

IN THE HIGH COURT OF JUSTICE

Claim No HQ11X01471

APPEALS DIVISION

My Appeal was followed by a [06.10.11](#) refusal 'from' 'Justice' Lang, and a [24.10.11](#) refusal 'from' 'Justice' Mackay – who therefore FULLY endorsed the **FULL OF LIES 09.08.11 MPS Order 'from' Master Eyre**. All 3 have my (identical) Comments attached to the Order.

BETWEEN:

NOËLLE KLOSTERKOTTER-DIT-RAWÉ

Appellant

- and -

COMMISSIONER OF POLICE OF THE METROPOLIS

Respondent

APPELLANT'S SKELETON ARGUMENT – 29th AUGUST 2011

1. Introduction and background

1. This Skeleton Argument is in support of an [Application for leave to appeal](#) against a [High Court Master's Order dated 09.08.11](#) that grants the Respondent ('R')'s [30.06.11](#) Application to strike out the Appellant's [claim form and Particulars of Claim](#) and dismisses the action with costs: [B1/2/9](#); [B1/10/92](#); [B1/11/95](#), and R's Statement of Costs of [£8,478.03](#) at [B2/19/265](#) ([already paid](#)). The Appellant (A') responded to the [Draft Order](#) by letter dated [07.08.11](#): [B2/18/268](#). Although this reply was delivered prior to the 09.08.11 p.m. hearing, A showed it to the Master at the hearing.
2. A filed a [19.04.11 claim](#) against R (the First Defendant) for enforcement of her requests in relation to 3 "*crime reports*" and for costs and damages following its

refusals to accede to her requests: **B1/4/15**, [Particulars of Claim](#) ('the Particulars') at **paras.4-24 and 72-81**.

3. The [2002 report, CR:5604102/02](#), is a complaint filed by A following receiving numerous anonymous phone calls, for which she identified [Andrew David Ladsky](#) ('ADL'), as the likely perpetrator/instigator: **B3/T2/383**.
4. The [2003 report, CR:5602261/03](#), is a complaint against A by ADL that she used "*abusive language*" towards him: **B3/T2/407**.
5. The [2007 report, CR:5605839/07](#), is a complaint against A by ADL which, based on the report, as A was never contacted by R, accuses her of, among others, having anti-Semitic comments on her website: **B3/T2/424**.
6. A is also claiming for breach of 2 other statutes in relation to 2-emails sent by R to her website Host in 2007: see [Particulars paras. 96-99 and 102-104](#), and in relation to R's conduct when she unsuccessfully attempted to file 2 complaints of harassment in [October 2010](#): Particulars **paras. 113-130**.
7. (A is now unsure as to whether she could issue the remaining parts of her claim against R under **paras.29-70, 106-112, 84-87 and 90-93**)
8. In its [23.05.11](#) Defence R denied all of A's claims: **B1/8/70**. A submitted a [14.06.11](#) Reply to parts of R's Defence: **B1/9/84**.

2. Evidence

9. In support of her Application A has supplied [3 bundles](#): (i) B1: Core, which includes [a chronology of events](#) at **B1/13/145**; (ii) B2: other pleadings; (iii) B3: Crime reports and related correspondence; October 2010 complaints; Landlord proceedings, correspondence.

10. In this document, A refers to 3 Witness Statements written by her: (i) WS1: [19.07.11](#) in response to R's [30.06.11](#) Application: [B1/12/102](#); (ii) WS2: [29.08.11](#), her Supplemental WS (with the Court's permission): [B2/21/275](#); (iii) WS3: [19.07.11](#) in response to the [Third Defendant](#)'s Application of [07.07.11](#): [B2/16/203](#).

3. Grounds

11. A applies for leave to appeal against [the Order](#) by contending that the reasons given by the learned Master for granting the Order to R wrongly and/or unjustly overlooked material evidence A supplied in support of her claims of breaches of her statutory rights.
12. Reason 3 misrepresents the sequence of events with the outcome of undermining their significance in relation to the 3 crime reports.
13. Underlying Reasons 2, 3(1), 3(2) and 3(3) is an inaccurate inference and/or assertion that A waged some kind of vendetta against her landlord, ADL, who, in the 3 reports, is inaccurately described as her "*neighbour*" – with the outcome of inaccurately portraying him as the victim, and concurrently endorsing R's actions / lack of action in relation to the 3 reports:
 - (1) Reason 2 by drawing on and reiterating the false assertions contained in the [2003](#) and [2007](#) reports.
 - (2) Reason 3(1) by ignoring A's assessment of the content of the [2002 report](#) and supporting evidence.
 - (3) Reason 3(2) by overlooking material events and evidence in relation to the [2003](#) report.

- (4) Reason 3(3) by endorsing some of the false accusations against A in the [2007 report](#) and, in the process, misinterpreting and misrepresenting events and the evidence, as well as ignoring A's response to the false accusations and malicious opinions of her.
14. Reason 3(4), by stating that R "*took no action*", incorrectly infers that A's complaints were unsubstantiated / unactionable.
15. Reasons 5, 6, 7 and 8 ignore A's statutory rights in light of the evidence she supplied and discussed. If Reason 6(1) is endorsed, A maintains, contrary to Reasons 6(2) and 7 that her allegations of [misconduct and/or misfeasance in public office](#) are substantiated and that she suffered distress and damages as a result.
16. Contrary to Reason 8, A's objective is not to "*re-write history*", but, in line with her rights, to ensure accuracy in order to 'reflect history'.

