Neutral Citation Number: [2023] EWHC 1417 (Admin)

Case No: CO/4467/2020

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 12/06/2023

Before :

SIR ROSS CRANSTON
Sitting as a High Court judge

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Between :

JON RIVERS	**Claimant**
- and -	
CHIEF CONSTABLE OF SURREY CONSTABULARY (1); **JOHN MCWILLIAMS (2)** **SAARA IDELBI KC (3)**	**Defendants**
-and-	
A (1) **LONDON BOROUGH OF HOUNSLOW (2)** **SUFFOLK COUNTY COUNCIL (3)** **THE GREEN SCHOOL FOR GIRLS (4)** **SURREY CHILDREN'S SERVICES (5)** **CHIEF CONSTABLE OF SUFFOLK CONSTABULARY (6)**	**Interested parties**

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Dr JON RIVERS in person (assisted by his McKenzie friend, **David Abbott**) as **Claimant**
SIMON MYERSON KC (instructed by **Weightmans LLP**) for the **First and Second Defendants**
JULIAN BLAKE (instructed by **Womble Bond Dickinson**) for the **Third Defendant**

Hearing date: 8 June 2023

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SIR ROSS CRANSTON:

INTRODUCTION

1. This is the judgment following a hearing ordered by Sir Duncan Ouseley to consider directions in relation to the application by the claimant, Dr Rivers, for committal for contempt dated 30 November 2022, supplemented by a further application of 19 January 2023.

2. The origins of these proceedings lie in the disclosure about Dr Rivers made by the Chief Constable of Surrey Constabulary ("the Chief Constable"), the first defendant, under the Domestic Violence Disclosure Scheme (DVDS), also known as 'Clare's Law'.

3. The second and third defendants are respectively the Chief Constable's solicitor and counsel who represented him in a judicial review which Dr Rivers brought relating to the disclosure. It should be noted that the applications name Mr Stephens as Chief Constable, but he has been succeeded by Mr Tim de Mayer. Mr Stephens is not before the court as a party or interested person. On that basis the applications against him personally go nowhere. Neither the second nor third defendant in these proceedings were named defendants in the judicial review, indeed were not clearly joined to the present applications. They were made defendants by Sir Duncan Ouseley's order.

4. As well as the matters raised in Sir Duncan Ouseley's order, the judgment considers other application, one by the defendants to strike out the proceedings, and two by the claimant, one dated 21 March 2023 to strike out defendants' statement of case and seeking summary judgment, another dated 5 May 2023 to adduce bad character evidence of the defendants. It is convenient to deal with all these in this judgment.

BACKGROUND

'Clare's Law' disclosure

5. The Domestic Violence Disclosure Scheme enables the police to release information about any previous history of violence or abuse a person might have. On 23 April 2020 the Chief Constable made disclosure under Clare's Law to Dr Rivers' then partner, A, at her request. In the judgement this is called "the Disclosure". The Disclosure contained important and (and in my view inexcusable) mistakes. Clare's law will lose credibility unless the police take great care in ensuring that the information recorded and then disclosed under it is accurate.

6. Next day the Disclosure was sent to the London Borough of Hounslow, where Dr Rivers was a teacher. A Single Combined Assessment Risk Form was completed to Surrey Children's Services notifying them that a disclosure had been made. Dr Rivers was dismissed from his teaching post as a safeguarding risk and because he had not disclosed matters as required.

7. Dr Rivers, his father, Mr David Abbott, and A, all complained about the Disclosure because of the mistakes it contained. As an illustration a serious mistake, which originated from the Suffolk Constabulary, and which the Chief Constable later acknowleged, was that the Disclosure wrongfully stated that an allegation had been made

that Dr Rivers had twice threatened to kill an ex-partner. The allegation was in fact that Dr Rivers had informed an ex-partner that he wished to kill his former head teacher.

8. Dr Rivers made a formal complaint to the Surrey Police in late April 2020. This was investigated by Surrey Police Professional Standards Department who responded to the claimant on 1 September 2020. It found that the disclosure response was satisfactory but acknowledged that there had been errors.

9. Following complaints made to the police forces which had entered the original records in the Police National Database referred to in the Disclosure, in March 2021 Suffolk Constabulary made changes to the underlying data about the allegations made against Dr Rivers. The Metropolitan Police Service refused to amend its data. The Chief Constable amended the Disclosure and sent this to Dr Rivers' then representatives and A in early December 2021.

The judicial review

10. It was the letter of 1 September 2020 which Dr Rivers challenged by way judicial review launched in December 2020. The challenge was to the Chief Constable's failure to complete the disclosure, or to correct the disclosure made about him. The judicial review was couched in this way because to challenge the Disclosure itself from April 2020 would have been out of time.

11. Following the issue of the claim there was protracted correspondence between the parties and suggestions for mediation. As a result, the application for permission for judicial review did not go to a judge. Then in April 2022 Dr Rivers filed an application for urgent consideration of the claim, and a "revised" claim which asserted that the amended disclosure was unlawful. There was also an allegation that the Chief Constable had failed to comply with its duty of candour and to conduct proceedings fairly and reasonably. The application for urgent consideration was refused.

12. In early May 2022 Dr Rivers issued an application notice seeking permission to adduce new evidence which was appended to the application notice and which he said demonstrated that the Chief Constable had behaved dishonestly. The following month Dr Rivers filed an application for committal for contempt relating to the notice of change of solicitors, and directed primarily at Weightmans LLP, acting for Chief Constable.

13. When Dr Rivers' applications went to Johnson J in June 2022, he refused them on the papers with detailed reasons. There was a renewed application at an oral hearing before Freedman J in August 2022.

