IN THE HIGH COURT OF JUSTICE Claim No HQ11X01471

QUEEN'S BENCH DIVISION

This is **my 1st Witness Statement** in response to the 'Independent' Police Complaints Commission's 07.06.11 Application to have my 19.04.11 Claim struck-out. Realising from desk research and the 01.07.11 court's Notice that I should *not* have referred to legislation, *nor* included opinions and arguments, **I replaced it with this 19.07.11 Witness Statement**. However, as I wrote in my 13.09.11 letter to the IPCC *"**I absolutely stand by everything I wrote**"* in this Statement. Not that my redoing it made any difference: 29.07.11 Order striking out my claims.

BETWEEN:

NOËLLE KLOSTERKOTTER-DIT-RAWÉ

Claimant

- and -

THE COMMISSIONER OF POLICE OF THE METROPOLIS

First Defendant

- and -

INDEPENDENT POLICE COMPLAINTS COMMISSION

Second Defendant

- and -

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Third Defendant

As with the 19.07.11 Witness Statement, it is based on the police's **July 09 version** of the *"crime reports"* (**2002**, **2003**, **2007**) as it **ONLY** sent me a **significantly *less redacted* (and incomplete) version on 22.07.11** (**2002**, **2003**, **2007**) **AFTER I had filed and served my Witness Statements**: **(i)** section 9 of my 30.08.11 Appeal Application; **(ii)** para.10 of my 17.10.11 Request; **(iii)** my 29.08.11 Supplementary Witness Statement)

WITNESS STATEMENT IN REPLY TO SECOND DEFENDANT'S 7th JUNE 2011 APPLICATION UNDER CPR 3.4(2) / 24.2

MAIN POINTS

1 I hold the view that the Second Defendant's Application is misconceived and misguided and that, in the interests of justice, it should be dismissed – with costs.....9

2 Instead of answering my Pre-action letter of 17th March 2011 the Second Defendant has opted to wait until the 19th April 2011 Claim was filed to raise the issues contained in its 7th June 2011 Application. 9

3 For the purpose of granting dispensation to the First Defendant, the Second Defendant would have needed to consider a number of documents – as defined in its Statutory Guidance. 10

4 My rights under the Data Protection Act 1998 ('DPA') 17

4.1 Section 10 of the DPA gives me the absolute right to – at any time – require that a data controller stops processing data about me on the grounds that *"the data is causing* [me] *or is likely to cause* [me] *unwarranted damage – or – distress"*. 17

4.2 Personal data is data that is 'obviously about' / 'relates to' / 'is linked' to an individual. 18

4.3 Section 70(2): *"Data are inaccurate if they are incorrect or misleading as to – any - matter of fact"* 19

4.4 Principle 4 gives me the right to demand that my *"personal data is accurate"* 19

4.4.1 The First Defendant is breaching my rights under Principle 4 by processing data, in the 3 *"crime reports"*, that is obviously about me / relates to me / is linked to me - that is *"inaccurate"* due to its wilful failure: (i) to comply with the Act's requirement *"to take reasonable steps to ensure the accuracy of the data"* it obtained from Andrew David Ladsky, as well as created itself; (ii) to record highly relevant data - while being fully cognisant of the consequences its failures would have on me, given the purpose for which the data was obtained and has been reprocessed: to 'shut me up'; to defame my name, character and reputation. Further, the *"inaccurate data"* have been processed and reprocessed to cover-up Andrew Ladsky's involvement in events, as well as the active assistance he received from some of the First Defendant's officers… 19

4.5 Principle 1 gives me the right to have my *"personal data processed fairly and lawfully"* – which means meeting at least one of the conditions in Schedule 2 of the Act. 34

4.5.1 The First Defendant is breaching my rights under Principle 1 by wilfully processing *"personal data"* that is *"unfair and/or unlawful"* - and therefore *"unwarranted by reason of prejudice to my rights and legitimate interests"* (Sch.2, para.6 of the Act). The unfairness and /or unlawfulness stem from: (i) the failure to record highly pertinent data; (ii) recording of partial and /or biased representation of events; (iii) failure to record 'offline' fabricated 'stories' intended to cover-up the truth. The main motives for doing this are essentially as per those listed under section 4.4.1 above. 34

4.6 Principle 1 also gives me the right to have my *"sensitive person data processed fairly and lawfully"* – which means meeting at least one of the conditions – in both – Schedules 2 and 3 of the Act. 36

4.6.1 The First Defendant is breaching my rights under this second part of Principle 1 by processing, in the 2003 and 2007 *"crime reports"*, *"sensitive personal data"* about me that are *"unfair and/or unlawful"* - data that are therefore *"prejudicial to my rights and legitimate interests"*. It is doing this: (i) by processing data that falsely accuses me of having committed unlawful acts – which, to this day, it has denied me the right to defend myself against; (ii) by having itself, cleared me, in its 2003 report, of having committed an *"offence of harassment"*, in its 2007 report it 'recycled' the false accusation from Andrew Ladsky and, in the process, fully endorsed it; (iii) by processing false, highly detrimental, malicious, libellous opinions about my *"mental heath or condition"* which, in addition, it also communicated to third parties – and in relation to which it, likewise, denied me the right to counteract; (iv) by libellously branding me *"a Nazi"*. The 2003 and 2007 reports should have never been processed. The objective of the 2003 report was to stop me challenging Andrew Ladsky's fraudulent activities, and its retention was 'in case' I 'dared' continue fighting for my rights. The objective for processing the 2007 report, that still falsely accuses me of having committed a *"racist"* offence, was – and still is: REVENGE. Having failed in their blind determination to get my website, www.leasehold-outrage.com closed

down (by falsely accusing me of having committed *"a crime"*), by not contacting me at any point in time, the First Defendant and Andrew Ladsky had a field day in their malicious, totally unsupported accusations against me. They weaved this web of false, malicious, accusations to provide a rationale for capturing their outrageous, malicious, libellous opinions about my *"mental health or condition"*, and for contacting social services. And these accusations and opinions are just the ones that the First Defendant deemed that I was 'entitled' to see. 36

4.7 Based on the DPA's requirements contained in Schedules 2 and 3, the processing of all the data discussed under the above sections relating to Principle 1 is unfair and/or unlawful because: 47

4.8 Principle 3 gives me the right that the data held about me is *"adequate and relevant"* 48

4.8.1 The First Defendant is breaching my rights under Principle 3 by failing to capture *"adequate data"*. It is doing this by failing to process highly pertinent facts and evidence. The objectives of doing this are: (i) to cover-up 'inconvenient' events / facts; (ii) to disparage me and discredit me; (iii) to protect Andrew Ladsky; (iv) to give scope to Andrew Ladsky and the First Defendant to exert revenge for my 'daring' to stand-up to them and their 'friends' in the public sector, and within the professions. 48

4.9 Principle 2 gives me the right that my *"personal data is obtained only for one or more specified and lawful purposes"* 49

4.9.1 The First Defendant is breaching my rights under Principle 2 as it has not only *"obtained data for unlawful purposes"*, it has itself added to the unlawful data, as well as reprocessed it, including disclosing it to third parties for, very clearly, malicious purposes. 49

4.10 Principle 6 gives me the right to have my personal data *"processed in accordance with* [my] *rights under this Act"*. This includes, under Section 7(1) of the DPA, the right to be given: (i) *"a description of the data processed about* [me]*"*; (ii) *"the purpose for which it is*

being processed"; (iii) *"the information constituting any personal data of which* [I am] *the data subject"*; (iv) *"the recipients or classes of recipients to whom data about* [me] *is or may be disclosed"* – so that I can make subject access requests with the aim of ensuring that processing of my data meets the fair processing requirements. 49

4.10.1 The First Defendant has failed to address any of my legitimate requests for information. In addition to failing to supply me with evidence in support of the various accusations by / opinions of me from the First Defendant and Andrew Ladsky, it includes failing to provide me with the contact details for social services, which the First Defendant contacted in 2007 on the grounds of its outrageous opinion of me: *"I believe she may have some mental issues so will be speaking to social services to see if they are aware of her"*. Further, each of the 3 *"crime reports"* has been extensively redacted, and I suspect that it has not always been done by applying an appropriate 'balancing test' to ensure that my interests are protected – pursuant to 7(4) of the DPA. In fact, in light of the conduct of the First Defendant since 2002, it is my absolute belief that it holds data about me that is far more damaging than the data it has so far deemed 'appropriate' to release to me. 51

4.11 Principle 7 gives me the right to expect that "*appropriate measures are in place* [to prevent] *unauthorised or unlawful processing"* 56

4.11.1 It is clear from the content of this Witness Statement that this requirement has not been met. 56

5 The Second Defendant has failed me. 56

5.1 The Second Defendant used Regulation 3(2) of the Police (Complaints and Misconduct) Regulations 2004 to dismiss my complaint on the ground that "*more 12 months have elapsed since the incident complained of*". As crystal clear from Section 10 of the DPA, detailed above under section 4.1, it gives me - the absolute right - to require a data controller to stop processing data about me – at any time. Hence, use of Regulation 3(2) by the Second Defendant

is misguided. I hold the view that it has been used because the First Defendant did not 'like' the evidence I supplied in support of my demands - and the Second Defendant obliged. 56

5.2 While the Second Defendant's letter of 22nd February 2010 had been intercepted to ensure I missed its dictatorial 7 day deadline for reply, the main reason for my not responding post the deadline was my conclusion that there clearly was collusion going on between the Second and First Defendants. I came to this conclusion because: (i) the letter very clearly demonstrated that the Second Defendant had (contrary to its own Guidance on dispensation) failed to take any notice of the content of my correspondence, as listed, above, under section 3 – including my endlessly repeating my rights under the DPA in, among others, Letter A (13th August 2009) and Letter B (20th September 2009); (ii) it sent me the letter the day after receiving mine, dated 18th February 2010, in which, among others, I (yet again) highlighted the fact that the DPA did not impose a time limit; (iii) the First Defendant had posted to me, a letter dated 21st January 2010, on 4th February 2010, day on which it took delivery of my 2nd February 2010 letter, headed *"When am I due to be killed?"* To add insult to injury, in its dictatorial, bullying letter, the Second Defendant stated that even if I *"provided a sound explanation for the delay"* it would *"still consider dispensation on the grounds of abuse of process"* - by claiming that I should have approached the Information Commissioner instead. 57

5.3 I had assessed the Second Defendant's 22nd February 2010 letter as 'preparatory ground for the next instalment'. I proved to be right, as the next 'instalment' was a 2nd March 2010 letter from the Second Defendant that was a near carbon copy of its 22nd February 2010 letter. The content was that the Second Defendant granted the dispensation to the First Defendant by dismissing my complaint on the grounds that: (i) I had *"not provided a good reason for the delay between the incident and the complaint and investigating it would*

likely cause an injustice"; (ii) my complaint was *"an abuse of process because the misconduct complaints system does not exist for making changes to old crime reports and I should apply to the Information Commissioner, if there is any way of addressing the issue"*. 60

5.4 In response to paragraphs 18-21 of the Second Defendant's Application, I repeat my allegation under paragraph 149 of the Particulars of Claim that: (i) *"the Second Defendant has wilfully and recklessly failed to perform its statutory duty under the Police Act 2002";* (ii) it *"ignored its own 'Statutory Guidance to the police service and police authorities on the handling of complaints'";* (iii) it also ignored the Home Office's Guidance. I also repeat my allegation under paragraph 150 that the *"Second Defendant failed to hold to account those I justifiably complained against (and by implication their employing organisation) for their conduct"*. The Second Defendant did this by endorsing the First Defendant's evident perception that it is at liberty to ignore my rights under the DPA. And, considering the manner in which I had been treated by the First Defendant since my initial reply of 13th August 2009 – it likewise turned a blind eye to this discriminatory conduct breaching my rights under the European Convention on Human Rights – conduct which the Second Defendant itself copied in its correspondence to me. While the First and Second Defendants evidently do not accept that the data processed about me is a source of great distress, I have no doubt that any normal, decent, law-abiding human being like me would have no difficulty understanding my reaction to the data – and concurrent determination to have my rights enforced. 61

6 The Second Defendant's failure to help me, led me to opt for the option of sending to the First Defendant's officer, Chief Superintendent Mark Heath, Kensington police, a 2nd June 2010 Notice under Section 10 of the DPA. This strategy also failed as, in spite of meeting the requirements, in breach of the DPA, my Notice was not even acknowledged. The obvious reason:

from prior events with his overall Head, as well as with the Second Defendant, he knew that he had carte blanche to do this. Further, it is my conclusion that the First Defendant ignored my repeated warning that, if my demands were not met, I would, as per my right under Section 14 of the DPA, issue proceedings – on the assumption that I did not have £70,000+ to spend on legal advisers to challenge its refusals. 63

Statement of Truth

I believe that the facts stated in this Witness Statement are true.

……

Noëlle Yvonne Sylvie Klosterkotter-Dit-Rawé

Date: ……

This Witness Statement is supported by 12 Exhibits.

I, Noëlle Yvonne Sylvie Klosterkotter-Dit-Rawé, Litigant in Person, a pensioner, and leasehold owner of flat 3, Jefferson House, 11 Basil Street, London SW3 1AX, where I permanently reside - SAY AS FOLLOWS:

1 I hold the view that the Second Defendant's Application is misconceived and misguided and that, in the interests of justice, it should be dismissed – with costs.

1. This Witness Statement is in response to the Second Defendant's Application, dated 7th June 2011, for an Order that my claim against this Defendant:

   (1) Be "*struck-out pursuant to CPR 3.4(2)"*;

   (2) "*Alternatively, that Summary Judgment"* be entered;

   (3) That I "*pay the costs of the Application and of the Claim"*

   "*because the Particulars of Claim disclose no reasonable grounds for bringing the claim and the Claimant has no real prospects of success"*

2. I will demonstrate in this Witness Statement that this Application is misconceived and misguided and that, in the interests of justice, it should be dismissed – with costs.

2 Instead of answering my Pre-action letter of 17th March 2011 the Second Defendant has opted to wait until the 19th April 2011 Claim was filed to raise the issues contained in its 7th June 2011 Application.

3. As evidenced in Exhibits KDR 12, my 'Special Delivery' 17th March 2011 Pre-action correspondence (of over 50 pages) was delivered by the Post Office to the Second Defendant's Office on 18th March 2011. I addressed the letter to Nick Harding, IPCC Chairman – and definitely used the correct address.

4. The Second Defendant claimed in its letter dated 21st April 2011 (Exhibits KDR 12) that it had not received it, and asked me to "*resend"* a copy. It very clearly had been delivered. After other exchanges with the Second Defendant, I supplied another full copy on 16th May 2011, and delivered it by hand.

5. As my letter was definitely delivered, I conclude that the failure to respond was intentional.

3 For the purpose of granting dispensation to the First Defendant, the Second Defendant would have needed to consider a number of documents – as defined in its Statutory Guidance.