4. [Law](#)

17. Data Protection Act 1998 ('the DPA') and its Principles ('the DPPs'): ss 1, 2, 4(4), 7, 10, 13 and 14; Sch.1, Part I and Schs. 2 and 3; Sch.1, Part II.
18. Malicious Communications Act 1998 - s.1(1)(a)(iii)
19. Protection from Harassment Act 1997 – s.1(1)
20. European Convention for the Protection of Human Rights (as set out in Sch.1 to the Human Rights Act 1998): Articles 2, 3, 6, 8 and 14

5. [Case law](#)

- (1) *Durant v Financial Services Authority* [2003] EWCA Civ 1746; [2004] F.S.R. 28; [2004] IP & T 814; at [27, 28 and 61]

- (2) *Chief Constable of Humberside Police v Information Commissioner* [2009] EWCA Civ 1079; at [70 and 71]
- (3) *R. (on the application of Alan Lord) v Secretary of State for the Home Department* [2003] EWHC 2073; at [148] – (Relying on *Gaskin v UK* [1990] 1 F.L.R. 167)
- (4) *R. (Lord) v Secretary of State for the Home Department* [2003] EWHC 2073 (Admin)
- (5) *Rotaru v. Romania* [GC], no. 28341/95, § 43, ECHR 2000-V
- (6) *R. (Carson) v Chief Constable of the Royal Ulster Constabulary* [2005] UKHL 37; [2006] 1 AC 173; at [14]
- (7) *MC v Bulgaria* (39272/98), 15 B.H.R.C. 627, ECHR
- (8) *Ashley v Chief Constable of Sussex Police* [2006] EWCA Civ 1085; [2007] 1 WLR 398; at [137]
- (9) *Kuddus v Chief Constable of Leicestershire Constabulary* [2001] UKHL 29; [2002] 2 AC 122

6. “Crime reports”

21. In the [2003](#) and [2007](#) reports, in answer to the question: “*How is the suspect known to the victim?*”, ADL is described as A’s “*neighbour*”. This description is inaccurate: he “*knows*” A because he is [her landlord](#): [WS1, § 18-21/106](#).
22. Under [para.23 of its Defence](#), [B1/8/77](#), R asserts that “*the effects of this error were negligible*”. A disagrees; the impact is major as it has – and continues – to be used as rationale for not challenging / not doubting *any* of ADL’s accusations against A and opinions of her – as exemplified, more recently, by [Reason 2](#) of the Order. A

contends that R is breaching its [s.4\(4\) obligations in relation to DPP1](#), as a result of its failure to meet the [Sch.1, Part II, para.7](#) requirement.

2002 report

23. A contends that in R attributing all the anonymous phone calls to a resident, it is breaching [DPP4 requirements, Sch1, Part I and II, and DPP3](#), on the ground that the explanations are not credible:

(1) In relation to the mobile phone calls, under the [entry for 20/03/2002-13h51, B3/T2/399](#), and [26/03/2002-13h23, B3/T2/399](#). They followed A challenging R's excuses / explanations: [WS1 § 24\(2\)/107](#). Other supporting evidence: the contradictory dates as to when the resident is alleged to have admitted making the calls: [WS2 § 10\(1\)/277](#).

(2) The same applies to the explanation for the anonymous phone calls made from a landline number: [WS1 § 24\(4\)\(5\)/107; WS2 § 10\(2\)/278](#).

(3) A also highlights R's attitude to her demanding that her complaint be investigated: [WS1 § 24\(2\)\(g\)\(h\) and 25/107](#). [Reason 3\(1\)](#) of the Order repeats R's claim under [para.10 of its Application, B1/10/95](#), that it "*investigated*" the complaint, [WS1 § 23 and 25/107](#), and that "*there were no grounds for pursuing the complaint*". A contends that the above demonstrates otherwise.

Dictionary definition of 'investigate':
"carry out a systematic or formal inquiry into (an incident or allegation) so as to establish the truth"

24. The same breaches of the DPA occur under the [22/02/2002-14h31 entry, B3/T2/396](#), as one of the 2 "*prolific numbers*" is A's number: [WS1 § 26\(2\)/112](#). 2 months later, following A's insistence for the identification of the landline subscriber, under [28/03/2002-12h44, B3/T2/402](#), R entered a 3rd number: [WS2 § 11/278](#).

25. [Reason 5](#) of the Order states that A "*allege[s] malice, conniving with Mr. Ladsky*". A contends that the evidence suggests that R has, and continues to breach the [DPA](#) for

the sake of protecting the true identity of the landline subscriber: ADL: [WS1 § 25/111](#); [WS2 § 12/279](#).

