

THE HONOURABLE JUSTICE IAN BINNIE  
*A RESPONSE TO BAIN*

VIDEO QUESTIONNAIRE

1. In relation to a defendant who has been acquitted at a retrial after a miscarriage of justice/second appeal, what do you understand to be the test for whether he or she should receive compensation? And who makes the decision?
2. An issue that arose in the compensation process relating to David Bain was the role of forming judgements about the likelihood of an overall outcome or instead of attaching more mathematical probability assessments as to the truth or otherwise of a particular fact and then using those to judge the overall outcome. Do you think that courts can or should operate in the former way or the latter? Is it all more of an art or more of a science?
3. Step back from your views as to whether or not David Bain is or might be guilty, and start instead from the proposition that our legal system designates him as not guilty because that was the jury verdict: does what happened in relation to the compensation claim indicate that we need a process that is insulated from politics?