6. Point 194, page 61, of the Second Defendant's 'Statutory Guidance to the Police Service and Police Authorities on the Handling of Complaints' states: "*The application for dispensation must include:"*

(1) "*a copy of the complaint"*;

(2) "*the reasons for making the application, including the ground under which it is made"*;

(3) "*where the complaint is repetitious, a copy of the previous complaint and a copy of any record of any resolution, withdrawal or dispensation of that complaint"*;

(4) "*copies of any other documents in the possession of the appropriate authority which is relevant to the complaint. This could include"*:

a. "*other evidence in support of the application"*;

b. "*evidence of any contact with the complainant…"*

c. "*evidence that reasonable efforts have already been made to contact a complainant and look into the complaint"*;

d. (special needs complainant)

e. "*evidence of attempts to meet any reasonable conditions set by a complainant for cooperation with the complaints process"*

7. In light of the above, the Second Defendant would have had to consider the following documents:

<u>The 3 crime reports</u>

(1) The 3 *"crime reports"* I received from the First Defendant following making a 28th May 2009 Subject Access Request (Annex of the Particulars of Claim / Second Defendant's Exhibit JC/7). They are detailed under the following 3 points (and expanded on relative to paragraph 5 of the Particulars of Claim).

(2) CR:5604102/02 ('The 2002 report') (Exhibit KDR 3) - a complaint of harassment I made to the First Defendant (Kensington & Chelsea police) against my landlord, Andrew David Ladsky ('ADL') following 20 anonymous phone calls made to my home phone, over a 3-day period in February 2002, and in the context of which I reported suffering other forms of harassment from ADL.

The header for this report reads: *"CrType:C Notifiable/MPS/Other: Status:DPress:N Class:S/Telecom GLU:BS"*. According to the 'Abbreviations List' supplied by the First Defendant with the report (Exhibit KDR 2): *"C"* means *"major crime"*; ('GLU' stands for 'Geographical Location Unit').

(3) CR:5602261/03 ('The 2003 report') (Exhibit KDR 5) - a 'complaint' by ADL to the First Defendant (Chelsea police) accusing me of *"abusing him verbally"* in January 2003, and of having *"a history of doing this"*.

The header for this report reads: *"CrType:C Notifiable/MPS/Other: Status:U Press:N Class:S/Harassment GLU:BSPress"*. According to the 'Abbreviations List' *"U"* means *"Undetected"*.

Page 22 - *"SUBSTANT/Offence of harassment"* (from the 'Abbreviations List' *"S/SUBSTANT"* means *"Substantiated"*); *"Confirm?"*: *"Y"*; *"Current status"*: *"U Undetected Crime"*; *"Cleared-Up Reason"* (no entry).

Page 1 – *"Crime Type"*: *"C"*.

Pages 12 and 13 – *"Currently Eliminated?"*: *"Suspect is eliminated"*.

Page 16 – *"Suspect Eliminated"*: *"06/02/2003"*; *"Reason Eliminated"*: *"see dets"* (*"dets"* is defined in the 'Abbreviations List' as *"Details"*). (There are no entries to the other sections: e.g. *"How Suspect Notified"*; *"Date/Time Notified"*. And no entry on page 17 *"Suspect Elimination – Officer's Notes"*).

Page 32 – *"Screening Decision"*: *"IN Crime screened "in" for further Investigation"*; *"Reason"*: *"71 IN-Solvable SP"*.

(4) CR:5605839/07 (The 2007 report') (Exhibit KDR 7) - a 'complaint' by ADL to the First Defendant (Notting Hill police). As the First Defendant's officers never contacted me at any point in time in relation to this 'complaint', I must rely on the report to determine what I was accused of. The header for this report reads: *"CrTpe:B Notifiable/MPS/Other:N-9 Status:U Press:N Class:S/Spec Investing GLU:BS"*. (Based on the 'Abbreviations List': *"B"* means *"Bailed"*; *"N-9"* is not defined).

Page 19 – *"Main classification" – "Method"*: *"A web page has been created which is alleged to contain anti-Semitic, anti-black, anti-Asian pictures and text"*; *"Description"*: *"SUBSTANT/Racial Incident – Specified Investigation"*; *"Current status"*: *"U Undetected Crime"; "Last Changed": "20/03/2007"*.

Page 22 *"… www.leasehold-outrage.com …is alleged to be extremely upsetting and insulting. There are a number of sections which are alleged to be of a racial nature and numerous references by name to the victim…The specific racist remarks and pictures… are contained throughout"*.

Page 25 – *" –72– and –73 – has informed me that the mention of Pigs and Monkeys relates to the words the Nazi's used referring to Jewish people during the holocaust. This is obviously offensive -74– and believes this is what the suspect is referring to…"*.

Pages 25 and 26 – *"There is a lot of slanderous comments on the site mainly directed at –79– but also at K&C Police and even MPs, the Prime Minister and DPM. Also against solicitors and many others"*.

Page 1 - *"RI racial incident; RS anti-Semitic incident"*.

Page 2 - *"Hate crime"* relating to *"Race"* and *"Faith/Religion/Belief"*.

Page 3 – *"Religion Name"*: *"117"* which must mean 'Jewish'

Pages 9 and 10: *"Suspects Summary – Currently Eliminated? – "Suspect is eliminated"*.

Page 13 – *"Suspect Elimination"*: *"Currently Eliminated: Y"*; *"Date eliminated": "17.07.2008"* (NB: which is 16 months after the 'complaint' was made); *"Reason Eliminated: NC No Further Action – see DETS"*; *"Method of Detection"* (no entry); *"How Suspect Notified – BF No evidence of offence at this stage"*; *"Date/Time Notified"* (no entry); *"Notified by"*: *"Rank"*: *"PS"*; *"Div/D Number"*: *"81BS"*; *"Warrant Number": "29"*; *"Initials"*: *"G"*; *"Surname"*: *"Latham"*.

Page 14 – *"Suspect Elimination" – "Conditions"* (no entry); *"Officer's Notes"* (no entry).

Page 26 – *"Advised by DS – 91 – at the Racial crime Directorate at NSY that there is no crime made out and therefore this should be classed as a racial incident and nothing more"*.

Page 27 – *"Crime reclassified to no crime unconfirmed"*; *"17/02/2009 – The Branch Flags 'FH'/RI'/RS' were present in this crime report. As a result of the new 'DV/HateCrime' tab on the General Information screen today, there are now associated fields ('HateCrimeReligion', 'HateCrimeRace') on the new tab and these have been selected"*.

Page 30 – *"Screening Decision": "OUT Crime screened "out". No further investigation"*.

Correspondence

Some of the following correspondence is listed / detailed under paragraphs 14-16 of the Particulars of Claim.

(5) My 13th August 2009 38-page feedback to the First Defendant (Exhibits KDR 9) on its reply to my Subject Access Request. The code name for this letter is 'Letter A' due to the extensive references to this letter in this Witness Statement. With this letter, I supplied a bundle of 49 supporting documents,

and attach the list (Exhibit KDR 9). Some of these documents are referred to in this Witness Statement and are supplied as part of the exhibits.

(6) 25th August 2009 First Defendant's response to my 13th August 2009 letter (Exhibit KDR 9) which, in effect, dismisses my feedback, as well as treats me with contempt.

(7) My 20th September 2009, 38-page reply to the First Defendant (Exhibit KDR 10) – code name 'Letter B' due, likewise to the extensive references to this letter in this Witness Statement. In this letter: (i) I reiterated my position; (ii) emphasised my rights under the Data Protection Act 1998 by providing comprehensive extracts; (iii) highlighted its refusal to supply me with *"data that is 'obviously about me' / 'relates to me' / is 'linked to me' – thereby preventing me from ensuring that fair processing requirements have been complied with"*

(8) My 20th September 2009 letter to the First Defendant, headed *"Kensington & Chelsea police is not exempt from compliance with the requirements of the Data Protection Act 1998"*. In this letter, I related events (supported by documents) and drew conclusions on its failure to address my demands. (This letter has already been filed under Exhibit 2 in the context of my 14th June 2011 Reply to the First Defendant's 23rd May 2011 Defence).

(9) 22nd September 2009 reply from the First Defendant's officer, Steve McSorley, Acting Chief Inspector, Head of Professional Standards, Kensington police (Exhibits KDR 11), stating that I had *"quite clearly expressed* [my] *concerns about accuracy to the MPS"*, and that if I was *"dissatisfied with the MPS response* [I] *should contact the Information Commissioner"*.

(10) My 8th October 2009 reply (Exhibits KDR 11) in which I challenged him on his 22nd September 2009 reply in light of his role at Kensington police, as well as highlighted that he had ignored everything in my 13th August and 20th September 2009 correspondence – in spite of his stating that I had *"quite clearly expressed* [my] *concerns"*.

(11) My 8th October 2009 letter to the First Defendant's officer, Chief Superintendent Mark Heath (Exhibits KDR 11), in which I asked: *"Do you endorse the treatment I have and continue to be subjected to by Kensington & Chelsea police?"*, and copied him on my 8th October 2009 letter to Steve McSorley.

(12) My 11th November 2009 chaser letter to the First Defendant's officer, Mark Heath (Exhibits KDR 11), as he had failed to reply to my 8th October 2009 letter.

(13) My 11th November 2009 chaser letter to the First Defendant's officer, S McSorley (Exhibit KDR 11), as he had, likewise, failed to reply to my 8th October 2009 letter.

(14) 17th November 2009 letter from the First Defendant's officer, Sergeant Dave Jones (Exhibits KDR 11), that *"The Borough Commander has asked Chief Inspector McSorley to write again to you in order to outline the previous advice given"*.

(15) 20th November 2009 letter from the First Defendant's officer, Steve McSorley (Exhibits KDR 11), said to be in acknowledgement of my 8th October 2009 letter, in which he dismissed my conclusions about the police officers under the control of the First Defendant's officer, Mark Heath. (The content of this letter is reproduced under paragraph 16 of the Particulars of Claim).

(16) My 28th November 2009 'cry for help' to the First Defendant (and to the then Home Secretary) in which I provided an overview of my experience with Kensington, Chelsea and Notting police in 2002, 2003, 2007, as well as reported my experience since submitting my Subject Access Request, by quoting extracts from the subsequent exchange of correspondence. (This letter has already been filed under Exhibit 1, in the context of my 14th June 2011 Reply to the First Defendant's Defence).

(17) My 2nd December 2009 letter to the First Defendant headed *"Head of Kensington Police approves of illegal conduct by some of its officers"*. In this

letter, I detailed evidence in support of my header. (This letter has already been filed under Exhibit 3, in the same context as stated above).

(18) 8th December 2009 letter from the First Defendant's Directorate of Professional Standards (posted one week later) that it was *"identifying the most appropriate person to deal with the issue(s) you have raised. We will then send you the contact details of the person dealing with your complaint"*. (This letter has already been filed under Exhibit 4, in the same context as per above).

(19) My 28th December 2009 letter to the Directorate of Professional Standards (Exhibits KDR 11) in which, as required, I provided my contact number.

(20) My 2nd February 2010 letter to the First Defendant as, by then, its Directorate of Professional Standards had failed to contact me. I headed the letter with *"When am I due to be killed?"*, referring to the 15th June 2009 death threat I had mentioned on page 8, line 11 of my 28th November 2009 letter to him. (Pages 1-5 and 17-19 of the 2nd February 2010 letter have already been filed under Exhibit 4, in the same context as per above. So has the 28th November 2010 letter, under Exhibit 1).

8. Contrasting the above list with the list contained on the 3rd page of the Second Defendant's Exhibit JC/1, 'Application for dispensation', I note the following:

(1) There is no reference to the bundle of 49 documents I supplied in support of my 13th August 2009 reply.

(2) As detailed above, my 11th November 2009 correspondence was comprised of 2, rather than just 1 letter.

(3) Ditto in relation to my 8th October 2009 correspondence (which is incorrectly recorded as '8.11.2009')

(4) Also incorrectly recorded is my 28th November 2009 letter: I sent it to the First Defendant i.e. the MPS – not to the DPS.

9. For the remainder of this Witness Statement I will rely on the above documents, including those supplied as supporting evidence with my 13th August 2009 letter –

and not on my 2nd June 2010 s.10 Notice and supporting 67-page document to the First Defendant which the Second Defendant supplied with its Application, as they were issued post my complaint being referred to the Second Defendant in February 2010.

4 My rights under the Data Protection Act 1998 ('DPA')

10. This section includes references to the DPA's Schedule 1 Parts I and II, and to Schedules 2 and 3. A full version of these Schedules is included under Exhibit KDR 1

11. While each of the DPA Principle is self-standing, there is some considerable overlap between some of the 8 DPA Principles. Hence, some of my objections are cross-referenced.

4.1 Section 10 of the DPA gives me the absolute right to – at any time – require that a data controller stops processing data about me on the grounds that "*the data is causing* [me] *or is likely to cause* [me] *unwarranted damage – or – distress*".

12. Section 10(1) of the Act states: "*Subject to subsection (2), an individual is entitled at any time by notice in writing to a data controller to require the data controller at the end of such period as is reasonable in the circumstances to cease, or not to begin, processing, or processing for a specified purpose or in a specified manner, any personal data in respect of which he is the data subject, on the ground that, for specified reasons*- (a) *the processing of those data or their processing for that purpose or in that manner is causing or is likely to cause substantial damage or substantial distress to him or to another, and* (b) *that damage or distress is or would be unwarranted*".

13. Section 10(2) states: "*Subsection (1) does not apply*- (a) *in a case where any of the conditions in paragraphs 1 to 4 of Schedule 2 is met…*"

14. As detailed under the rest of this section on the DPA the processing of the data that causes me distress and damage and is likely to cause me further damage fails to meet the Section 10(2) requirement.

15. In Letter B I refer to this right on:

(1) Page 1 of my letter where I stated: *"(1) a large proportion of the data you hold about me is false, unlawful, misleading, scurrilous, libellous, biased, corrupted, incomplete in some very significant aspects – and I have the right, under the Act, to seek – and obtain – an end to the processing of data "likely to cause damage or distress", as well as obtain correction of data to ensure that it is "fair, lawful and accurate""*

(2) On page 7, under Section 1.6 "*Right to prevent processing likely to cause damage or distress"* under which I reproduced Section 10 of the Act.

(3) While on page 2 of the letter, I refer to the Association of Chief Police Officers' recommendation that the information about an individual is retained *"until the individual reaches 100 years of age"*, and state: *"It is therefore of paramount importance to me that this data is fair, accurate and lawful"*.

4.2 Personal data is data that is 'obviously about' / 'relates to' / 'is linked' to an individual.

Section 1(1) of the DPA states *"personal data" means data which relate to a living individual who can be identified- (a) from those data, or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual"*

Section 2 of the DPA states: *"Sensitive personal data" means personal data consisting of information as to- (a) the racial or ethnic origin of the data subject, (e) his physical or mental health or condition, (g) the commission or alleged commission by him of any offence"*.