26. In support of her conclusion that ADL made - at least – some of the anonymous phone calls to her, A cites: (i) [point 7 of the 18/02/2002-18h53 entry, B3/T2/392](#), re. [a leaseholder](#) receiving phone calls from ADL; (ii) [another leaseholder](#), and the [local Citizen Advice Bureau](#) also receiving calls from him: [WS2 § 5\(1\), 6\(1\) & 9/276](#).
27. To this, A adds R's assertion under the [08/04/02-14h32 entry, B3/T2/402](#), that ADL "has not been the subject in any Cris reports". This assertion is false, and therefore in breach of the [DPA's DDP4 and DPP3](#), as the entries under [18/02/02-18h53, B3/T2/392](#), and [26/03/02-13h23, B3/T2/399](#), identify that other residents have complained. Further, [A reported this to R at the time](#), including identifying 4 residents by name: [WS1 § 24\(1\), 24\(2\)\(e\) and 26\(3\)\(4\)\(5\)/107](#). This false assertion undermines the credibility of A's complaint.
28. In spite of A's complaint, and of the content of the report, the '[Classification](#)' page, [B3/T3/297](#), (which R did not supply in its [22.07.11 version](#)) records the source of the calls as "unknown": [WS1 § 26\(1\)/112](#).
29. R is also undermining the credibility of A's complaint, by failing to record material communications (verbal and written) that undermine the content of the report: [WS1 § 23 and 24/107](#). Under para.13 of its [Defence, B1/8/75](#), R claimed that "*the DPP does not require it to (a) record every piece of information, (b) information according to A's preferences*" v what it states under para.6 of its [Application, B1/10/95](#): "*all the details supplied must be recorded*".

-Elderly Resident Association
-Other Residents
-Resident K

2003 report

30. The 'Classification' page, [B3/T2/419](#), (which R did not supply in its [22.07.11 version](#)) shows that ADL's complaint against A was processed as a "*Substantiated Offence of Harassment*" on 25/01/03.
31. In processing this sensitive personal data, defined under [s.2\(g\) of the DPA](#), R is breaching its [s.4\(4\)](#) obligations in relation to DPP1 and related [Schs. 2 & 3, DPP3 and DDP4, as well as Part II of Sch.1, para.1\(1\)](#). A contends that it is the outcome of R failing to comply with the requirements of [DDP4 under Sch.1, Part II, para.7](#):
- (1) in the [25/01/03-13h55 entry](#), [B3/T2/420](#), that A "*was walking out of her flat and shouted 'Go fuck yourself!'*". In fact, A was walking out, ignoring ADL, and he provoked her: [WS1 § 34/115](#). [Reason 3\(2\)](#) of [the Order](#) ignores this evidence;
 - (2) also in this entry, the claim that: "*this verbal abuse started in November 2002*" and that A had done this "*approximately 3-4 times*" is false: [WS1 § 35/115](#).
 - (3) The latter accusation was made with the objective of making an [offence of harassment](#) 'stick' against A: [WS1 § 35/115](#).
 - (4) Given the above, A rejects R's claim under para.23 of its [Defence](#), [B1/8/77](#), that the processing of this report is "*not unlawful*" because it "*does not accuse*" A "*of anything*" and it "*records accusations made by another individual*". She likewise disagrees with [Reason 3\(2\)](#) of [the Order](#) that R "*took the matter no further*". It did: by filing an unlawful "*Substantiated Offence of Harassment*" against A which, as explained below, it subsequently recycled and endorsed in the 2007 report.

32. R is also processing data in breach of the [DPA's DPP1](#) requirements and related [Sch.2, as well as DDP3](#), in the context of the [25/01/03-13h55 entry, B3/T2/440](#), which states, in support of the above accusation, that A: "*is like this because she does not want to pay the [demand] sent by the managing agents*". This is an equally false, malicious accusation, that unfairly portrays A as an individual who defaults on her contractual obligations as, among others, A was following the [Tribunal's directions](#) to *not pay* until the Tribunal had issued its determination: [Chronology of Events: B1/13/145](#). In breach of its obligation under [DDP4, Sch.1, Part II, para.7](#), R failed to challenge the accusation: [WS1 § 38/116](#); [WS2 § 17\(1\)/280](#).
33. R is also breaching the [DPP1 requirements and related Sch.3, as well as DDP3](#), by processing the [25/01/03-13h55 entry, B3/T2/420-421](#), which states that A: "*wrote letters accusing ADL of theft and fraud*" – as it is false. In breach of [DDP4, Sch.1, Part II, para.7](#) R failed to ask for supporting evidence. Had it done so, it would have known that this accusation was false: [WS1 § 39-41/116](#); [WS2 § 17\(2\)/280](#). A contends that this accusation was motivated by retribution for A challenging [ADL's application](#) to the [tribunal: Chronology, B1/13/145](#). And, as demonstrated by subsequent events, because A had touched a raw nerve: [WS1 § 41 and 42/117](#).
34. In accepting ADL's accusations without question, R ignored the [28/02/2002-14h00 entry](#) in the 2002 report, [B3/T2/397](#), that A had complained of suffering harassment from ADL because she was challenging the service charge: [WS1 § 37/115](#).
35. In relation to [Reason 5](#) of [the Order](#) that A "*allege[s] malice, conniving with Mr. Ladsky*", she maintains her position by, in addition to the above, citing the following:
- (1) The "[Substantiated Offence of Harassment](#)" was processed *before* contacting A, as the first she heard of 'the complaint' was in R's letter of [27.01.03](#), stating that it had been "*fully recorded*"; warning her of "*further consequences if [she]*

confronted [ADL]”. It was signed “*Crime Investigator*”: [WS1 § 30 and 33/133](#).

