluated responsibly. The objection arises when procedural completion is invoked to avoid confronting a material discrepancy or to claim a vindication wider than the decision supports.

The Civil Procedure Rules express an overriding objective of dealing with cases justly and at proportionate cost. That includes fairness, expedition, proportionate resources and enforcement of compliance. These considerations belong to the administration of justice; they are not dispensable obstacles which a party may ignore whenever convinced of its case.

Compliance, however, with a procedural step does not, of itself, verify the contents of a file. Sending an acknowledgment does not establish that submissions were considered. Completing a review does not prove that the reviewer had the material necessary to answer the question. The quality and scope of the examination still matter.

A decision must be described within its proper limits

A claim may fail because it is late, brought in the wrong forum or legally incapable of producing the remedy sought. It may fail because its evidence is insufficient. It may also fail after a determination of disputed facts. These outcomes are not interchangeable.

A procedural dismissal can have decisive legal consequences without resolving every allegation behind the proceedings.

Conversely, a decision described as preliminary may contain important factual or substantive conclusions. The answer lies in the reasons and legal effect of the actual decision, not in a convenient label attached afterwards.

An institution relying upon a judgment should identify what was decided, on what basis and to which issues that decision extends. A person challenging an institution should do the same. Neither side is entitled to turn an unexamined proposition into an established fact through selective description of the litigation.

Suppose a court declines to consider a challenge because the applicable time limit has expired. That may finally dispose of the claim. It does not, without more though, establish that every disputed event occurred as the defendant described it. Equally, the claimant cannot treat the absence of a factual trial as proof that their allegations are correct.

Candour prevents procedure from concealing the material facts

A court depends upon those before it fulfilling their duties concerning evidence and explanation. In judicial review, that dependence is especially significant where a public authority holds the records of the decision under challenge.

In *R (Citizens UK) v Secretary of State for the Home Department [2018] EWCA Civ 1812*, paragraphs 105 - 106, the Court of Appeal explained the duty of candour and cooperation. Public authorities must assist the court with full and accurate explanations of relevant facts. An account can mislead through material omission as well as an express falsehood.

This duty does not require every document to be published or displace lawful privilege. It requires the factual account relevant to the court's task to be candid.

An institution cannot responsibly rely upon the authority of legal process while depriving that process of material facts which it is obliged to explain.

Lawful safeguards remain essential

Relevance, privilege, fair-trial rights, privacy, finality and admissibility rules can lawfully limit what a tribunal receives or what the public can inspect.

A determination may also turn upon who bears the burden of proof. These rules protect rights and the integrity of adjudication. They cannot simply be set aside by an investigator's assertion that the truth demands it.

The obligation is to apply those safeguards honestly and describe their consequences accurately. Material which was excluded has not thereby been proved false. Material which was admitted has not thereby been proved true. Evidential weight and legal status require separate attention.

New evidence requires an honest assessment of its significance

A later document may clarify an ambiguity, contradict an earlier account or add nothing material. It may have been available all along, or genuinely unknown.

Responsible scrutiny establishes which is the case before claiming that a previous outcome has been undermined.

The relevant questions are concrete.

- Is the material reliable?
- Is it new?
- Which issue does it affect
- Was that issue decided
- Could it alter the reasoning or outcome?
- What lawful mechanism exists for it to be considered?

The answer may support reconsideration, an appeal or another form of review. It may instead support the existing decision.

There is no universal right to reopen concluded proceedings whenever further material emerges. Court orders remain binding unless altered through lawful means and finality protects parties and the wider administration of justice.

Those principles coexist with the responsibility to correct a materially inaccurate institutional account where correction is required.

Procedural closure must not become factual overstatement

The danger is greatest when the language of process exceeds its substance: “reviewed” without identifying the question examined; “resolved” without distinguishing a complaint outcome from a factual finding; or “no further action” presented as conclusive proof that nothing occurred.

Such descriptions can obscure both sound and unsound decisions. They can discourage a legitimate enquiry or leave an institution defending an assertion which its own records do not support.

The remedy is precision:

Identify the material considered and explain the reasons and state what remains unresolved.

The same discipline binds public investigators.

The existence of documents, repeated allegations or an unanswered request cannot substitute for proof. Nor may a critic disregard an adverse finding merely because it is unwelcome.

Evidence-led scrutiny requires correction of one's own account as readily as correction of an institution's.

The standard the public should expect

Institutions should preserve relevant records, examine material inconsistencies and explain the factual basis of their decisions. Where disclosure is lawfully restricted, they should explain the position as far as permitted. Where earlier statements were wrong, correction should be clear. Where a final decision is relied upon, its scope should be accurately represented.

Evidence must be tested through lawful process. Lawful process must remain faithful to the evidence it is required to consider. Neither procedural authority nor institutional convenience can make a false account true.

The integrity of justice requires reasons which connect the material facts to the conclusion and the honesty to acknowledge what a decision did not establish.

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Referenced Material

Osborn v Parole Board [2013] UKSC 61, paragraphs 67 - 68

Civil Procedure Rules, rule 1.1; England and Wales

R (Citizens UK) v Secretary of State for the Home Department [2018] EWCA Civ 1812, paragraphs 105 - 106