16. In *Durant v Financial Services Authority* [2003] EWCA Civ 1746; [2004] F.S.R. 28; [2004] IP & T 814, the Court considered the meaning of the words *"relate to"* and the extent to which, if any, information must have the data subject as its focus, or main focus, before it is considered to relate to him. Lord Justice Auld stated [para.28] the following test: *"1. the information must be biographical in a*

significant sense, and 2. the individual must be the focus of the information" (as opposed to just being a 'bystander').

17. From the Information Commissioner's Guidance on Determining what is personal data:

(1) *"Personal data is when: (i) The data is 'obviously about' a particular individual; (ii) The data is 'linked to' an individual and provides particular information about that individual; (iii) The data is used, can be used to inform or influence actions or decisions affecting an identifiable individual".*

(2) "'Relates to' the identifiable individual: Data that 'relates to' the individual is data processed to learn or record something about that individual, or where the processing of that information has an impact upon that individual i.e. processed for the purpose of determining or influencing the way in which that person is treated. Hence, it covers data intended to (1) learn, (2) record; or (3) decide something about an identifiable individual".

4.3 Section 70(2): *"Data are inaccurate if they are incorrect or misleading as to – any - matter of fact"*

18. Section 70(2) of the DPA states: *"For the purposes of this Act data are inaccurate if they are incorrect or misleading as to any matter of fact".*

4.4 Principle 4 gives me the right to demand that my *"personal data is accurate"*

19. Schedule 1, Part I, paragraph 4 of the Act states: *"Personal data shall be accurate and, where necessary, kept up to date".*

20. Schedule 1, Part II, paragraph 7 of the DPA: *"The fourth principle is not contravened by reason of any inaccuracy…which accurately record information obtained from a third party in a case where (a) having regard to the purpose or purposes for which the data was obtained the data controller has taken reasonable steps to ensure the accuracy of the data".*

4.4.1 The First Defendant is breaching my rights under Principle 4 by processing data, in the 3 *"crime reports"*, that is obviously about me / relates to me / is linked to me -

that is *"inaccurate"* due to its wilful failure: (i) to comply with the Act's requirement *"to take reasonable steps to ensure the accuracy of the data"* it obtained from Andrew David Ladsky, as well as created itself; (ii) to record highly relevant data - while being fully cognisant of the consequences its failures would have on me, given the purpose for which the data was obtained and has been reprocessed: to 'shut me up'; to defame my name, character and reputation. Further, the *"inaccurate data"* have been processed and reprocessed to cover-up Andrew Ladsky's involvement in events, as well as the active assistance he received from some of the First Defendant's officers.

21. I highlight that, where relevant, throughout Letter A and Letter B I specifically noted the breach of the DPA by stating *"failure to take reasonable steps to ensure the accuracy of the data captured about me"*.

22. As an introduction, it is certainly expected of the police to take *"reasonable steps to ensure the accuracy of the data"* it captures on its systems about individuals. This includes probing and/or investigating third party claims, including obtaining evidence in support of accusations and/or allegations. In fact, as demonstrated by my experience with the First Defendant's officers at Kensington & Chelsea police in October 2010 when I attempted, in vain, to report suffering harassment from 2 individuals (as detailed in my 14th June 2011 Reply to the First Defendant's Defence), the benchmark is such that photographs of the individuals and, in one instance, photographs of the car that the individual was driving, clearly showing the number plate of the car and the make were deemed to be *"insufficient evidence to file a crime report"*.

23. <u>2002, 2003 and 2007 reports</u>

(1) The 3 reports describe Andrew David Ladsky ('ADL') as my *"neighbour"* (2002 report: pages 6 and 7; 2003 report: page 15; 2007 report: page 1) instead of what he is: landlord for Jefferson House. As I report on page 16 of Letter A, this includes ADL doing this himself *"The suspect seems to think that the victim is behind the company who has sent these letters asking for money"*. The use of this misleading description is done with malicious intent: (i) as evidenced by the above example, to provide ADL with the opportunity to

portray himself as 'the poor innocent victim' totally unconnected with decisions in relation to Jefferson House; (ii) to convey a negative, false, disparaging impression of me and undermine my credibility; (iii) to save him from having to explain 'inconvenient' evidence – in the process giving some weight to his trumped-up, malicious and slanderous accusations against me; (iv) to allow the First Defendant to record ADL's false accusations and opinions of me, as well as 'justify' to anybody not party to the deceit its total lack of probing of ADL's accusations and opinions.

a. I explained the above on pages 4, 6, 16 and 25 of Letter A, stating *"Police records must be amended to reflect the true nature of the relationship"*, and supplied 6 documents in support of my position.

b. On page 21 of Letter B, I stated that, the fact that ADL was the landlord and I am his tenant *"are of crucial importance"*. On page 22, I emphasised the evidence I had previously supplied.

24. <u>2002 report</u>

(1) Page 13 - Describing the person who made the anonymous phone calls to me as *"unknown"*. On page 5 of Letter A, I wrote that this was not the case as I identified ADL when I made the complaint, and continued to do so in subsequent correspondence. (I also refer to 3 other parts of the 2002 report (pages 20, 21 and 24) that refer to my reporting suffering other forms of harassment from ADL, and for which I captured my comments on pages 9, 10 and 13 of Letter A). On page 25 of Letter B, I wrote *"The consequential impact of this failure to record the truth undermines my credibility in identifying Andrew Ladsky as the perpetrator"*.

(2) The First Defendant has done the above for the purpose of protecting ADL and, concurrently, with the objective of disparaging me and undermining the credibility of my complaint. These objectives were apparent to me on several occasions, as well as being blatantly evident from the inaccurate data i.e. data that are "*incorrect and/or misleading as to matters of fact*":

a. On 18th February 2002 when I first spoke to the First Defendant's officer, DC DR Adams, when I mentioned ADL's name, he went on the defensive, including dismissing my quoting a complaint by one of my fellow leaseholders. This is captured on page 7 of Letter A, in which I state that I also captured it in 3 of my supporting documents to Letter A - for example, on page 2 of my 13th March 2002 complaint to the Police Complaints Authority (Exhibits KDR 4). (As can be seen, I copied DC Adams on this letter. He did not challenge me on the content of my letter).

b. On pages 7 and 8 of Letter A, I also provide evidence of other Jefferson House residents suffering harassment from ADL – and of their having complained about it to the First Defendant, including substantiating my claim by providing e.g. an 11th October 2001 letter from one of ADL's solicitors, Ayesha Salim, Cawdery Kaye Fireman & Taylor (CKFT), to one of the leaseholders (Exhibits KDR 4). As I also report, this is in addition to the First Defendant's officer, DC Adams telling me on 25th March 2002 that the resident alleged to have made *"all the anonymous phone calls"* to me, had told him that *"Andrew Ladsky has been harassing her"*. This is captured on page 8 of Letter A, in which I refer reporting this in my 2nd April 2002 letter to DI Paul Webster (Exhibits KDR 4). (I repeated my assertions on page 25 of Letter B).

c. On page 24 of the 2002 report, the First Defendant's officer, DC DR Adams, captured *"Whilst updating Ms Rawé yesterday she still insisted that –102–101– is harassing her and other people living at Jefferson House –103– has not been the subject in any Cris reports…"*. In my 2nd April 2002 letter to the First Defendant's officer, DI Webster, I report saying to DC Adams *"So, there are five people now who have complained to the police about Andrew Ladsky"*, and list them. In his 23rd April 2002 reply (Exhibits KDR 4), DI Webster wrote *"No crime report has been reported to this police borough regarding Mr Ladsky…"*. In relation to my 2nd

April 2002 letter to DI Webster, on page 26 of the 2002 report, DC Adams captured *"In this she claims that a number of residents have made allegations of harassment against –117"*. The rest of the entry is redacted. On page 21 of Letter B, I wrote that by hiding the evidence of ADL's harassment of other residents, it undermined my credibility. To which I will now add: so much for the First Defendant's claim on the same page of the report i.e. page 22 that *"I advised Ms Rawé that any allegation made by any resident at the block will be fully investigated including any further allegations made by her"*.

d. On 27th March 2002, the First Defendant's officer, DC Adams, told me: *"You won't be able to prove a link with Andrew Ladsky"*. Because of my insistence on having the subscriber for the Reach Europe landline number identified, he preceded this with *"So, we are going to have to throw resources at this for just two phone calls?"*. Neither of these comments is recorded in the report. Both comments clearly demonstrate intimidation and bullying with the objective of making me drop my complaint. I reported this fact on page 14 of Letter A, as well as on page 27 of Letter B, stating: *"Failure to process this data has an impact on me as, by not stating that I was put under duress by DC Adams it can be construed that I backed down on my complaint – thereby undermining my credibility"*. I stated that I captured the above comments from DC Adams in my 2nd April 2002 letter to the First Defendant's officer, DI Webster.

e. DC Adams claiming, on page 24 of the report, at 26th March 2002: *"…in this case there was absolutely no evidence to link –104–* (i.e. ADL) *with this matter"*. As I state on page 13 of Letter A *"this conclusion was premature and is therefore false"* i.e. inaccurate, as 2 months later, on 22nd May 2002, DC Adams entered on page 29 of the report *"The result from the last subscribers check has been received, the line is held by –131– This is the -132–133– the*

number being one of their outside lines. There is no way of tracing which telephone was used to make the three calls between 18h23 and 18h27 on 19/2/2". (NB: In relation to *"has been received"*: my complaint was filed 3 months previously).

f. As I report in my 31st May 2002 chaser e-mail to the Metropolitan Police Authority (Exhibits KDR 4), on 23rd May 2002, the First Defendant's officer, DC Adams, told me that the 3 anonymous calls made to me from a landline number were made from a hotel near Jefferson House; he claimed that, like the other 17 anonymous calls, they had been made by the same resident. (In this e-mail I stated my concern that the 3 calls had also been attributed to the resident, and reiterated my view that the calls were made by ADL. (This is captured on page 15 of Letter A)). As I wrote on page 13 of Letter A, if there was *"no way of tracing the phone used, then there could be no way of identifying the caller"*. (NB: As I report on page 16 of Letter A, at the time of writing this e-mail I did not know about DC Adams' prior claim that *"There was no way of tracing the phone that had been used"*, as he had not communicated this to me).

g. As I recorded on page 26 of Letter B, the report does not state that the resident *"admitted"* to also making these calls which, I am sure she did not make, whether from the nearby hotel, or otherwise. In fact, as I state on page 12 of Letter A, I believe that the resident had been-set-up, and cite the fact that she was facing a £64,500 'service demand' from ADL as being key to her so-called *"admissions"*. The 'story' about her mobile phone (detailed below) provides further evidence of this. (In my 2nd April 2002 letter to the First Defendant's officer, DI Webster, I report the First Defendant's officer, DC Adams, telling me about the resident: "*She said she does not know why she has done it. I really probed her, asked her whether you had upset her in any way. She said no. She is very sorry she has done this"*).

h. On page 30 of the 2002 report, the First Defendant's officer, DC Adams captured (i) *"I have left messages asking Ms Rawé to contact me to update her. This matter is complete and the papers are now FOD' at BC";* (ii) *"…I explained that as –147–137– had already been warned for making the calls before and after the three from the hotel, no further action would be taken against –138– and that was the end of the matter"*.

i. I hold the view that these claims of 'untraceable calls', made from a nearby hotel to Jefferson House, and blaming the resident for these calls, are fabrications by DC Adams who could not wait to close the case – as evidenced by this and previous entries.

j. The reason the First Defendant's officer, DC Adams, came-up with the May 2002 fabrications was due to my approaching the Metropolitan Police Authority in a 5th May 2002 e-mail (Exhibits KDR 4), headed *"Need for independent investigation of crime report BS 5604102/02C"* (and in which I reported events). (I noted on page 15 of Letter A, and page 27 of Letter B that my correspondence to the Metropolitan Police Authority had not been recorded, stating: *"evidently intended to cover-up the fact that I was not satisfied with K&C police's 'handling' of my complaint. Not revealing this correspondence undermines my credibility"*).

k. Prior evidence of the First Defendant's officers' determination to clear ADL of involvement, as well as putting an end to my complaint: (i) on page 23 of the report, 20th March 2002, (following redacted text) the entry reads that I stated "*it is strange that –63– lives above her,* (the resident alleged to have made the calls to me) *as if intimating that –84– had something to do with this offence despite the evidence pointing to someone else"*; (ii) as I report on page 12 of Letter A, and page 25 of Letter B, the First Defendant's officer, DC Adams, failed to record telling me that the resident had apparently told him that her mobile phone "*had been stolen in*

November. So, whoever stole her mobile phone made the calls"; (iii) on 28th March 2002, DC Adams told me *"We've contacted Reach Europe. There isn't a subscriber for the number. BT is wrong. Something has gone wrong with their system. We'll contact BT again but, if they got the wrong number, we won't contact you again"*. (This is captured on page 14 of Letter A in which I quote reporting it in my 2nd April 2002 letter to the First Defendant's officer, DI Webster and in my 5th May 2002 e-mail to the Metropolitan Police Authority). As I wrote on page 15 Letter A, DC Adams had very clearly no intention of contacting me *"again"* as, the previous day, he had entered on page 24 of the report: "*This matter is complete"*.

l. As I record in my 2nd April 2002 letter to the First Defendant's officer, DI Webster, the above 'offline claim' was preceded by others fabricated by DC Adams, because I was not dropping the matter. They are, in chronological order: (i) the claim that the resident's mobile phone was *"stolen in November"*; (ii) attributing the calls to my BT voicemail calling my number *"by mistake"*; (iii) the claim that the resident's phone had *"mysteriously reappeared at her door"*, and her *"admission"* that she had made the calls to me. Of note, her *"admission"* was 'apparently' obtained in the space of 3.5 hours, after the First Defendant's officer, DC Adams, made an aggressive phone call to me. (On pages 12 and 13 of Letter A, I noted that DC Adams failed to respond to my fax of 25th March 2002 (Exhibits KDR 4), in which I captured what he had told me about the resident's *"admission"*, and asked him to confirm); (iv) as this still left the issue of the calls made from a landline, the First Defendant's officer, DC Adams, came-up with the excuse that "*BT is wrong"*. And, as detailed above, this was followed in May 2002 by the claim of *"untraceable"* calls from a hotel.

m. What forced the First Defendant's officers to continue with the case was my 2nd April 2002 letter to its officer, DI Webster, in which I

relate events with the First Defendant's officer, DC Adams, from 20th to 28th March 2002, including quoting his verbatim comments. (DC Adams did not challenge me on the content of my letter).

(3) Other inaccurate data:

a. Page 20 of the report falsely states my (then) home telephone number as being one of the numbers from which the anonymous phone calls were made. As I asked on page 8 of Letter A *"Why isn't there a note to this entry to correct 'the error'?"* – and cite supporting evidence on pages 8 and 9 of my letter for the fact that it should have been corrected. The reason the First Defendant has not done this is because it would mean replacing it with the Reach Europe number i.e. ADL's number.