A highlights the [Metropolitan Police Authority](#)'s letter of [11.07.02](#) to A, stating:

“*the police...must only act on the basis of established facts*”: [B3/T3/457](#).

(2) On the day R received A's reply of [11.02.03](#): [WS1 § 32/114](#), it closed down the report, falsely stating under the [12/02/2003-10h44 entry](#), [B2/T2/423](#), that A had failed to respond: [WS1 § 43 and 44/119](#).

36. Hence, R denied A the right to defend herself against the false, malicious accusations and opinions of her: [WS1 § 45/119](#), in the process, breaching the DPA.

37. In addition to the '[Classification](#)' page, relative to the July 2009 version supplied to A, in breach of [s.7\(1\) of the DPA and DPP6, Sch.1, Part II, para.8\(a\)](#), R's version of [22.07.11](#) also omits other pages. Of these, A highlights: (i) 'Suspect Summary'; (ii) 'Suspect Details'; (iii) 'Suspect Elimination – comprised under [B3/T1/329-333](#) – as A reported in her [24.07.11](#) letter to R: [B3/T3/657](#) - *Durant v Financial Services Authority* [2003] EWCA Civ 1746; [2004] F.S.R. 28; [2004] IP & T 814; at [28 and 61]; *R. (on the application of Alan Lord) v Secretary of State for the Home Department* [2003] EWHC 2073; at [148].

2007 report

38. The '[General Information](#)' pages show that the report was processed as a “*Racial Incident*”, “*Anti-Semitic Racial Incident*”: [B3/T2/424](#), and a “*Hate Crime*”: [B3/T2/425](#). The [17/02/2009-05h45 entry](#), [B3/T2/439](#), that the fields “*HateCrimeReligion, HateCrimeRace*” were added because of the initial classification. A strongly objects to these classifications on the ground that they are not true: [WS1 § 83/129](#).

39. In processing these classifications, defined under [s.2\(g\) of the DPA](#), R is breaching its [s.4\(4\)](#) obligations in relation to [DPP1 and related Schs. 2 & 3, and DDP4](#), as well as [Part II of Sch.1, para.1\(1\)](#). A contends that it is the outcome of R breaching the requirements of [DDP4 under Sch.1, Part II, para.7](#):

- (1) The '[Classification](#)' page, **B3/T2/433**, (which R did not supply in its [22.07.11](#) version) states: "*A web page has been created which is alleged to contain anti-Semitic, anti-black, anti-Asian pictures and text*" These accusations of A committing these offences are false. They amount to an attack on A's name and reputation; R has not provided any evidence in support: [WS1 § 68/125](#).
- (2) The [15/03/2007-16h14, entry](#), **B3/T2/434**, that: "[In] *My Diary*" 2002-2007. *The specific racist remarks and pictures that are being complained about are contained throughout...*". A's position is as per above: [WS1 § 71/125](#).
- (3) The [15/03/2007-16h14 entry](#), **B3/T2/434**, that "...parts of the [www.leasehold-outrage.com](#) site are alleged to be extremely upsetting and insulting...of a racial nature and [make] numerous references by name to the victim...". A's position is as per above: [WS1 § 70/125](#).
- (4) The [16/03/2007-18h56 entry](#), **B3/T2/437**, by accepting ADL's claim that A had used the words "*pigs*" and "*monkeys*" "*as used by the Nazis to refer to Jewish people during the holocaust*" and that she had done this by referring to him. Under [Reason 3\(3\)](#) of [the Order](#), this false, outrageous accusation has been treated as a fact. It was abundantly clear from the context on [the website](#) that these accusations are false and malicious: [WS1 § 77/127](#). In support of the accusations, the [16/03/07-19h07 entry](#), **B3/T3/438**, states: "[Mr Ladsky] *states that Ms Rawé is Franco-German as is well aware he is Jewish*". A did not know that ADL said to be Jewish until R's e-mails (discussed below): [WS2 §](#)

[25/282](#). A contends that the objective is to support the malicious portrayal of A as waging a vendetta against ADL.

- (5) The [15/03/2007-16h14 entry](#), **B3/T2/434**, that ADL “*has become a target for abuse on the web site*” because he “*was involved with the business carrying out the repairs and improvements paid for with the service charge*”. As detailed earlier, [ADL is the landlord](#). The [16/03/2007-18h56 entry](#), **B3/T2/437**, that he “*organised for refurbishment on the flats*” and that he “*initiated*” the works, add further weight to this: [WS2 § 20\(2\)-\(4\)/281](#); [WS1 § 76/127](#).

