

# TALKFRACKING TALKFRACKING

## TALK FRACKING COURT CHALLENGE WIN: WHAT DOES IT MEAN?

### State of play


On the 14 May 2019, High Court judge, **Mr Justice Dove**, issued a judgement which declared that the Secretary of State for Housing, Communities and Local Government’s newly-added paragraph of the National Planning Policy Framework (NPPF) (paragraph 209(a) relating to onshore oil and gas development, including fracking) was in fact, **unlawful**.

This was following Talk Fracking’s judicial review, which was held on the 19 and 20 December 2018. Talk Fracking sought to challenge the validity of that particular paragraph of the NPPF. It was written as:

*“Minerals planning authorities should:*

- recognise the benefits of on-shore oil and gas development, including unconventional hydrocarbons, for the security of energy supplies and supporting the transition to a low-carbon economy; and put in place policies to facilitate their exploration and extraction;”*

This particular paragraph directed a positive acceptance of promoting onshore oil and gas extraction, including fracking, without assessing scientific climate evidence

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UNNECESSARY &  
ILLOGICAL  
ACCORDING TO EX-  
CUADRILLA BOSS & BP  
CHIEF, LORD BROWNE

Talk Fracking Court  
Challenge Win: What  
Does It Mean? 

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BECAUSE POLICY SAID SO.

Prior to the Talk Fracking case being heard, **Rowan Smith**, a solicitor from our legal team at Leigh Day, stated:

*“This legal challenge exposes a major democratic deficit in the system. The government announced in 2015 that fracking is a force for good against climate change, without any public involvement in their policy.*

*“Three years later, and despite our client’s submissions which pointed out all the scientific developments since 2015 that seriously call in to question to government’s position, they reached the same conclusion. Our client argues that this is unfair. We hope that the court will agree and conclude that the government’s new fracking policy was unlawfully produced.”*

## What does this mean?

The outcome of the case was that the judge sided with Talk Fracking and we won on two grounds. These were:

1. The government failed to carry out a proper and fair consultation on the draft policy. The judge stated: “The consultation on the draft revised Framework 204a was so flawed in its design and processes as to be unlawful.”
2. The government should have taken into consideration all new scientific evidence, namely the report that Talk Fracking commissioned – The Mobbs report. This report debunked many of the findings of the government’s keystone Mackay-Stone report. None of the evidence outlined in the submitted Mobbs Report was considered before publishing the revised version of the NPPF in July 2018.

In reaching his conclusions, Mr Justice Dove stated:

*“What appears clear on the evidence is that the material from Talk Fracking, and in particular their scientific evidence as described in their consultation response, was never in fact considered relevant or taken into account, although...this material was relevant to the decision which was advertised, which included the substance and merits of the policy.*

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FRACKING IMPACTS  
  
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YOU!

 THEY FRACK FOR  
YOU?

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2008 (2050 Target  
Amendment) Order  
2019 - Motion to  
Approve: Amendment  
to the Motion (26 Jun  
2019)

June 26, 2019

EU Structural Funds:  
Least Developed  
Regions — [Siobhain  
McDonagh in the  
Chair] (26 Jun 2019)

June 26, 2019

Kew Gardens  
(Leases) (No. 3) Bill  
[Lords] (Programme):  
Climate Change (24  
Jun 2019)

June 24, 2019



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policy and its relationship to climate change effects.

*“As is clear...the MacKay and Stone Report was an important piece of evidence justifying the validity of the policy in the 2015 WMS, and the need to avoid adverse consequences for climate change were an important aspect of whether or not to adopt the policy.”*

The judge made an order that has now quashed paragraph 209(a), which means it is no longer lawful and is not a legal part of the NPPF.

## What does the Talk Fracking judgment mean for my community and current/future fracking applications?

The judgement from the Talk Fracking case means that anyone objecting to fracking applications will be able to do so on grounds of climate change “by referring to the latest scientific evidence” and other technical points of objection and evidence.

For example, when the planning appeal was underway for Cuadrilla’s Preston New Road application, the Planning Inspector and Secretary of State pre-assumed support for fracking as was written in the Written Ministerial Statement, placing ‘great weight’ on fracking in principle because of a “national need”. This was a strong directive to the decision-making authority, placing them into a situation of having to follow the government’s policy of support for fracking. This should not be repeated in future planning applications.

An authority who is considering a fracking application **could refuse it on solid, scientific evidence and arguments based on climate change grounds.**

## More information

You can read and download the Legal Briefing Paper provided by our team of lawyers here: [Talk Fracking – NPPF Legal Challenge – Legal Briefing Paper \(17-05-2019\)](#).



WHY 150 CELEBRITIES AND EXPERTS ARE SPEAKING OUT

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May 23, 2019 Claire Stephenson in Fracking News, Slider

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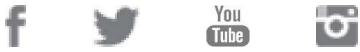


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