25. <u>2003 report</u>

(1) Pages 25 and 26 – That I "*wrote letters accusing the victim of theft. These letters went to the Leasehold Evaluation Tribunal and then got forwarded on to all the tenants in the flat hence, how the victim got hold of his"*. On pages 19 and 20 of Letter A, I wrote that it was not true that I accused ADL of theft and supplied the correspondence referred to:

a. (i) my 24th October 2002 fax to Kensington & Chelsea Housing (Exhibits KDR 4) following this department being informed by the managing agents that Steel Services 'was' domiciled in the British Virgin Islands (it was not correct as it had been "*struck-off the British Virgin Islands' register"*); in this fax I quote from the British Virgin Islands website, the benefit of being domiciled in its jurisdiction: "*Protection of assets from expropriation or confiscation orders from foreign governments"* and follow this by stating, in brackets *"Hence, they could siphon-off – at this stage - £750,000+ from Jefferson House residents and make it disappear"*;

b. (ii) my 24th October 2002 fax to the London Leasehold Valuation Tribunal (Exhibits KDR 4), on which I copied the above fax, and

wrote *"…at least some of the flats are owned by people connected with the headlease – namely, Andrew Ladsky…"*.

c. As to the statement on page 26 of the 2003 report *"how the victim got hold of this"*: ADL got hold of it because he, under the headlessor name of 'Steel Services', filed the 7th August 2002 Application to the London Leasehold Valuation Tribunal.

d. On page 9 of Letter B, I wrote: *"K&C police has very conveniently omitted to obtain the evidence in support of the accusation. It is an unlawful, malicious, scurrilous and libellous accusation against me"*.

(2) As I wrote on page 20 of Letter A, and repeated on page 9 of Letter B: *"As it turned out, 'SS' did steal c.£500,000 from the leaseholders"* – and provided detailed explanation on this and the following 2 pages, as well as supplied comprehensive evidence in support of my assertion. (This evidence includes irrebuttable proof of another equally fraudulent claim filed against me by another of ADL's solicitors in 2007).

(3) Page 28 – *"06/02/2003"*: *"Have attended address nrrk have left note for susp to call me"*. I wrote on page 23 of Letter A *"I never found "a note" from PC Watson at my flat"*. What the First Defendant's officer, PC Neil Watson, actually did, was send me a chaser letter dated 6th February 2003 (Exhibits KDR 6) asking me to contact him – as I recorded on page 23 of Letter A (including the reason why I had not contacted him following his 27th January 2003 letter; basically: I could not stop laughing at visualising the scene: ADL standing in a police station saying: 'Mr Policeman, a woman swore at me', and at the First Defendant's officers for having no sense of the ridicule).

(4) Page 28 - Under 12th February 2002: *"OIC has attempted to make contact with the suspect but this has been fruitless"*. This entry is false as, on that day, the First Defendant's officer, PC Watson, would have received my 'recorded delivery' letter of 11th February 2003 (Exhibits KDR 6) in which I asked for

"precise detail – in writing – of the accusation against me". I recorded this on page 23 of Letter A.

(5) The First Defendant is processing data about me that is incorrect i.e. *"misleading data as to matters of fact"* in order to cover-up the fact that it did not respond to my letter – and thereby denied me the opportunity to defend myself against the accusations. Indeed, my letter was in response to a threatening 27th January 2003 letter from its officer, PC Neil Watson, who described himself as a *"Crime Investigator"* (Exhibits KDR 6), stating: *"the police have been informed by a Mr Andrew Ladsky that you verbally abused him in public over some sort of dispute revolving around your premises…such outburst may result in charges of harassment being made against you, as this initial complaint has been fully recorded by the police"*. On page 28 of the 2003 report this letter is simply described as *"warning the suspect of this behaviour"*. What PC Watson also wrote in the letter: *"Please avoid (if you can) any confrontation with Mr Ladsky or there may be further consequences"*. Capturing the content of this letter, including the latter part, was evidently perceived as 'inconvenient'.

26. <u>2007 report</u>

(1) As in the 2002 and 2003 reports (discussed above), on page 12, ADL is inaccurately described as my *"neighbour"* - so that: (i) the First Defendant's officers could justify not probing him on the veracity of his accusations and opinions of me; (ii) ADL and the First Defendant' officers could then use them against me (as discussed below, and under sections 4.5.1 and 4.6.1).

(2) Page 13 – The claim that I was notified that I had been *"eliminated"* by *"PS 81BS G Latham"* is not true, as the First Defendant never contacted me at any point in time. I note that the report does not state a date on which this contact is meant to have taken place. The only contact I had about being *"eliminated"* was through the Head of Security of my then employer, KPMG, who, 5 weeks after the First Defendant' last contact with my website Host phoned me to say *"The police is not going to pursue it. Isn't that good news?"* (This is captured on page 37 of Letter A, and page 18 of Letter B). (I believe the trigger to this

contact to be the fact that, 2-3 days previously, on my website, I had given prominence to the events with the First Defendant's officers).

(3) Page 19 - *"A web page has been created which is alleged to contain anti-Semitic, anti-black, anti-Asian pictures and text"*. As I wrote on page 25 of Letter A: *"These are false claims; where is the evidence to support these claims?"* I also stated that it was the first time that I was made aware of the false accusation that my website contained *"Anti-black and anti-Asian pictures and text"*. I repeated my denial on page 10 of Letter B, stating: *"the police has not provided any evidence whatsoever in support of these accusations. They are therefore unlawful, scurrilous, malicious accusations against me intended to defame my name, character and reputation"*; *"These are sick, trumped-up accusations concocted by Ladsky, the police and probably parties external to the police"*.

(4) Page 22 - *"A web site www.leasehold-outrage.com was created in July 2002* (rectified on page 26 to '2006') *in response to a large service charge which she regarded as excessive and unfair"* On page 26 of Letter A, I wrote that it was not true that I launched my website 'because' of the service charge. I reported the actual reasons for the launch of my website in September 2006 by including extracts from the home page to the site. I also stated that *"Recording of this - false - information impacts on me as it is part of the objective of portraying me in a negative light"*.

(5) As to the comment *"which she regarded as excessive and unfair"* on pages 26 and 27 of Letter A, which I repeat to some extent on page 24 of Letter B, I provide detailed evidence that the 'service charge' most definitely met the criteria of being *"excessive"* and *"unfair"*. While on pages 26 and 27 of Letter A, I provided other evidence of fraudulent 'service charge' demands from ADL, by stating: *"At the time that Ladsky made his scurrilous accusations against me to the police, on 15 March 2007, he had, two weeks previously, on 27 February 2007, asked his puppet, Jeremy Hershkorn, then at Portner and Jaskel, to file a £10,357 fraudulent claim against me in West London County*

Court (supplied). Proof that it was fraudulent? After a 20-month battle, on 6 June 2008, he dropped "ALL of the claim" against me (supplied)".

(6) The objective of portraying me as a troublesome individual who defaults on her contractual obligations is contradicted by the next sentence in the 2007 report: *"This charge was challenged at the leasehold valuation tribunal who reduced this amount quite significantly"*. On page 27 of Letter A, I noted the fact that ADL admitted that the 'service charge' was *"reduced quite significantly"* v. the fact that the majority of my fellow leaseholders were made to pay the full amount originally demanded. On page 28 of Letter A, I provide evidential documents in support of my assertion.

(7) Of note, while the First Defendant's officers 'conveniently' 'recycled' false accusations against me from the 2003 report into the 2007 report and, in the process, fully endorsed them (see section 4.6.1, below), in the context of the above accusations, the First Defendant's officers failed to refer back to the 2002 report in which it captured, on page 21: *"Ms Rawé continues to make allegations against -75- claiming he is harassing her because she is complaining about over charging of excessive maintenance costs. She believes that a deception is being practised surrounding these costs"*

(8) Page 22 – *"In order to challenge this charge it actually cost a considerably larger sum of money than she saved. Since this she has been extremely upset and is seeking compensation and retribution for her time, money and effort"*. This is defamation of my name and of my character. What motivated these accusations was ADL's rage at the fact that – as per my statutory rights - I challenged his 7th August 2002 Application in the London Leasehold Valuation Tribunal – in spite of being unable to recoup my costs. On page 28 of Letter A, I wrote: "*like other crooked landlords like him"*, he was not expecting any of the leaseholders to do that, especially one like me, with limited means. On page 29 of Letter A, I wrote that the first sentence was *"used to set the scene for the next one: "she is seeking compensation and retribution""*. These false accusations were used by ADL and the First Defendant's officers as the building base for capturing subsequent, malicious, scurrilous, libellous

accusations against me and opinions of me – as detailed below, under section 4.6.1).

(9) Page 22 – *"…there are parts of the site which are alleged to be extremely upsetting and insulting. There are a number of sections which are alleged to of* (sic) *a racial nature and numerous references by name to the victim"*. On pages 29 and 30 of Letter A, I noted that ADL did not provide any evidence to substantiate his claims, and that, consequently, these claims must be treated as false. I repeated this on page 11 of Letter B, and stated that they were *"malicious, scurrilous, trumped-up accusations"*.

(10) Page 25 - *"About four years ago –75– organised for refurbishments on the flats. Each household was to pay a certain amount of costs through their service charge. The suspect took exception to this and went to a tribunal to get this charge reduces"*. On page 24 of Letter B, I wrote *"This statement is intended to undermine the fact that – as per my rights - I challenged SS i.e. Ladsky's application to the tribunal – and thereby contributes in conjuring up a negative perception of me"*. On page 32 of Letter A, I wrote *"The suspect took exception to this" has a connotation that I am a troublemaker, somebody who automatically challenges any demand for payment"* – and provided references to my feedback to the 2002 and 2003 reports, which is contained on pages 10 and 17-22 of Letter A, stating: *"which refutes the implied comments about me"*. On page 16 of Letter B, I wrote: *"This attack on my reputation is helped by the fact that K&C police has very conveniently failed to establish, or, probably more accurately: conveniently failed to capture key events"* (NB: more accurately: 'failed to probe ADL on the surrounding events).

As I captured in Letter A and Letter B, what ADL 'forgot' to mention and was not probed on by the First Defendant' officers is:

a. The fact that the 15th July 2002 letter demanded payment of the global sum of £736,000 which, in breach of statutory requirements, was not supported by detailed costing; 'my share' was £14,400;

b. Contrary to what is implied, I was far from being the 'only objector' as ADL had a 29th November 2002 claim (ref. WL203537) filed in West London County Court against me and 10 of my fellow leaseholders – representing a total of 14 flats.

c. What ADL also 'forgot' to mention is that, having asked his solicitor, Lanny Silverstone, CKFT, to, among other, threaten me with forfeiture in his 7th October 2002 letter if I failed to pay immediately the sum of £14,400, one year letter, also through CKFT, 'Steel Services' i.e. ADL made me a 21st October 2003 'offer' for £6,350 (v. the £14,400 originally demanded – included in the 29th November 2002 West London County Court claim). Why did he do that? Because of the outcome of the 2003 London Leasehold Valuation Tribunal hearings, following his 7th August 2002 Application to the tribunal. (Based on my RICS surveyor's assessment, as the LVT failed to perform its statutory duty by not including a summary of the impact of the findings on the global sum demanded, the outcome of the hearings was a reduction of c.£500,000 of the global sum demanded. This includes c. £144,000 said to be in the contingency fund at the time – which the Tribunal was of the view that should be used against the 'demand').

d. (NB: I supplied a copy of all the relevant documents with Letter A).

(11) Page 25 - "*Despite the values of the flats going up a considerable amount the suspect is still obviously not happy with what –75– initiated"*. On page 32 of Letter A, I wrote "*I read in this an implied approval by TDC SJ Dowling of the c. £500,000 fraud by Ladsky and his aides, and therefore support for the fact that it helped them generate a multi-million Pound jackpot. (As TDC SJ Dowling claimed to have looked at my site, he would be aware of these facts)"*. To which I added "*This attitude is consistent with the rest of the events that have taken place with K&C police – including in 2002 and 2003"*.

(12) Page 26 – "*I have contacted the -121- to have the site shut down and await a response"*. As I noted on page 33 of Letter A, "*It refers to TDC SJ Dowling's*

highly defamatory and libellous email of 16 March 2007" (Exhibits KDR 8). I supplied a copy of the e-mail with my feedback, and captured some extracts. Here is the full text of the e-mail for the purpose of contrasting the entry in the report v what the First Defendant's officer, TDC Simon Dowling, actually sent to my website Host: following on from the subject line, titled *"Website with anti semitic* (sic) *views"* TDC Dowling wrote: *"http://www.leasehold-outrage.com. Hi the above site contains some inappropriate use of the words "pigs and monkeys" which are racially abusive terms towards Jewish people from the Nazi's. This is directed at a particular person. I am the police officer dealing with this crime. I would therefore be grateful if this site could be taken down"*. Providing a telephone number for contact, he goes on to state: *"I am with the Metropolitan Police based at Notting Hill Police Station in the Community Safety Unit. Many thanks"*.

4.5 Principle 1 gives me the right to have my *"personal data processed fairly and lawfully"* – which means meeting at least one of the conditions in Schedule 2 of the Act.

27. Schedule 1, Part I, paragraph 1 of the DPA states: "*Personal data shall be processed fairly and lawfully, and in particular, shall not be processed unless-* (a) *at least one of the conditions in Schedule 2 is met*".

4.5.1 The First Defendant is breaching my rights under Principle 1 by wilfully processing *"personal data"* that is *"unfair and/or unlawful"* - and therefore *"unwarranted by reason of prejudice to my rights and legitimate interests"* (Sch.2, para.6 of the Act). The unfairness and /or unlawfulness stem from: (i) the failure to record highly pertinent data; (ii) recording of partial and /or biased representation of events; (iii) failure to record 'offline' fabricated 'stories' intended to cover-up the truth. The main motives for doing this are essentially as per those listed under section 4.4.1 above.

28. Following my feedback, in many parts of Letter A and Letter B I identified as, relevant, where the entries in the reports are unfair and/or unlawful.

29. <u>2002 report</u>

(1) Pages 6 and 7 - Unfairly, and for unlawful motives, the First Defendant's officers: (i) described ADL as my *"neighbour"*; (ii) failed to record that I had identified ADL as the perpetrator of the anonymous phone calls, as the report states by person *"unknown"*; (iii) wilfully ignored the other instances of harassment I reported at the time, a part of which they captured in the 2002 report. (Detail under section 4.4.1, above)

(2) Page 24 - Claiming that ADL *"has not been the subject in any Cris reports"*. While the First Defendant's officers opted to, unlawfully, not record complaints of harassment against ADL, I have evidence that at least 4 of my fellow leaseholders also complained to the First Defendant of suffering harassment from ADL. (Detail under section 4.4.1, above). This statement unfairly undermines the credibility of my complaint against ADL.