40. By processing the following, R is breaching its [DPA's s.4\(4\)](#) obligations in relation to [DPP1 and related Sch.2, DPP3 and DDP4](#):

- (1) The [15/03/2007-16h14 entry](#), **B3/T2/434**, claims that A launched [her website](#) “*in response to a large service charge which she regarded as excessive and unfair*”. This is not true: [WS1 § 61-63/123](#). As R “*looked*” at A’s website: [16/03/2007-18h56](#), **B3/T2/437**, it would have known this, and be in no doubt from the ‘black-on-white’ evidence that ADL’s opinions of A were false and malicious: [WS1 § 62/123](#). Further, R failed to refer back to the [28/02/2002-14h00 entry](#), **B3/T2/397**, that reports that A “*continues to claim that Mr Ladsky is harassing her...She believes that a deception is being practised surrounding these costs*”: [WS1 § 67/124](#).
- (2) It also claims that A did this for the purpose of “*seeking compensation and retribution*” because of the costs incurred in challenging [ADL's application](#) in the [Tribunal](#). This is inaccurate and unfair. The reality is that ADL did not expect A to challenge his application: [WS1 § 69/125](#).

- (3) The [16/03/2007-18h56 entry](#), **B3/T2/437** that A “took exception to the service charge and went to a tribunal to get it reduced”. In addition to being incorrect: [ADL filed the application](#) in the [Tribunal](#) – not A, it is unfair because: (i) A was far from being the only objector as the [29.11.02 claim](#), **B3/T5/675** [was filed against her and 13 other flats](#): [WS1 § 75/127](#); (ii) it ignores A’s statutory right: [WS1 § 69/125](#). Further, A highlights the fact that the claim was fraudulent e.g. [21.10.03](#) ‘offer’: [B3/T5/678](#); [WS1 § 64-66/124](#).
- (4) Also, in this entry, the implication that A should have turned a blind eye to the [fraudulent demand](#) because the works had increased “*the values of the flats*”. This is not A’s value system: [WS1 § 76/127](#).
41. In processing the following sensitive personal data defined under [s.2\(e\) of the DPA](#), R is breaching its [s.4\(4\)](#) obligations in relation to [DPP1 and related Schs.2 and 3](#):
- (1) The entries under [15/03/2007-16h14](#), **B3/T2/434**, and [16/03/2007-18h56](#), **B3/T2/437**, that A is “*paranoid*”/ “*extremely paranoid*” because on her [website](#) “*She thinks the police may be following her as well as numerous people employed by her enemies*” and “*This is not the case*”.
- (2) R accepted and, in the process, endorsed the malicious accusations from ADL without question: [WS1 § 72 & 73/126](#). (At the time, [ADL made similar accusations](#) to A’s employer: **B3/T6/742**; [WS1 § 57/121](#)). These entries are malicious and scurrilous: [WS1 § 72 & 73/126](#). In support of her position, A refers to [WS3](#), **B2/16/203**, in which she reports, among others, some of evidence contained on her website at the time of the 2007 complaint. A contends that other evidence contained in this Witness Statement such as: (i) monitoring and interference with all her means of communications: [§ 8-39](#); (ii) covert surveillance in the UK: [§ 51-105](#); (iii) surveillance by local uniform

police officers: [§ 106-108](#); (iv) being hounded and harassed by police helicopters: [§ 109-114](#) - add irrefutable evidence to what she had reported by March 2007. To this she adds, among others, her experience with R in [October 2010](#) when she tried to report suffering harassment. (See below).

- (3) [The Primary Investigation Details: 5'](#), [B3/T2/435](#), states A “*is alleged to be extremely paranoid and is said to sleep with a knife beside her bed*”. A was doing this because of her belief that she could not count on R for protection – and had stated this at the time on her website: [WS2 § 22/281](#); [WS3 § 61/217](#).
42. A contends that as a result of breaching the DPA’s requirements in relation to [DDP4 under Sch.1, Part II, para.7](#), R is breaching its [s.4\(4\)](#) obligations in relation to [DPP1 and related Sch.2, DPP3 and DPP4](#) – by processing under the [16/03/2007-18h56 entry](#), [B3/T2/437](#), that A’s website contains “*a lot of slanderous comments mainly directed at Mr Ladsky but also at [K&C Police](#) and even [MPs](#), the [Prime Minister](#) and [DPM](#). Also against [solicitors](#) and many others*”. While A has no recording on her website, R has not provided any evidence in support of its assertions: [WS1 § 78/127](#).
43. By processing the following data defined under [s.2\(g\) of the DPA](#), R is breaching its [s.4\(4\)](#) obligations in relation to [DPP1 and related Schs.2 and 3](#). In spite of the 2003 report stating that A had been “*Eliminated*”, [B3/T2/418](#), under the [16/03/2007-19h07 entry](#), [B3/T2/438](#), R repeated and, in the process, endorsed the false accusation by stating: “*it shows Ms Rawé used to swear at Mr Ladsky when seeing him in the communal area*”: [WS1 § 80/128](#). This disproves R’s assertion under para.6 of its [Application](#), [B1/11/95](#), that “*the mere fact that an allegation is recorded on the CRIS does not mean that the allegation is treated as being true*”: [WS1 § 82/128](#). It also disproves the claim made under [Reason 3\(2\) of the Order](#) that R “*took no further action*”.

