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Public should have access to all court documents, Supreme Court judges rule

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Law



Lady Hale said that the court would need to consider national security and privacy before disclosing documents

RICHARD POHLE FOR THE TIMES

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The public should have access to all documents before a court, the Supreme Court has ruled in a decision described as a victory for open justice.

Lady Hale, the president of the court, said that anyone who was not involved in a specific case but wanted to see the documents referred to in hearings would need to explain why, and how granting access would advance the principle of open justice.

Giving judgment, Lady Hale said: “The default position is that the public should be allowed access, not only to the parties’ submissions and arguments, but also to the documents which have been placed before the court and referred to during the hearing, which are not limited to those the judge has been asked to or has said that he has read.”

She said that before allowing access, the court should carry out a “fact-specific balancing exercise” to take into account matters including national security, privacy interests or commercial confidentiality.

The ruling, understood to be the first time that entitlement to such a range of documents

has been established for a non-party, is likely to have wide-ranging implications for the disclosure of documents used in court proceedings.

The decision is the end of a two-year case brought by Graham Dring, on behalf of the Asbestos Victims Support Groups Forum UK. He was seeking access to documents from a case against Cape Intermediate Holdings, an asbestos manufacturer, which he believed contained information about the dangers of asbestos that could help claims brought by sufferers of asbestos-related diseases and their families.

Harminder Bains, a partner at Leigh Day, which represented the claimant, said: “This is a landmark decision for access to documents to non-parties and a victory for open justice. I hope it will help shed a light on all manner of issues, including the deadly asbestos industry.”