(3) As I was not giving up on my objective of having the perpetrator of the anonymous phone calls identified, which, I knew, was ADL, unlawfully, the First Defendant's officers fabricated offline 'stories' and excuses to avoid identifying him as the perpetrator. 'Offline', as they failed to record any of these, because 'inconvenient'. (Detail under section 4.4.1, above).

(4) Unlawfully and unfairly, the First Defendant's officers used offline bullying and intimidation tactics in an attempt to make me drop my complaint so that they could close down the case; tactics they also failed to record in the report. (Detail under section 4.4.1, above).

30. <u>2003 report</u>

(1) Ditto in terms of the description of ADL.

(2) Page 25 states - "*Letters from the Managing Agents for a service charge to the flats. This letter has been sent to all the residents to pay for this refurbishment"*. On pages 18 and 19 of Letter A, I noted that, not surprisingly, no detail is provided about this letter, nor about the subsequent events - because it was a fraudulent demand – instigated by ADL. And, as I noted on page 19 of Letter A, as ADL is falsely described as my "*neighbour"*, it allowed the First Defendant's officers to record, on page 22: "*The suspect*

seems to think that the victim is behind the company who has sent these letters asking for money". The rest of the entry appears to have been redacted. On page 23 of Letter B I noted that *"K&C police has very conveniently failed (1) to determine the content of the letter; (2) the events surrounding it – as they would discredit Ladsky's 'complaint'"*.

(3) In his 27th January 2003 letter, the First Defendant's officer, PC Neil Watson, *"Crime Investigator"*, unlawfully tried to intimidate me by stating: *"Please avoid (if you can) any confrontation with Mr Ladsky or there may be further consequences"*. As detailed under section 4.4.1, above, the content of his letter has not been captured.

31. <u>2007 report</u>

(1) Ditto in terms of the description of ADL.

4.6 Principle 1 also gives me the right to have my *"sensitive person data processed fairly and lawfully"* – which means meeting at least one of the conditions – in both – Schedules 2 and 3 of the Act.

32. Schedule 1, Part I, paragraph 1 of the DPA states: "*Personal data shall be processed fairly and lawfully, and in particular, shall not be processed unless-* (b) *in the case of <u>sensitive personal data</u>, at least one of the conditions in Schedule 3 is* ***also*** *met"*

4.6.1 The First Defendant is breaching my rights under this second part of Principle 1 by processing, in the 2003 and 2007 *"crime reports"*, *"sensitive personal data"* about me that are *"unfair and/or unlawful"* - data that are therefore *"prejudicial to my rights and legitimate interests"*. It is doing this: (i) by processing data that falsely accuses me of having committed unlawful acts – which, to this day, it has denied me the right to defend myself against; (ii) by having itself, cleared me, in its 2003 report, of having committed an *"offence of harassment"*, in its 2007 report it 'recycled' the false accusation from Andrew Ladsky and, in the process, fully endorsed it; (iii) by processing false, highly detrimental, malicious, libellous opinions about my *"mental heath or condition"* which, in addition, it also communicated to third parties – and in relation to which it, likewise, denied me the right to counteract; (iv) by libellously branding me *"a Nazi"*. The 2003 and 2007

reports should have never been processed. The objective of the 2003 report was to stop me challenging Andrew Ladsky's fraudulent activities, and its retention was 'in case' I 'dared' continue fighting for my rights. The objective for processing the 2007 report, that still falsely accuses me of having committed a *"racist"* offence, was – and still is: REVENGE. Having failed in their blind determination to get my website, www.leasehold-outrage.com closed down (by falsely accusing me of having committed *"a crime"*), by not contacting me at any point in time, the First Defendant and Andrew Ladsky had a field day in their malicious, totally unsupported accusations against me. They weaved this web of false, malicious, accusations to provide a rationale for capturing their outrageous, malicious, libellous opinions about my *"mental health or condition"*, and for contacting social services. And these accusations and opinions are just the ones that the First Defendant deemed that I was 'entitled' to see.

33. Following my feedback, in many parts of Letter A and Letter B I identified as, relevant, where the entries in the reports are unfair and/or unlawful.

34. Pursuant to Section 2 of the DPA: the sensitive personal data consists of information about: (a) my *"racial origin"*; (g) *"accusations / allegations of my having committed offences"*.

35. 2003 report

(1) Page 22 – The 'Main classification' of the report as *"SUBSTANT/Offence of harassment*" is false and therefore unlawful. While, as detailed under section 3, above, I appear to have been *"eliminated"*, as evidenced by the 'recycling' of data from this report into the 2007 report (see below), to suit its malicious, unlawful purposes and those of ADL, the First Defendant very clearly ignores the final classification of the report i.e. maintains that I have committed an offence of harassment under the Protection from Harassment Act 1997. On page 17 of Letter A, and page 7 of Letter B, I specifically stated that this classification was false. On the latter I stated that it was *"a trumped-up accusation by Andrew Ladsky and the police"* and noted the First Defendant's readiness to do this v turning a blind eye to ADL's and his aides *"criminal offences"*.

(2) The 2003 report should have never been processed. As abundantly clear from the fact that the First Defendant started to process this report *before* even contacting me, its objective was to have a *"crime report"* against me on its systems, on which it could then rely, should I continue to challenge ADL's fraudulent activities. Evidence in support of my assertion:

a. The 27th January 2003 letter to me from the First Defendant's officer, PC Watson, in which he described himself as a *"Crime Investigator"*, and in which, among other, he threatened me with *"further consequences"* if I *"again confronted Mr Ladsky"*. (Detail under section 4.4.1, above).

b. The fact that the First Defendant ignored my 11th February 2003 letter in which I asked for *"precise details, in writing of the accusation against me"* and, on the day it received it, closed down the report claiming that I had not responded. (Detail under section 4.4.1, above)

c. Falsely describing ADL as my *"neighbour"* to give some credibility to his accusations that I harassed him, and had a *"history of doing this"*.

d. Hence, unfairly and unlawfully, the First Defendant filed the 2003 *"crime report"* against me *before* contacting me – and then denied me the opportunity to defend myself against the accusations.

e. To this is added the fact that the First Defendant has since persistently ignored my feedback on the report, including my asking for its destruction.

(3) Page 25 - *"- 60 – the suspect was walking out of her flat and shouted "Go fuck yourself!'"*. As I wrote on page 17 of Letter A, and page 23 of Letter B, the First Defendant failed to establish from ADL what had led me to say this to him. My comment was a retort to ADL provoking me by saying to me *"Better luck next time!"*, followed by a sarcastic laugh; I concluded that he was referring to the impending London Leasehold Valuation Tribunal hearing on

5th February 2003 – and that, in light of his comment, had ensured that it would be 'sewn-up'. (My conclusion turned out to be correct). As I also noted on page 17 of Letter A, ADL 'forgot' to report that, 3 weeks previously, I found him standing by the door to my flat as I was coming out; he told me, with a lot of venom in his voice *"I am going to get you this year!"*

(4) Page 25 - *"The suspect say 'Go fuck yourself' to the victim when she sees approx 3 or 4 times…This verbal abused started in November 2002"*. I wrote on page 19 of Letter A that it is not true that I had done this previously. On page 18 of Letter A, I wrote that the objective of claiming the latter was in order to make an offence 'stick' against me under the Act (as section 7(3) states *"A course of conduct must involve conduct on at least two occasions"*) – which, as evidenced by the report, is what the First Defendant did. On page 18, I also reported the fact that ADL had asked his solicitor, Lanny Silverstone, CKFT, to send me a 4th February 2002 letter making the same false accusations – and supplied a copy of the letter. I repeated my assertions on pages 8 and 14 of Letter B that the accusation was malicious and libellous, and that *"This data is clearly intended to convey a misleading and detrimental perception of me"*.

(5) Of note, while the First Defendant 'conveniently' 'recycled' false accusations against me from the 2003 report into the 2007 report and, in the process, fully endorsed them (see below), in the context of the above accusations in the 2003 report, it failed to refer back to the 2002 report in which it captured, on pages 16, 20 and 21 the instances of harassment I reported suffering from ADL, as well as his replies on the occasions when I confronted him: *"mind your own business"*; *"get lost!"*. It also failed to refer to page 24 of the said report: *"Ms Rawé is still insisting that -102-101- is harassing her and other people living at Jefferson House"*.

(6) Pages 25 and 26 - Due to the First Defendant's officers' failure to take the reasonably expected step of asking for supporting evidence, the report unfairly and unlawfully states that I accused ADL of theft in my correspondence to Kensington & Chelsea Housing and the London Leasehold Valuation Tribunal. (Detail under section 4.4.1, above).

36. 2007 report

(1) As detailed under section 4.4.1, the processing of this report which, at a minimum, accuses me of having committed an offence of a *"racist"* nature is not true, and therefore unlawful. It has been done for malicious purposes. The First Defendant has *never* provided any evidence in support of this accusation. On page 35 of Letter A, I asked: *"Why "should" it "be classed as a racial incident"? Where is the evidence that I have committed a "racist act"?*", and added *"As it stands, this claim is false and therefore libellous"*. I also captured both of my assertions on pages 24-26 of Letter A.

On pages 9 and 10 of Letter B, I described the accusation as *"a sick, trumped-up accusation concocted by Andrew Ladsky, the police and parties external to the police - with the blatantly obvious objective of scaring my website Host into closing down my website"*. I also stated that the lack of evidence was *"the reason why K&C police opted to NOT contact me at ANY point in time in relation to this so-called 'complaint' by Ladsky. It gave it free rein to capture fabricated lies against me"*.

(2) Should the First Defendant maintain that my above assessment that I am, at a minimum, accused of having committed a *"racist"* offence is incorrect, and that I have been *"eliminated"* on all counts, I counteract this with: (i) its ignoring my repeated requests for the destruction of the report because it contains false, malicious, libellous accusations against me, and opinions of me; (ii) its 'recycling' and endorsement in this report of false accusations against me from the 2003 report – in spite of the fact that the 2003 report states that I have been *"eliminated"*. Hence, it is my absolute belief that the First Defendant holds the 2007 report (like the 2003 report) with the malicious objective of using it against me at a later stage. (I provided supporting evidence of this in the Particulars of Claim, under paragraph 125c by quoting the 17th October 2010 comment from the First Defendant's officer, Sergeant Avison: *"You have not been charged with anything; there has been no follow-up. We have to keep information in case you commit an offence and end-up in court"*.

(3) Nor did the First Defendant *ever* supply any evidence to me, or to my website Host, to support the classifications used when first processing the report: *"Hate crime"*; *"Anti-Semitic incident"*; against *"Jewish religion"* – as detailed under section 3, above. In addition to stating it on pages 24-26 of Letter A, I repeated my denials on pages 9-11 of Letter B, in which I qualified all the accusations as *"trumped-up accusations concocted by Ladsky, the police, and parties external to the police"*.

(4) As in the case of the 2003 report, the 2007 report should have never been processed. The First Defendant knew that processing of the report was unlawful – as it and ADL did not have any evidence to back-up their accusations against me, and opinions of me. Evidence:

a. 16th March 2007 e-mail from the First Defendant's officer, TDC Dowling, to my website Host in which he made the accusation that I had 'committed a crime', by stating *"I am the police officer dealing with this crime"* – without providing any evidence in support (see section 4.4.1 for detail). As I noted on page 31 of Letter A: *"What is the evidence to support these claims?"*

b. On page 35 of Letter A, I noted that TDC Dowling failed to capture in the report, because 'inconvenient', the fact that he had received a reply from my website Host's legal department stating: *"Are you aware that there are laws against making false accusations?"*.

c. Likewise, because 'inconvenient', the First Defendant's officer, TDC Dowling, failed to capture in the report that he responded to my website Host with an e-mail dated 20th March 2007 (Exhibits KDR 8) from which, on page 36 of Letter A, I quoted extracts. The following is the full text of his e-mail. Still using the same title in the subject line, as he had done for his 16th March 2007 e-mail: *"Website with anti semitic* (sic) *views"*, he wrote: *"Thanks for your reply, yes there are laws relating to false reporting. The producer of this website is franco-german* (sic) *in origin and so would be aware of the terms pigs and monkeys used during the Nazi regime*

to refer to Jewish people. Obviously the victim we have has picked up on this as he is Jewish. If you are unable to close the site down I will let the victim know as there is nothing we as a police force can do except class it as a racist incident. Could you let me know who deals with any complaints about websites in the US and I'll pass this on to the victim. Many thanks".

d. On page 36 of Letter A, I wrote: *"Having in effect branded me "a Nazi" in his 16 March 2007 email, yet again, TDC Simon J Dowling repeated this racist, xenophobic and defamatory comment in this email"*.

e. Further demonstrating that the purpose of the false accusations against me was to - unlawfully - force the closure of my website, on page 26 of the 2007 report, after some redacted text, the entry reads: *"I am still trying to get the website closed down"*. On page 35 of Letter A, I wrote: *"Oh dear! Oh dear! The scare tactic used by TDC SJ Dowling in his highly defamatory and libellous email of 16 March 2007 to my ISP implying that I had 'committed a crime' - failed to do the trick"*.

f. A fact that greatly aided the capture of the malicious, libellous, false accusations against me was the First Defendant describing ADL as my *"neighbour"* (see section 4.4.1, above).

g. To add more weight to ADL's false accusations, on page 26 of the 2007 report, the First Defendant's officers recycled some equally false accusations from ADL in the 2003 report – and, in the process, fully endorsed them, by stating: *"But it shows Ms Rawé used to swear at -85-"* (see below)

h. The web of false accusations weaved by the First Defendant's officers and ADL provided the rationale to the First Defendant for capturing, on pages 22 and 25 of the 2007 report, its outrageous, malicious, libellous opinions about my *"mental health or*

condition", as well as its contacting social services (see below). In light of this State's treatment of individuals who, like me, 'dare' to stand-up and fight for their rights (as reported among other in the media) (page 20 of Letter B), added to my experience in 2008 with some individuals in the medical profession (captured on pages 18 and 19 of Letter B), it is my belief that the objective of doing this was - and still is - to put me 'out of action' by having me sectioned (as I stated on page 17 of Letter B).

i. The above are the reasons why the First Defendant never contacted me at any point in time following the so-called 'complaint' by ADL. (NB: In light of 'its style', should the First Defendant deny my assertion: it can be seen from the 2007 report that there is no record of my ever being contacted. Further, as I recorded in my 14th June 2011 Reply to the First Defendant' 23rd May 2011 Defence, it failed to address paragraph 9 in the Particulars of Claim in which I report this and other events in relation to the 2007 report).

j. In failing to contact me, while nonetheless processing the report against me, the First Defendant denied me the right to defend myself against the accusations – making it the second time that it did this.

(5) I repeat my introduction to this section relating to the 2007 report, that it is abundantly clear from: (i) the circumstances in which the 2007 report was processed; (ii) the content of the report; (iii) the First Defendant ignoring my repeated requests for the destruction of the report - that the First Defendant's intention is to use this report against me at a later stage – as it has already done with the 2003 report. I noted this on pages 24 and 25 of Letter A. In this context, I also repeat my above supporting evidence: the 17th October 2010 comment from the First Defendant's officer, Sergeant Avison: *"You have not been charged with anything; there has been no follow-up. We have to keep information in case you commit an offence and end-up in court"*.