44. Contrary to the claim under Reason 3(3) of the Order, R never contacted A, the owner and author of the website, at any point in time - thereby denying her the right to defend herself against the false accusations and opinions of her: WS1 § 8, 58, 84/104, 122 & 129. Hence, R breached its s.4(4) obligations in relation to DPP1 and related Sch.2 & 3, DPP3 and DPP4, as well as Sch.1, Part II, para.1(1).
45. Instead, R sent A's website Host a 16.03.07-12h45 e-mail headed "*Website with anti semitic (sic) views*": B3/T3/462, accusing A of having committed a crime by claiming – without any evidence in support - that, on her website she "*use[d] the words "pigs and monkeys" which are racially abusive terms towards Jewish people from the Nazi's*"; that "*This is directed at a particular person*"; and by stating "*I am the police officer dealing with this crime*": WS1 § 49/119. As stated earlier, contrary to Reason 3(3) of the Order that treats these accusations as fact: they are false and malicious. They were, and continue to be a source of great distress to A: WS1 § 50, 60/120.
46. Contrary to the claim under Reason 3(3) of the Order, A's website Host did cooperate by asking for evidence in support of the accusations: 16.03.07-21h00 e-mail: B3/T3/464 and 20.03.07-17h13 e-mail: B3/T3/465; WS1 § 51/120 - but the response was evidently not liked.
47. In its 20.03.07-17h13 e-mail: B3/T3/465, A's website Host asked R: "*Are there laws in the UK concerning filing false police reports?*": WS1 § 51/120. R replied affirmatively in its 20.03.07-14h02 e-mail: B2/T3/465;, WS1 § 52/120, adding that as A is "*franco-german (sic) in origin [she] would be aware of the terms pigs and monkeys used during the Nazi regime to refer to Jewish people*". A contends that use by R of A's origin, as defined by s.2(a) of the DPA, as reason to falsely accuse her of

“using terms used by the Nazis” amounts to unfairly and unlawfully branding her “a Nazi”: [WS1 § 55/121](#).

48. In the same e-mail, R backed down on its accusations by stating: “*there is nothing we as a police force can do except class it as a racist incident*” – while still not providing evidence in support: [WS1 § 53/121](#). It also asked for the name of the organisation that “*deals with any complaint about websites in the US and I’ll pass this on to the victim*”.
49. Under para.12 of its [Application](#), [B1/11/95](#), R claimed that its [16.03.07](#) e-mail amounted to “*ma[king] inquiries to the Claimant’s website host*”, and that “[it] *did not suggest that the Claimant was guilty of the alleged conduct*”. A contends that this is clearly not the case: R’s intention in sending the e-mails was to scare A’s website Host into closing down her website: [WS1 § 50, 53 and 56/120](#), and the [19/03/07-17h59 entry](#), [B3/T2/438](#): “*I am still trying to get the website closed down*” provides further proof of this.
50. In relation to [Reason 5](#) of [the Order](#), A contends that in sending its above e-mails, R breached [s.1\(1\)\(a\)\(iii\) of the Malicious Communications Act 1998](#), as well as [s.1\(1\) of the Protection from Harassment Act 1997](#): see [paras.96-99](#) and [102-104](#) respectively of [the Particulars](#); [WS1 § 54/121](#).
51. In further support of her position, commented upon under [Reason 5](#) of [the Order](#) that she “*allege[s] malice, conniving with Mr. Ladsky*”, A highlights: (i) the fact that R only recorded approaching A’s website Host ([16/03/2007-18h56](#), [B3/T2/438](#)); and therefore none of the subsequent e-mail exchange: [WS1 § 51 & 52/120](#); (ii) the [‘Primary Investigation Details: 6’](#), [B3/T2/435](#), states: “*No suspicion of false reporting*”: [WS2 § 23/282](#). How can R make this statement given that, among other, it never contacted A at any point in time?: [WS1 § 49 & 58/119 & 122](#).

52. Given the above, A rejects the conclusion under Reason 3(3) of the Order that “*not surprisingly [R] recorded it “as a racial incident and nothing more”*”.
53. Contrary to what is stated on the ‘Suspect Elimination’ page, **B3/T2/432**, A was not informed by R that she had been “*Eliminated*”, but by her employer: **WS1 § 84/129**.
54. Given the above in relation to the 3 reports, A strongly disputes R’s claims in its Defence under paras. 11 & 30, **B1/8/74 & 78**, that: “*at all times it complied with the DPA*”; “*the 3 reports were processed fairly and lawfully and met the conditions*”; “*A’s personal data was accurate*”. While a data controller can determine the purpose for which personal data are processed – “*these purposes must be lawful, legitimate and fair*” - *Chief Constable of Humberside Police v Information Commissioner* [2009] EWCA Civ 1079; at [70 and 71]. It supports the DPA’s DPP2, Sch.1, Part I.
55. A also disputes R’s denial, under para.34 of its Defence, **B1/8/79**, of breaching A’s rights under Article 6 because “*no criminal charges have been brought or held against A*” v. what R told her on 17.10.10: “*We have to keep information in case you commit an offence and end-up in court*”: **WS1 § 138(2)/142**. A also disputes its denial of breaching A’s rights under Article 8 - *Rotaru v. Romania* [GC], no. 28341/95, § 43, ECHR 2000-V.
56. In addition to the ‘Classification’ page, relative to the July 2009 version supplied to A, in breach of s.7(1) of the DPA and DPP6, Sch.1, Part II, para.8(a), R’s version of 22.07.11 omits other pages. Of these, A highlights: (i) ‘Suspect details’; (ii) ‘Suspect Elimination: **B3/T1/361-365** – as A reported in her 24.07.11 letter to R: **B3/T3/657** - *Durant v Financial Services Authority* [2003] EWCA Civ 1746; [2004] F.S.R. 28; [2004] IP & T 814; at [28 and 61]; *R. (on the application of Alan Lord) v Secretary of State for the Home Department* [2003] EWHC 2073; at [148].