(6) Page 22 – *"The sections of the web site that the complaint relates to is headed "My Diary" 2002-2007. The specific racist remarks and pictures that are being complained about are contained throughout…"* On page 30 of Letter A, I noted that, likewise, ADL did not provide any evidence to substantiate his claims, and that, consequently, these claims must be treated as false. The same applies to the First Defendant that unlawfully and libellously asserts that *"The specific racist remarks and pictures… are contained throughout"*. I repeated this on page 12 and 13 of Letter B, stating that they were *"trumped-up accusations concocted by Ladsky, the police and probably parties external to the police"* and *"that K&C police knows that, which is why it opted to NOT contact me at ANY point in time in relation to this so-called 'complaint' by Ladsky"*. (The last part of the sentence in the report and subsequent sentence are dealt with below).

(7) Page 25 – *"I have spoken to -72- and -73- has informed me that the mention of Pigs and Monkeys relates to the words the Nazi's used referring to Jewish people during the holocaust. This is obviously offensive -74– and believes this is what the suspect is referring to…"*. On page 31 of Letter A, I wrote that I had never heard of this, and that it was totally untrue that I used the terms to refer to Jewish people. I asked for evidence of this. I provided the dictionary definition of both words. I concluded my feedback with *"As it stands, I attribute these trumped-up accusations to revenge and abuse of power"*. On page 12 of Letter B I repeated my assertion of having no knowledge of this. I also stated that they were *"sick, trumped-up, unlawful, malicious, libellous accusations concocted by Andrew Ladsky, the police and parties external to the police with the blatantly obvious objective of scaring my website Host into closing down my website"*. I also stated: *"Unbelievably, in writing this in his 16 and 20 March 2007 emails to my website Host, TDC Simon J Dowling justified it by quoting the fact that I am "Franco-German" – hence, by using data which, under Part I – 2. of the Act is defined as "sensitive personal data… as it consists of information as to (a) the racial or ethnic origin of the data subject"*.

(8) Pages 25 and 26 – *"There is a lot of slanderous comments on the site mainly directed at –79– but also at K&C Police and even MPs, the Prime Minister and DPM. Also against solicitors and many others"*. On page 33 of Letter A, I pointed out that there is no recording on my website. Hence, use of *"slanderous"* is incorrect. I also stated that *"All of these claims are false"* and asked *"Where is the evidence in support of – EACH – of these categorical claims? As it stands, these claims are libellous"*. On page 13 of Letter B, I re-emphasised the lack of supporting evidence; yet again repeated that it was *"the reason the police had not contacted me"*; described the accusations by the First Defendant as *"trumped-up"*.

(9) Page 26 - *"There is a previous CRIS 5602261/03 which relates to an harassment of –64– by Ms Rawé no further action was taken at the time. But it shows Ms Rawé used to swear at –85– when seeing –86– in the communal area. This was when the service charge dispute first arose"*. On page 34 of Letter A, I noted that the assertions by the First Defendant are false, and quoted the parts of my letter in which I discussed the 2003 report. While on page 9 of Letter B, I wrote: *"Oh dear! How 'magnanimous' to not "not take action at the time"! Of course no action "was taken" as I have not committed an offence"*.

37. <u>Pursuant to Section 2 of the DPA: the sensitive personal data consists of information about: (e) my *"mental health or condition"*.</u>

(1) Page 22 – *"…although it appears to be becoming quite paranoid. She thinks the police may be following her as well as numerous people employed by her enemies"*. On page 30 of Letter A, I asked: *"On what basis does PC K O'Brien considers himself entitled to make this 'assessment' about me? This statement is libellous"*. On page 15 of Letter B, I wrote: *"This 'expression of opinion' about me is malicious, scurrilous and libellous as I have evidence to support my claims that I am under surveillance – to which a lot more has been added since"*.

(2) Page 25 – *"Looking at the website it seems the suspect thinks she is being followed by either the police or -77-78. This is not the case and she is*

obviously extremely paranoid." On page 33 of Letter A, I asked *"How does TDC Simon J Dowling, of the 'Community Support Unit', know that "This is not the case" that I am "being followed"? As he claimed to have "looked at the website" he would have seen that I have evidence to support my claim, including witnesses (claim for which, at the date of writing, I have since accumulated more supporting evidence)"*.

(3) In relation to the comment, on page 25, *"She is obviously extremely paranoid"*, on page 33 of Letter A, I wrote: *"On what basis does TDC Simon J Dowling, of the 'Community Support Unit', consider himself entitled to make this categorical 'assessment' about me?"* Providing the 26th March 2007 letter from ADL to my then employer KPMG (Exhibits KDR 8) I wrote *"in which he makes the same, as well as numerous other libellous comments about me, it seems that TDC Simon J Dowling is, like a parrot, regurgitating what Ladsky told him – and in the process, endorsing it"*.

(4) Page 26 – Following redacted text *"I believe she may have some mental issues so will be speaking to social services to see if they are aware of her"*. On page 34 of Letter A, I wrote: *"It is absolutely outrageous. On what basis does TDC Simon J Dowling, of the 'Community Support Unit', consider himself entitled to make this 'assessment' against me? This statement is highly libellous"*. On page 16 of Letter B, I wrote: *"This entry provides proof of the extent of the moral depravation that pervades K&C police, and of the extent to which it and its behind-the-scene backers will go to help a 'certain' thief get away with a multi-million Pound jackpot*". I added, on page 17, that I was *"absolutely incensed by this entry"* which I viewed as being *"motivated by revenge - by, in addition to Andrew Ladsky, the various parties exposed on my website…"*.

(5) Of note, the above assertions / opinions about 'my mental condition' are captured in the Particulars of Claim under paragraph 9. As I point out in my 14th June 2011 Reply to the First Defendant's 23rd May 2011 Defence, it failed to address this paragraph.

4.7 Based on the DPA's requirements contained in Schedules 2 and 3, the processing of all the data discussed under the above sections relating to Principle 1 is unfair and/or unlawful because:

38. I have obviously not "*given* [my] *consent to the processing"*.

39. The First Defendant cannot claim any *"legal obligation"* to process the unfair and/or unlawful data about me – as it is *"unwarranted by reason of prejudice to* [my] *rights and freedoms or legitimate interests"* (Schedule 2, paragraph 6).

40. Given the nature of the data, the First Defendant cannot claim that it is processing it to protect my *"vital interests"* – and in this context, I repeat the conclusion under previous point (2), above.

41. The First Defendant cannot claim that processing of this unlawful and/or unfair data is necessary for the *"exercise of any of its functions"*, nor indeed any of the conditions listed under Schedule 2, paragraph 5 and under Schedule 3, paragraphs 6, 7 and 7A. As previously, I also repeat the conclusion under point (2), above.

42. The First Defendant cannot claim that it, or *"third party or parties to whom* [it has] *disclosed* [my data]" have *"legitimate interests"* in the processing of this data.

43. Nor can the First Defendant claim processing of the data under any of the remaining conditions.

44. This includes paragraph 5 of Schedule 3, as the processing of the *"sensitive personal data"* about me fails to meet any of the conditions under Schedule 2. (As to the reasons for my opting to put the *"crime reports"* on my website – which the First Defendant cannot use because, I repeat, the processing of my *"sensitive personal data"* fails to meet one of the conditions under Schedule 2 - they are: (i) the First Defendant repeatedly ignoring my feedback on the crime reports; (ii) the 15th June 2009 death threat: *"Enjoy your life. You don't have long to live"* (I reported it in my 28th November 2009 letter to the First Defendant) (Exhibit 1 of my 14th June 2011 Reply to the First Defendant's Defence) – so that if carried out, the information held against me by the First Defendant would be in the public domain, and I may clear my name, and get justice after my death).

4.8 Principle 3 gives me the right that the data held about me is *"adequate and relevant"*

45. Schedule 1, Part I, paragraph 3 of the Act states: *"Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed"*.

4.8.1 The First Defendant is breaching my rights under Principle 3 by failing to capture *"adequate data"*. It is doing this by failing to process highly pertinent facts and evidence. The objectives of doing this are: (i) to cover-up 'inconvenient' events / facts; (ii) to disparage me and discredit me; (iii) to protect Andrew Ladsky; (iv) to give scope to Andrew Ladsky and the First Defendant to exert revenge for my 'daring' to stand-up to them and their 'friends' in the public sector, and within the professions.

46. As detailed under sections 4.4.1, 4.5.1 and 4.6.1, above, the First Defendant is blatantly failing to process adequate data in the reports by:

(1) failing to record that it did not respond to my 11th February 2003 asking for *"precise detail of the accusation against me"*;

(2) failing to record that I never contacted me at any point in time in relation to the 2007 so-called 'complaint' by ADL;

(3) failing to record the true role of ADL at Jefferson House;

(4) failing to acknowledge that, in addition to me, at least 4 of my fellow leaseholders had also complained to the First Defendant of suffering harassment from ADL;

(5) failing to provide supporting evidence to ADL's and its own accusations against me, and opinions of me;

(6) failing to ascertain the context of / surrounding events to the accusations against me;

(7) having "*looked at* [my] *website"*, failing to note any of the 'inconvenient' evidence against ADL;

(8) failing to record important communications and/or their content, including my 2002 complaint to the Metropolitan Police Authority, as well as the bullying and intimidation tactics used by the First Defendant's officers against me;

(9) failing to refer back to my 2002 complaint, because 'inconvenient'.

47. I hold the view that, overall, the First Defendant is doing this for the purpose of: (i) protecting ADL; (ii) giving him scope to exert his revenge against me for 'daring' to stand-up to him and his aides by challenging their fraudulent 'service charge' demands of me; (iii) taking its own revenge for my 'daring' to stand-up to the First Defendant and its 'friends' in the public sector, and within the professions – as briefly captured under 76eii of the Particulars of Claim.

4.9 Principle 2 gives me the right that my *"personal data is obtained only for one or more specified and lawful purposes"*

48. Schedule 1, Part I, paragraph 2 of the Act states: *"Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes"*.

4.9.1 The First Defendant is breaching my rights under Principle 2 as it has not only *"obtained data for unlawful purposes"*, it has itself added to the unlawful data, as well as reprocessed it, including disclosing it to third parties for, very clearly, malicious purposes.

49. This is discussed under sections 4.5.1 and 4.6.1, above.

4.10 Principle 6 gives me the right to have my personal data *"processed in accordance with* [my] *rights under this Act"*. This includes, under Section 7(1) of the DPA, the right to be given: (i) *"a description of the data processed about* [me]*"*; (ii) *"the purpose for which it is being processed"*; (iii) *"the information constituting any personal data of which* [I am] *the data subject"*; (iv) *"the recipients or classes of recipients to whom data about* [me] *is or may be disclosed"* – so that I can make

subject access requests with the aim of ensuring that processing of my data meets the fair processing requirements.

50. Schedule 1, Part I, paragraph 6 states: *"Personal data shall be processed in accordance with the rights of data subjects under this Act"*. Schedule 1, Part II, paragraph 8 of the Act states: *"A person is to be regarded as contravening the sixth principle if, but only if-* (a) *he contravenes section 7 by failing to supply information in accordance with that section"*

51. Section 7(1) of the Act states: *an individual is entitled-* (a) *to be informed by any data controller whether personal data of which that individual is the data subject are being processed by or on behalf of that data controller,* (b) *if that is the case, to be given by the data controller a description of-* (i) *the personal data of which that individual is the data subject,* (ii) *the purposes for which they are being or are to be processed, and* (iii) *the recipients or classes of recipients to whom they are or may be disclosed,* (c) *to have communicated to him in an intelligible form-* (i) *the information constituting any personal data of which that individual is the data subject, and* (ii) *any information available to the data controller as to the source of those data, and* (d) *where the processing by automatic means of personal data of which that individual is the data subject for the purpose of evaluating matters relating to him such as, for example, his performance at work, his creditworthiness, his reliability or his conduct, has constituted or is likely to constitute the sole basis for any decision significantly affecting him, to be informed by the data controller of the logic involved in that decision-taking"*.

52. Section 7(8) of the DPA states: *"Subject to subsection (4), a data controller shall comply with a request under this section promptly and in any event before the end of the prescribed period beginning with the relevant day"*.

53. And Section 7(4): *"Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, he is not obliged to comply with the request unless- (a) the other individual has consented to the disclosure of the information to the person making the request, or (b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual"*.

54. I reproduced Section 7 of the DPA on page 6 of Letter B. I now add the following rulings:

(1) From the European Court of Human Rights in *Gaskin v UK* [1990] 1 F.L.R. 167 that "*third party data*" material may be omitted or *"redacted"* where the disclosure of such material would encroach upon the legitimate privacy or confidentiality of a third party, but the controller must apply an appropriate *"balancing test"* to ensure that the interests of both the data subject and the third party are protected.

(2) The above ruling was relied upon in *R. (on the application of Alan Lord) v Secretary of state for the home department* [2003] EWHC 2073 – at para.148: *"A blanket policy of non-disclosure does not meet the balancing test required by 7(4); a selective and targeted approach to redaction of third party information is required"*.

(3) In *Durant v Financial Services Authority* [2003] EWCA Civ 1746; [2004] F.S.R. 28; [2004] IP & T 814 – per Auld L.J. at para.27 *"to enable him to check whether the data controller's processing of it unlawfully infringes his privacy and, if so, to take such steps as the Act provides, for example in section 10 to 14 to protect it"*.

4.10.1 The First Defendant has failed to address any of my legitimate requests for information. In addition to failing to supply me with evidence in support of the various accusations by / opinions of me from the First Defendant and Andrew Ladsky, it includes failing to provide me with the contact details for social services, which the First Defendant contacted in 2007 on the grounds of its outrageous opinion of me: *"I believe she may have some mental issues so will be speaking to social services to see if they are aware of her"*. Further, each of the 3 *"crime reports"* has been extensively redacted, and I suspect that it has not always been done by applying an appropriate 'balancing test' to ensure that my interests are protected – pursuant to 7(4) of the DPA. In fact, in light of the conduct of the First Defendant since 2002, it is my absolute belief that it holds data about me that is far more damaging than the data it has so far deemed 'appropriate' to release to me.

55. Failure to address my requests for information.

56. As the July 2009 reply from the First Defendant failed to address any of my questions in my 28th May 2009 Subject Access Request, I repeated them in Letter A, to which I added other questions relating to the 3 reports. Following its 25th August 2009 response (Exhibits KDR 9): *"… I can confirm after making enquiries there is no further information we can provide you with"*, I again repeated my questions on pages 28-38 of Letter B, and preceded them by quoting from Section 7 of the DPA.

57. As relevant (which applied to the majority of my requests), I stated: *"There MUST therefore be personal data that is 'obviously about me' / 'relates to me' / 'linked to me' that was processed in order to account for the event/s"*. Below is a summarised version of my list.

58. Page 28 - Directions that stipulated how my 2002 complaint should be handled.

59. Page 29 - Communications between the First Defendant and ADL's solicitor, Lanny Silverstone, CKFT, as: (i) concurrently, both made the same false accusation against me; (ii) the First Defendant failed to address my 11th February 2003 letter in which I asked for precise detail, in writing of the accusation against me.

60. Page 29 – The fact that the First Defendant's officer, PC Neil Watson, had, as stated in his 27th January 2003 letter to me, *"fully recorded"* ADL's complaint against me *before* contacting me v the Metropolitan Police Authority's reply to me of 11th July 2002 (Exhibits KDR 4) that *"the police can only act on the basis of established facts"*.

61. Page 29 – The fact that ADL's 2003 complaint against me was *"fully recorded"* by the First Defendant and classified as a *"crime"* of *"harassment"* v the fact that my complaint, to the First Defendant of suffering harassment from ADL, as well as those of at least 4 of my fellow leaseholders do not get recorded against him (as discussed under section 4.4.1, above).

62. Pages 29 and 30 – Quoting from the 27th January 2003 letter from the First Defendant's officer, PC Neil Watson: *"Please avoid (if you can) any confrontation*

with Mr Ladsky or there may be further consequences" – I asked what *"consequences"* had already taken place before he wrote me his letter.

63. Pages 30 and 37 – In relation to ADL's 2003 and 2007 'complaints' against me – I asked for *"Detail of individuals / organisations to which ADL's 2003 and 2007 complaints against me were transmitted, as well as copy of: (i) the information supplied to the individuals / organisations; (2) briefings, correspondence, including any electronic transmission, record of any meetings and of any telephone conversations that led to this information being communicated to the individuals / organisations"*.

64. Pages 30 and 31 – Citing the fact that, following the 2007 so-called 'complaint' against me by ADL, the First Defendant never contacted me, the owner and author of the website www.leasehold-outrage.com - I asked *"for copy of relevant procedure, briefings, correspondence, including any electronic transmission, record of any meetings and of any telephone conversations that led to the decision"*.

65. Pages 31-33 and 35 – I asked for evidence in support of the claims / accusations that: (i) *"parts of the site are alleged to be extremely upsetting and insulting";* (ii) *"There are a number of sections which are alleged to be of a racial nature and numerous references by name to the victim""*; (iii) *"The specific remarks and pictures that are being complained about are contained throughout…"*; (iv) *"…the mention of pigs and monkeys relates to the words the Nazi's used referring to Jewish people during the holocaust. This is obviously very offensive"*; (v) *"There is a lot of slanderous comments on the site mainly directed at – 79 – but also at K&C and even MPs, the Prime Minister and DPM. Also against solicitors and many others"*; (vi) *"Advised by DS –91– at the Racial crime Directorate at NSY that there is no crime made out and therefore this should be classed as a racial incident and nothing more"*

66. Pages 32, 33 and 34 – In relation to (i) *"…although it appears to be becoming quite paranoid"*; (ii) that I am *"obviously very paranoid"*; (iii) *"I believe she may have some mental issues so will be speaking to social services to see if they are aware of her"* - I asked: *"On what basis does PC K O'Brien considers himself entitled to make this 'assessment' about me?"*; *"On what basis does TDC Simon J Dowling, of*

the 'Community Support Unit', consider himself entitled to make this categorical 'assessment' about me?". I added: *"A 'Community Support Unit' officer states that he "believes" that I "may have some mental issues" and opts to "speak to social services" – and you fail to reply to my question. WHY?"*

67. Pages 34 and 35 – In relation to the First Defendant's officer, TDC Dowling, contacting social services, I asked for: *"(1) Contact detail of the social services section that has been contacted; (2) Copy of briefings, correspondence, including any electronic transmission, record of any meetings and of any telephone conversations that have taken place between the police and social services"*. I added: *"I have the right to know: (1) the data about me that has been communicated and exchanged between the police and social services; (2) to whom the data has been communicated; (3) from whom it has been received. You should have communicated this information to me"*.

68. Pages 33 and 34 – In relation to the First Defendant's officer, TDC Dowling, accusing me, in his 16th March 2007 e-mail to my website Host of having 'committed a crime', by stating *"I am the police officer dealing with this crime"* – I asked *"for relevant procedure, briefings, correspondence, including any electronic transmission, record of any meetings and of any telephone conversations that led to giving him the 'green light' to do this"*.

69. Page 36 – In relation to the First Defendant's officer, TDC Dowling, branding me *"a Nazi"* in his 16th March and 20th March 2007 e-mails to my website Host – I asked *"for copy of briefings, correspondence, including any electronic transmission, record of any meetings and of any telephone conversations that allowed him to breach the Metropolitan Police Service code that "MPS personnel must not use MPS systems to author, transmit or store documents such as electronic mail…containing racist,…defamatory, offensive,…material""*.

70. Pages 36 and 37 – In relation to TDC Dowling backing down in his 20th March 2007 e-mail to my website Host, on his accusations in his 16th March 2007 e-mail - I asked *"for copy of briefings, correspondence, including any electronic transmission, record of any meetings and of any telephone conversations that led him to do this"*.

71. Page 37 – In relation to the message being communicated to me through my then employer, KPMG: *"The police is not going to pursue it. Isn't that good news?"* – I asked for "*copy of relevant procedure, briefings, correspondence, including any electronic transmission, record of any meetings and any telephone conversations that resulted in the decision to communicate this message to me – about my personal website - through my employer"*.

72. Page 38 – Referring to: (i) the accusations made against me by the First Defendant's officer, TDC Dowling, in his e-mails to my website Host; (ii) the fact that TDC Dowling had *"looked"* at my website which contains *"overwhelming black on white evidence of criminal activity"*; (iii) the mandate and promises made by the First Defendant on its website page in relation to the 'Community Service Unit' – I asked for "*copy of relevant procedure, briefings, correspondence, including any electronic transmission, record of any meetings and of any telephone conversations that allowed Simon J. Dowling to totally ignore my claims, on my website – at the time he looked at it - that criminal acts had and continued to be committed against me"*.

73. I concluded with: *"I, yet again, remind you that, under the Data Protection Act 1998, I have the right to know the data that has been processed about me. It is blatantly obvious that this data also includes 'sensitive personal data'. By failing to supply me with the data, you are breaching my rights to fair processing of data about me…"*.

74. Each report has been extensively redacted.

75. Throughout Letter A and B, I noted that text had been redacted.

76. It is my absolute belief that the First Defendant holds data about me that is far more damaging than the data it has so far deemed 'appropriate' to release to me.

77. In addition to its conduct to date, I cite what took place during my visit to Kensington police on 16th October 2010 (visit recorded under paragraph 123 of the Particulars of Claim): as a result of my mentioning the false *"crime reports"* held against me by the First Defendant on its systems, one the officers on duty looked on a computer and, after 2-3 minutes, called his colleague over, and said, pointing to the computer screen: *"Read that!"*. Their expression suggested to me that it was

highly damaging data against me. I wondered what it said. Their reaction brought on feelings of extreme anger, as well as tears I barely managed to fight back as, until 2002 i.e. in my previous 33 years in this country, I had *never* had any dealings with the police. The *only* reason I have ended-up on the police systems is because ADL, that evil, greed-ridden monster decided to steal from me - and has since been protected and assisted by the First Defendant (et.al.): while the First Defendant has *"No crime report against Mr Ladsky"* (section 4.4.1, above) - the criminal - it holds 2 false so-called *"crime reports"* against me – his victim.

4.11 Principle 7 gives me the right to expect that "*appropriate measures are in place* [to prevent] *unauthorised or unlawful processing"*

78. Schedule 1, Part II, paragraph 7 of the Act states: *"Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data"*.

4.11.1 It is clear from the content of this Witness Statement that this requirement has not been met.

5 The Second Defendant has failed me.

5.1 The Second Defendant used Regulation 3(2) of the Police (Complaints and Misconduct) Regulations 2004 to dismiss my complaint on the ground that "*more 12 months have elapsed since the incident complained of*". As crystal clear from Section 10 of the DPA, detailed above under section 4.1, it gives me - the absolute right - to require a data controller to stop processing data about me – <u>at any time</u>. Hence, use of Regulation 3(2) by the Second Defendant is misguided. I hold the view that it has been used because the First Defendant did not 'like' the evidence I supplied in support of my demands - and the Second Defendant obliged.

79. The Second Defendant quotes Regulation 3(2) of the Police (Complaints and Misconduct) Regulations 2004 under paragraph 8 of its Application. As crystal clear from Section 10 of the DPA quoted under section 4.1, above, I can exercise the right to require a data controller to stop processing data about me – at any time.

80. In relation to my above comment about the Second Defendant being compliant to requests from the First Defendant, in addition to the following sub-sections in this Witness Statement, I quote, as examples, the following articles in the Guardian of 25th February 2008: (i) *"Crisis at police watchdog as lawyers resign" – "More than 100 quit over claims of delay and poor decisions by IPCC.. .the lawyers' leaders expressed "increasing dismay and disillusionment"…A failure to provide effective oversight for the work of the police investigators who still handle most complaints; a pattern of favouritism towards the police with some complaints being rejected in spite of apparently powerful evidence in their support..."*. The lawyers are also quoted as saying that they *"had no option. In their resignation letter, they wrote: "The concern for us is that we risk doing a disservice to the complaints system, complainants and our members if we allowed ourselves to remain complicit in a process that is clearly not working"*; (ii) *"The IPCC: a catalogue of delays, rejections and basic failures" – "A Guardian review of dozens of case histories found... failing to order proper inquiries; accepting police evidence without challenge... There have been problems, too, with the IPCC's own investigators, many of whom are former police officers and Customs officers or serving officers on secondment"*.

5.2 While the Second Defendant's letter of 22nd February 2010 had been intercepted to ensure I missed its dictatorial 7 day deadline for reply, the main reason for my not responding post the deadline was my conclusion that there clearly was collusion going on between the Second and First Defendants. I came to this conclusion because: (i) the letter very clearly demonstrated that the Second Defendant had (contrary to its own Guidance on dispensation) failed to take any notice of the content of my correspondence, as listed, above, under section 3 – including my endlessly repeating my rights under the DPA in, among others, Letter A (13th August 2009) and Letter B (20th September 2009); (ii) it sent me the letter the day after receiving mine, dated 18th February 2010, in which, among others, I (yet again) highlighted the fact that the DPA did not impose a time limit; (iii) the First Defendant had posted to me, a letter dated 21st January 2010, on 4th February 2010, day on which it took delivery of my 2nd February 2010 letter, headed *"When am I due to be killed?"* To add insult to injury, in its dictatorial, bullying letter, the Second Defendant stated that even if I *"provided a sound explanation for the*

delay" it would *"still consider dispensation on the grounds of abuse of process"* - by claiming that I should have approached the Information Commissioner instead.

81. As can be seen from the Second Defendant's letter of 22nd February 2010 under its Exhibit JC/2, it gave me 7 days to respond, failing which it would grant the request for dispensation to the First Defendant.

82. (As in the case of another important correspondence from a member of my family), the Second Defendant's letter of 22nd February 2010 was intercepted and only delivered to my PO Box once the Second Defendant's deadline for reply had passed.

83. However, my main reason for not replying past the Second Defendant's dictatorial 7-day deadline was the content of the letter:

(1) *"The incidents you are complaining of appear to have occurred in 2002, 2003 and 2007 and therefore the Metropolitan Police Service has applied to us for a dispensation. If you would like this investigation to continue, you must write to me within seven days of this letter, providing good reasons for the delay in making your complaint. We will then consider the application taking your reasons into account"*.

(2) Continuing with its dictatorial, bullying, intimidatory tone, in the next paragraph, it stated: *"If you do provide a sound explanation for the delay I should make you aware that I am also considering the dispensation on the grounds of 'abuse of process', (that the complaints procedures does not exist in order for crime reports to be amended – there being another, more appropriate remedy in the form of the Information Commissioner), and 'not reasonably practicable to investigate, (the length of time that has passed since the incidents occurred brings the practicality and value of any investigation into question)"*.

84. Aside from the appalling tone of the letter, I could not believe the content as:

(1) To consider the request for dispensation – as per its own Guidance - the Second Defendant would have had to consider all the documents listed under

section 3, above. As evidenced by the content of section 4, above: it very clearly did not.

(2) Under paragraph 12 of its Application the Second Defendant claims to have *"taken into account the representations* [I] *made in my 18th February 2010 letter to the First Defendant*", on which I copied the Second Defendant. The Second Defendant did not do that either:

a. As can be seen in my letter, supplied by the Second Defendant under its Exhibit JC/3, under point 5, I reproduced the comment from the First Defendant: *"This is because I consider that you made your complaint more than 12 months after the alleged misconduct without good reason"* – and wrote *"1. As evidenced by the above, your assessment is incorrect. 2. It is fascinating to contrast your response with that of 20 November 2009 from Steve McSorley – also of 'Professional Standards' – who, as captured above, has not raised any 'difficulty' in arriving at his assessment (following my 13 August and 20 September 2009 letters…"*.

b. Under paragraph 7 of the said letter, I wrote: *"1. Where, in the Data Protection Act 1998, does it specify a time limit for a data subject to seek – and obtain – an end to the processing of data that is false, unlawful, misleading, scurrilous, libellous, biased, corrupted, incomplete in some very significant aspects – as well as obtain correction of the data to ensure that it is "fair, lawful and accurate"?"*.

(3) Further proof that the Second Defendant did not consider my above 18th February 2010 letter either: it received it on 22nd February 2010. Its 22nd February 2010 letter to me was posted on 23rd February.

(4) Likewise, considering the content of section 4, above, as well as the content of related correspondences captured under section 3, above, the Second Defendant very clearly opted to overlook the First Defendant's failure to make

"reasonable efforts… and look into the complaint" – as the Second Defendant states under point 194, page 61 of its 'Statutory Guidance'.

85. In relation to the Second Defendant describing my complaint as an *"abuse of process because the complaints procedures does not exist in order for crime reports to be amended – there being another, more appropriate remedy in the form of the Information Commissioner"*, I highlight that under the DPA, a data subject is not required to approach the Information Commissioner and can instead – or even concurrently – commence legal action under Section 7(9) of the Act; that is, whilst awaiting a response from the Commissioner: *R. (Lord) v Secretary of State for the Home Department* [2003] EWHC 2073 (Admin).

86. I note from the Second Defendant's paragraph 7, as well as its Exhibits JC/1 and JC/4 that the application for dispensation by the First Defendant is claimed to have been made on 21st January 2010. I doubt this claim because I believe that action was - only taken - as a result of my sending my 2nd February 2010 letter to the First Defendant, headed *"When am I due to be killed?"* and copying it to, among others, several LibDem MPs (Exhibit 5 of my 14th June 2011 Reply to the First Defendant's 23rd May 2011 Defence). In support of my claim, I cite the fact that the First Defendant's letter dated *"21st January 2010"* (Exhibit JC/3 to the Second Defendant's Application) was actually posted to me on 4th February 2010 – day on which my 2nd February 2010 was delivered to the First Defendant.