7. Reasons for distress

57. A is a law-abiding individual with strongly held moral principles of right and wrong: [WS1 § 13 and 14/105](#). The highly prejudicial data contained in particular in the [2003](#) and [2007](#) reports are a source of great distress to her because R:

- (1) has a policy of keeping reports until individuals reach 100 years of age: [WS1 § 14/105](#);
- (2) has demonstrated that it disregards the classification of its reports: [WS1 § 80/128](#);
- (3) makes its data available to numerous other parties e.g. law enforcement agencies, courts, central and local government, etc.

8. A's attempts at ensuring implementation of her rights

58. Before filing the claim, A made numerous attempts at getting her rights enforced under the DPA: [WS1 § 86-100/129](#):

- (1) an initial comprehensive reply of [13.08.09: B3/T3/466](#), supported by a bundle of [49 evidential documents: B3/T3/504](#), was followed by R's contemptuous response of [25.08.09: B3/T3/506](#);
- (2) another detailed reply on [20.09.09: B3/T3/507](#), led to a [22.09.09](#) response: [B3/T3/548](#), that A had "*quite clearly express [her] concerns about accuracy to the MPS*" and to "*contact the Information Commissioner if [she] was dissatisfied with the MPS response*". (The DPA does not require approaching the Commissioner. Even if approached, A could have commenced legal action under [s.7\(9\) of the Act: R. \(Lord\) v Secretary of State for the Home Department \[2003\] EWHC 2073 \(Admin\)](#);

- (3) there followed further correspondence, with the same negative outcome;
- (4) A's letter of [02.02.10](#): [B3/T3/572](#), triggered a [21.01.10](#) response (posted 2 weeks later) from R: [B3/T3/569](#), informing A that it was applying to the [Independent Police Complaints Commission \(IPCC\)](#) "for dispensation" on the ground that A's "complaint [was] more than 12 months after the alleged conduct without good reason" and that she had "made [it] only because [she had] been unable to obtain the result [she] desire[d] through [R's] Public Access Office"
- (5) [A challenged R's position](#), including highlighting that the DPA does not impose a time limit, and [copied the IPCC: B3/T3/580; WS1 § 101-108/133](#).
- (6) In its [22.02.02](#) letter to A, [B3/T3/588](#), the IPCC essentially repeated R's position, and gave A 7 days to respond with "good reasons for the delay". It described her complaint as "an abuse of process because the complaints procedures does not exist in order for crime reports to be amended", and suggested that "the Information Commissioner [was] the appropriate route". A opted to not respond on the ground that if the IPCC could not see her reasons – and her rights – from all the documents it would have been supplied with by R, there was nothing else she could add.
59. A sent R a [02.06.10](#) Section 10 Notice under the DPA: [B1/6/56](#); [B3/T3/590](#). In breach of [s.10\(3\) and DPP6, Sch.1., Part II, para.8\(b\) of the Act](#), she did not get a reply: [WS1 § 109-110/135](#). A strongly disagrees with R's claims under paras.16 and 34 of its [Defence](#), [B1/8/76 & 79](#), that her Notice was "not valid because the damage or distress was not unwarranted, and it had met the DPPs' condition"; "that it was not "wilful or reckless"... ". A also challenges R's denial under para.34 of acting in a way incompatible with A's rights under [Articles 3 and 14 of the HRA](#) - R. (*Carson*) v

Chief Constable of the Royal Ulster Constabulary [2005] UKHL 37; [2006] 1 AC 173; at [14].

60. In breach of [s.7\(1\) of the DPA and DPP6, Sch.1, Part II, para.8\(a\)](#), R has failed to answer A's questions. This includes failing to provide her with the name of recipients of her data e.g. under the [16/03/2007-18h56 entry](#) in the 2007 report, [B3/T2/438](#), R contacted "social services": [WS1 § 79/128](#) - *Durant v Financial Services Authority* [2003] EWCA Civ 1746; [2004] F.S.R. 28; [2004] IP & T 814; at [27, 28 and 61]; *R. (on the application of Alan Lord) v Secretary of state for the home department* [2003] EWHC 2073; at [148].