5.3 I had assessed the Second Defendant's 22nd February 2010 letter as 'preparatory ground for the next instalment'. I proved to be right, as the next 'instalment' was a 2nd March 2010 letter from the Second Defendant that was a near carbon copy of its 22nd February 2010 letter. The content was that the Second Defendant granted the dispensation to the First Defendant by dismissing my complaint on the grounds that: (i) I had *"not provided a good reason for the delay between the incident and the complaint and investigating it would likely cause an injustice"*; (ii) my complaint was *"an abuse of process because the misconduct complaints system does not exist for making changes to old crime reports and I should apply to the Information Commissioner, if there is any way of addressing the issue"*.

87. The Second Defendant has supplied the 2nd March 2010 letter under Exhibit JC/5.

88. In relation to the comment *"old crime reports"*: as blatantly obvious from the 17th October 2010 comment from the First Defendant's officer, I report under paragraph 125c of the Particulars of Claim: *"We have to keep information in case you commit an offence and end-up in court"* – there is no such thing as *"old crime reports"*.

5.4 In response to paragraphs 18-21 of the Second Defendant's Application, I repeat my allegation under paragraph 149 of the Particulars of Claim that: (i) *"the Second Defendant has wilfully and recklessly failed to perform its statutory duty under the Police Act 2002";* (ii) it *"ignored its own 'Statutory Guidance to the police service and police authorities on the handling of complaints'";* (iii) it also ignored the Home Office's Guidance. I also repeat my allegation under paragraph 150 that the *"Second Defendant failed to hold to account those I justifiably complained against (and by implication their employing organisation) for their conduct"*. The Second Defendant did this by endorsing the First Defendant's evident perception that it is at liberty to ignore my rights under the DPA. And, considering the manner in which I had been treated by the First Defendant since my initial reply of 13th August 2009 – it likewise turned a blind eye to this discriminatory conduct breaching my rights under the European Convention on Human Rights – conduct which the Second Defendant itself copied in its correspondence to me. While the First and Second Defendants evidently do not accept that the data processed about me is a source of great distress, I have no doubt that any normal, decent, law-abiding human being like me would have no difficulty understanding my reaction to the data – and concurrent determination to have my rights enforced.

89. In light of the content of this Witness Statement, I maintain my position that, in considering my complaint, the Second Defendant has failed to perform its statutory duty under the Police Reform Act 2002 - as it quotes under paragraphs 3-5 of its Application.

90. I also maintain that the Second Defendant failed to live up to its claims / recommendations in its Statutory Guidance. Some of the following is already detailed under paragraph 149 of the Particulars of Claim. I repeat them, and provide their location in the Second Defendant's Statutory Guidance:

(1) Point 29, page 24- *"The member of the public must claim to have been adversely affected by the conduct"*. (This is from Section 12(3), (4) of the Police Reform Act 2002). It is abundantly clear from the content of this Witness Statement that I have, and continue to be adversely affected by the conduct of the First Defendant.

(2) Point 8, page 16- *"All complaints concerning the police should be properly and professionally handled"*. I maintain from the above that the Second Defendant has failed to do this.

(3) B7, page 173- *"Each complaint, conduct…should be assessed in light of its facts and the law that applies to it"*. Ditto.

(4) Point 17, page 18- *"Conduct means actions and decisions or omissions to act or decide…"*. Likewise, I maintain, from the above, that the Second Defendant failed to take this into consideration – by failing to take note of the content of correspondence when considering the decision to grant a dispensation.

(5) Point 298, page 83- *"An investigation into a conduct matter must focus on establishing whether there is a case to answer in respect of misconduct or gross misconduct"*. Ditto.

(6) Annex A, page 167 – F-Discriminatory behaviour *"…Discriminatory behaviour should be thought of in terms of treating people differently without justification through prejudice or unfair treatment of one person"*. Annex B, B12, pg174- *"…proven allegations where there is significant detriment or evidence of a repeated discriminatory attitude or behaviour require a more serious misconduct consideration"*. I maintain that the Second Defendant turned a blind eye to this, and therefore to the breach of my rights under the European Convention on Human Rights.

(7) Pt434, p114 (and A6, pg151)- *"In deciding what standard of service a person could reasonably expect, the investigator, IPCC and appropriate authority should apply an objective standard of a reasonable person in possession of the available facts. They should have regard to the Standards of Professional Behaviour…"*. Ditto, the Second Defendant failed to apply its directive.

(8) Point 433, page 113 (and A6, point 151)- *"A complaint should be upheld where the findings show that the service provided by or through the conduct of those serving with the police did not reach the standard a reasonable person could expect"*. Again: ditto.

(9) Point 454, page 120- Refers to Guidance issued by the Home Office. The 'Home Office Guidance, Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures' states under para.1.14 *"Police officers do not knowingly make any false, misleading or inaccurate oral or written statements or entries in any record or document kept or made in connection with any police activity"*. In light of the content of this Witness Statement, I likewise maintain what I stated under paragraph 149e of the Particulars of Claim that: *"the Second Defendant likewise ignored the Home Office Guidance"*.

91. The above, added to the sub-sections contained under section 5, above, are my response to the Second Defendant's paragraphs 18-21.

6 The Second Defendant's failure to help me, led me to opt for the option of sending to the First Defendant's officer, Chief Superintendent Mark Heath, Kensington police, a 2nd June 2010 Notice under Section 10 of the DPA. This strategy also failed as, in spite of meeting the requirements, in breach of the DPA, my Notice was not even acknowledged. The obvious reason: from prior events with his overall Head, as well as with the Second Defendant, he knew that he had carte blanche to do this. Further, it is my conclusion that the First Defendant ignored my repeated warning that, if my demands were not met, I would, as per my right under Section 14 of the DPA, issue proceedings – on the assumption that I did not have £70,000+ to spend on legal advisers to challenge its refusals.

92. Following the dismissal of my complaint by the Second Defendant, I embarked on extensive desk research with the objective of finding a means of circumventing the repeated refusals to meet my legitimate demands. I bought a book on the DPA and, from this, realised that I could submit a Notice under Section 10. As Section 10(3) imposes a statutory duty on a data controller to respond within 21 days, I concluded that doing this would be the solution to my problem. The desk research and

compilation of the Section 10 cost me several weeks of intensive work. This was all in vain, as the First Defendant failed to respond, a decision that was evidently influenced by prior events with his overall Head (my correspondence to the First Defendant), as well as with the Second Defendant - leading to the perception of having carte blanche to do this.

93. The rejection of my complaint by the Second Defendant, added to the failure of my strategy number 2, above, led me to conclude that the only solution left was to file a claim – as per my right under Section 14 of the DPA. As I did not have £70,000+ to spend on legal advisers, I embarked on 8 months of intensive desk research in order to do this – resulting in my 19th April 2011 claim.

94. In my following correspondence to the First Defendant: (i) 20th September 2009– Exhibit KDR 10; (ii) 20th September 2009- Exhibit 2 to my 14th June 2011 Reply to the First Defendant's Defence; (iii) 28th November 2009-Exhibit 1, also to my 14th June 2011 Reply – I warned that if my demands were not met I would issue proceedings, as per my right under Section 14 of the DPA. As evidenced by events, this threat was clearly laughed at by the First Defendant - in the knowledge that I did not have the funds to employ legal advisers.

95. The above 3 points are my reply to the Second Defendant's paragraphs 20c, 22, 23 and 26.

- END of Witness Statement -

Statement of Truth

I believe that the facts stated in this Witness Statement are true.

……

Noëlle Yvonne Sylvie Klosterkotter-Dit-Rawé

Date: ……

This Witness Statement is supported by 12 Exhibits.

Claims Administration Office
Queen's Bench Division
Royal Courts of Justice
Strand
London WC2 2LL

(By *'Special Delivery'*)

Ms N Klosterkotter-Dit-Rawé
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[ ]

Ref: **Claim HQ11X01471** - Noëlle Klosterkotter-Dit-Rawé v. Commissioner of Police of the Metropolis; (2) The Independent Police Complaints Commission; (3) The Secretary of State for the Home Department

27th June 2011

Dear Madam / Sir,

My response to the Second Defendant's 7th June 2011 Application

Please find enclosed my 27th June 2011 Witness Statement and supporting Exhibits in response to the Second Defendant's Application of 7th June 2011.

(By the same post, I am copying all 3 Defendants on this response).

Yours faithfully,

N Klosterkotter-Dit-Rawé

Mrs / Ms Julia Chittenden
Lawyer
Independent Police Complaints Commission
90 High Holborn
London WC1V 6bH

Ms N Klosterkotter-Dit-Rawé
[ ]
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27th June 2011

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(By the same post, I am copying the Court and the other Defendants).

Yours sincerely,

N Klosterkotter-Dit-Rawé

Mrs / Ms Helen John
Treasury Solicitors Department
One Kemble Street
London WC2B 4TS

(Home Office)

Ms N Klosterkotter-Dit-Rawé
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27th
~~14~~th June 2011

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Yours sincerely,

N Klosterkotter-Dit-Rawé

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[ ]

(By '*Special Delivery*')

Ref: Claim HQ11X01471 - Noëlle Klosterkotter-Dit-Rawé v. Commissioner of Police of the Metropolis; (2) The Independent Police Complaints Commission; (3) The Secretary of State for the Home Department

14th June 2011

Dear Madam,

My response to the Second Defendant's 7th June 2011 Application

Please find enclosed my 27th June 2011 Witness Statement and supporting Exhibits in response to the Second Defendant's Application of 7th June 2011.

Yours sincerely,

N Klosterkotter-Dit-Rawé

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Your Receipt

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London
Greater London
WC1V 6BS

IPCC

Date and Time:	27/06/2011	15:19
Session ID:		5-119195
Dest:		UK (EU)
Quantity:		1
Weight:		1.083 kg
Special D by 1	£0.00	£9.05
Total Cost of Services		£9.05
Posted after Last Collection?		No
Barcode:		ZW86167376 7GB

DESTINATION ADDRESS

Building Name or Number	Postcode
90	WC1V6BH
Address Validated?	N

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WC1V 6BS

Courier

Date and Time:	27/06/2011	15:18
Session ID:		5-119195
Dest:		UK (EU)
Quantity:		1
Weight:		1.083 kg
Special D by 1	£0.00	£9.05
Total Cost of Services		£9.05
Posted after Last Collection?		No
Barcode:		ZW8616737846B

DESTINATION ADDRESS

Building Name or Number	Postcode
ROYAL COURT OF JUSTIC	WC22LL
Address Validated?	N

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19/20 High Holborn
London
Greater London
WC1V 6BS

TSol

Date and Time:	27/06/2011	15:17
Session ID:		5-119195
Dest:		UK (EU)
Quantity:		1
Weight:		1.083 kg
Special D by 1	£0.00	£9.05
Total Cost of Services		£9.05
Posted after Last Collection?		No
Barcode:		ZW8616737986B

DESTINATION ADDRESS

Building Name or Number	Postcode
TRESURY SOLICITORS DE	WC2B4TS
Address Validated?	N

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19/20 High Holborn
London
Greater London
WC1V 6BS

MPS

Date and Time:	27/06/2011	15:15
Session ID:		5-119195
Dest:		UK (EU)
Quantity:		1
Weight:		1.087 kg
Special D by 1	£0.00	£9.05
Total Cost of Services		£9.05
Posted after Last Collection?		No
Barcode:		ZW86167380 7GB

DESTINATION ADDRESS

Building Name or Number	Postcode
8-10	SW1H0BG
Address Validated?	N

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Your Receipt

FAD: 050010

Grays Inn
19/20 High Holborn
London
Greater London
WC1V 6BS

VAT REG No. GB 243 1700 02
Date of Issue: 27/06/2011 15:19
SESSION: 5-119195

	Item Price ex VAT	inc VAT	Total(£)
(E)Special D by 1			
1 @	9.05	9.05	9.05
(E)Special D by 1			
1 @	9.05	9.05	9.05
(E)Special D by 1			
1 @	9.05	9.05	9.05
(E)Special D by 1			
1 @	9.05	9.05	9.05

(S)=Standard Rate (Z)=Zero Rate (E)=Exempt

- -

RejPost Label SD		
1 @	0.00	0.00

TOTAL DUE TO POST OFFICE 36.20

Visa Debit FROM CUSTOMER 36.20
BALANCE 0.00

Payment Retail
VISADEBIT
Card Number: **** **** **** 9272 Issue:
ICC
Auth Code: 645930 EFT No: 8693
Merchant ID: 64512252
Terminal ID: 22523320
Application ID: A0000000031010
From: 10/10 Expiry: 04/14 PAN Seq No: 00
Transaction ID: 00-50010-5-5099621-1
Date/Time of Payment:27/06/2011 15:19

Amount: £36.20

Your account will be debited with the
above amount. Cardholder PIN verified.
Transaction confirmed.

Please retain for future reference

Thank You

27th June 2011 Response to (IPCC) 2nd Defendant's 7th June Application under Pt 31/24

Please enter your 13 character reference
e.g. AA000100019GB

ZW861673784GB Track item

How to find your reference number

Delivered

Your item with reference ZW861673784GB was delivered from our WEST CENTRAL LONDON Delivery Office on 28/06/11 .
Thank you for using this service.
We can confirm that this item was delivered before the guaranteed time.
The electronic Proof of Delivery may not be available for this item yet. Please allow up to 72 hours after delivery before checking.

View Proof of Delivery

COURT

27th June 2011 Response to (IPCC) 2nd Defendant's 7th June Application PT&3/24

Please enter your 13 character reference
e.g. AA000100019GB

ZW861673767GB Track item

How to find your reference number

Delivered

Your item with reference ZW861673767GB was delivered from our WEST CENTRAL LONDON Delivery Office on 28/06/11 .
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View Proof of Delivery

IPCC (2nd Defendant)

27th June 2011 Response to (IPCC) 2nd Defendant's 7th June 2011 Application PE 3/24

Please enter your 13 character reference
e.g. AA000100019GB

ZW861673798GB Track item

How to find your reference number

Delivered

T Sol (HO) (3rd Defendant)

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5

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27th June 2011 Response to (IPCC) 2nd Defendant's 7th June 2011 Application Pt 3/24

Please enter your 13 character reference
e.g. AA000100019GB

ZW861673807GB Track item

How to find your reference number

Delivered

MPS (1st Defendant)

Your item with reference ZW861673807GB was delivered from our SOUTH WEST LONDON Delivery Office on 28/06/11 .
Thank you for using this service.
We can confirm that this item was delivered before the guaranteed time.
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View Proof of Delivery

SENDING
important or valuable mail

TRACKING
important or valuable mail