9. [October 2010 – Kensington & Chelsea police](#)

61. Between 04.10.10 and 17.10.10, A made a total of 7 visits to R's local stations in vain attempts to file 2 complaints of harassment she captured in 2 reports: (i) [20 and 27.07.10 man](#): [B3/T4/659](#); (ii) [30.06.10 and previous occasions man](#): [B3/T4/663](#); [WS1 § 113-139/136](#). Reason 3(4) of [the Order](#) that R "recorded the matter, but took no action" falsely implies that A's complaints were unsubstantiated / unactionable.
62. With its focus on the former man, R refused to process a crime report because A: had "followed the man": [WS1 § 121 and 129/138](#); had "not provided sufficient evidence". A contends that she provided ample evidence: [WS1 § 130 and 131/140](#). Under para.40 of its [Defence](#), [B1/8/81](#), R denied having said this to A. A had recorded the conversation. In the context of [her Reply](#) to R's Defence, [B1/9/84](#), A supplied the recording and [transcript](#): [B3/T4/668](#); [WS1 § 128 and 131/139](#).
63. A challenges R's claim in its [Defence](#), under paras. 41 & 42, [B1/8/81](#), that it did not act in breach of A's rights under [Articles 2 and 14 of the HRA](#) - as she felt abandoned, humiliated, debased and viewed it as continuation of the discrimination

by R [since 2002](#): [WS1 § 132/140](#) - *MC v Bulgaria* (39272/98), 15 B.H.R.C. 627, ECHR; *R. (Carson) v Chief Constable of the Royal Ulster Constabulary* [2005] UKHL 37; [2006] 1 AC 173; at [14]

10. Orders

64. (A had defined the Order under 25-27 of [the Particulars](#)).

65. ADR and / or trial to, under [s.14\(1\),\(4\),\(5\) of the DPA](#), that R:

(1) [2002 report, CR:5604102/02](#):

- i. supplies the missing pages to A, unredacted, and redacted text on any other pages: [s.\(7\)\(c\)](#) - with prior review by the Court if necessary: [s.15\(2\)](#);
- ii. implements A's rectifications, additions and deletions;
- iii. erases all opinions based on this reports and destroys them from its records.
- iv. on completion, provides A with a copy for her review: [s.7\(1\)\(c\)](#);
- v. addresses A's questions: [s.7\(9\)](#);
- vi. provides A with the name of recipients of the data: [s.7\(1\)\(b\)\(iii\)](#);
- vii. informs the recipients of the rectifications, additions and deletions, and asks them to amend their data accordingly, as well as any data they have generated on the basis of the report; obtains confirmation: [s.14\(3\)](#), and provides A with written confirmation;

(2) [2003 report, CR:5602261/03](#)

- i. destroys this report - entailing destruction on: (i) all computer systems and (ii) all back-up tapes on-site and off-site - to the date the report was first

- processed; (iii) the hard drive of computers used; (iv) all computer disks;
(v) all USB sticks; (vi) destruction of all hard copies of the report: [s.14\(4\)](#);
- ii. erases all opinions based on this report from its records: [s.14\(4\)](#);
 - iii. on completion of the above, provides confirmation to A;
 - iv. provides A with the name of recipients of the data: [s.7\(1\)\(b\)\(iii\)](#);
 - v. informs the recipients of the total destruction of the data, and asks them to totally destroy the data they were supplied with, as well as any other data they have generated on the basis of the report; obtain confirmation: [s.14\(5\)](#), and provides A with written confirmation;
- (3) [2007 report, CR:5605839/07](#)
- i. as per the 2003 report, above.
66. Addresses her questions: [s.7\(9\)](#)
67. Paras 26 and 27 of [the Particulars](#) detail the Order if R refuses to destroy the 2003 and 2007 reports because it maintains that A has committed the offences as alleged.
68. Declarations by the Court that A's [Convention rights](#) have been infringed by R, and compensation:
- (1) in relation to her [02.06.10](#) s.10 Notice: [Articles 3 and 14](#);
 - (2) in relation to the crime reports: [Article 6\(1\) and \(2\)](#); [Article 8\(1\) and \(2\)](#);
 - (3) [Article 14](#) as a result of the above.
69. Contrary to [Reasons 5, 6 and 7](#) of [the Order](#), damages to cover:

- (1) breach of the [DPA: s.13\(2\)](#) because, as a direct result of the damage that flowed from R's actions, she suffered, and continues to suffer great distress: [WS1 § 50, 57, 86-100, 109-110, 135 and 143/120, 129-133, 135, 141 & 143](#).
 - (2) breach of the [Malicious Communications Act 1988](#);
 - (3) breach of the [Protection from Harassment Act 1997](#).
70. Exemplary damages for [misconduct / misfeasance in public office](#) in relation to the 3 "crime reports", the 2007 complaint, and the October 2010 complaints, as A contends that R's conduct was arbitrary, oppressive and reckless as to its legality - *Ashley v Chief Constable of Sussex Police* [2006] EWCA Civ 1085; [2007] 1 WLR 398; at [137]; *Kuddus v Chief Constable of Leicestershire Constabulary* [2001] UKHL 29; [2002] 2 AC 122.
71. Costs - A's Schedules of Costs and Damages are under **B1/7/66** and **B2/18/259**. In relation to R, A's costs 'post-filling' - to the 09.08.11 hearing - were £1,300.
72. In relation to A's Order, detailed under **para.136** of [the Particulars](#): Can the Court issue such Order?