14. In a detailed reserved judgment handed down on 22 September 2022 Freedman J refused permission in relation both to the renewed application for permission to apply for judicial review and the renewed application to make a contempt application: *R (on the application of Dr Jon Rivers) v The Chief Constable of Surrey Constabulary* [2022] EWHC 2382 (Admin).

Freedman J's judgment and the appeal

15. Only three points need to be noted from Freedman J's judgment. First, Freedman J held that Dr Rivers failed to make an arguable case that with the assessment and decision

contained in the letter on 1 September the Disclosure had not been accurately corrected: [60], [62(10)]. Moreover, given that the Chief Constable was entitled to rely on the information available to him, Dr Rivers had been unable to show that with the Disclosure there was an arguable case that it was unlawful for the Chief Constable to make it to A [61].

16. Secondly, the third defendant appeared as counsel at that hearing. In her submissions she used a schedule ("the Court Schedule") to set out the inaccuracies in the original disclosure - a "helpful schedule" Freedman J described it. There were also tracked changes showing the original and amended disclosures. These showed how amendments were made to the disclosures [27], [48]. In his judgment, Freedman J commented that these made plain "the seriousness of the matters disclosed both before and after amendments were made" [48].

17. Thirdly, as well as challenging the accuracy of the disclosures, Dr Rivers alleged that the Chief Constable had repeatedly given a knowingly false account of the disclosures and that there was dishonesty and unlawful behaviour: [7]-[9]. Counsel was included in these allegations. Dr Rivers also alleged that the Chief Constable had "seemingly enticed others to change their statement": [8]. In relation to this Freedman J said that "nothing that I have seen in the preparation and in the hearing leads me to the conclusion that any of the allegations of bad faith or dishonesty made against the Defendant are borne out by information within the papers": [10]. Freeman J also rejected allegations of dishonesty and lying to the court: inaccuracies, mistakes and negligence do not found the case: [70], [89].

18. Freedman J referred to the contents of the email of 20 September 2022, following the hearing which, amongst other things, made five allegations that the Chief Constable's legal representatives had misled the court and five allegations that they had failed to inform the court of specific matters. Freedman J held that there was nothing in these communications which had an impact on his judgment. He said: "They do not cast any new light on the application for permission nor do they affect the underlying reasoning or conclusion": [80].

19. Dr Rivers sought to appeal Freedman J's refusal of permission of his application for judicial review to the Court of Appeal. In early December 2022 there was also an application with a Court of Appeal reference CA-2022-001886 relating to warning markers in police records and their evidential value. The third defendant before me did not see this application.

20. Dingemans LJ refused permission to appeal on 22 December 2022 (CA-2022-001886). In his view there were no arguable grounds to show that the Chief Constable's relevant decision was unlawful. Dingemans LJ also refused the application to rely on fresh evidence because it would not have an important influence on the result of the case. Dingemans LJ observed that "there is nothing in the judgment to show that the judge was misled into a wrong judgment".

21. The file in the Administrative Court was closed.

22. In February 2023 Freedman J made an order for anonymity in respect of A (the first interested party) and her children.

THE CONTEMPT APPLICATIONS

23. Meanwhile, on 30 November 2022 Dr Rivers made his first contempt application in these current proceedings ("the first application"). The defendant is stated to be "Mr. Gavin Stephens Chief Constable Surrey Constabulary". The application stated that defence counsel "was explicitly and knowingly untruthful" before Freeman J. Counsel had wrongly described the Court Schedule as evidence when it was not found in the evidence and was incomplete and misleading. The application said that "Summary judgment and penalty is sought". The application focused on counsel and did not say what either Mr Stephens or the second defendant were alleged to have done. No order accompanied the application as the CPR Part 81 requires.

24. A second application for contempt followed in this court in January 2023 (issued March 2022), with the defendant named as "Mr. Gavin Stephens Chief Constable Surrey Constabulary" ("the second application"). It was described as a "contempt of court application against respondent and request for urgent hearing due to admission of guilt by respondent's solicitor". Its terms largely reflected those of the first application.

The Ouseley Order

25. Dr Rivers' contempt applications were considered by Sir Duncan Ouseley, sitting as a High Court Judge. In an Order dated 22 March 2023 (the "Ouseley Order") he ordered a directions hearing to consider the following issues (which I set out in summary with a slight renumbering):

    (i) compliance with service requirements on the defendants;

    (ii) whether the applications are to be regarded as one application to which Dr Rivers has sought to add persons and grounds;

    (iii) whether permission is required;

    (iv) what directions should be given for the further conduct of the proceedings;

    (v) any further issues upon which the court may give directions as to the issues for consideration or the documents to be produced by any party;

    (vi) whether the applications could not proceed as they stood because it is an abuse of process to use an application for contempt as a rehearing;

    (vii) whether the applications could not proceed as they stood:

        (a) because they need to cover both the acts alleged to constitute the contempt, the question of dishonesty on the part of the defendants, and whether there is any evidence which could meet the criminal standard;

        (b) because the allegations are not properly particularised.

26. Sir Duncan Ouseley observed that if the applications were non-compliant the court could strike them out or, if applicable, refuse permission. He ordered that Dr Rivers should serve a skeleton argument and a properly particularised schedule, which would be responded to by the defendants. That schedule should identify:

(i) what points Dr Rivers says arose after the hearing, which he says show that the defendant or his lawyers said something wrong, identifying the page in the transcript of the hearing or skeleton argument before Freedman J, where it is referred to in the judgment, and what specific evidence he has or reasoning to show that that was dishonest;

(ii) what points he says arose during the hearing, which he now says that the evidence or submissions on the part of the defendant or his lawyers was untrue, identifying the point in the transcript, what comments he made specifically or generally about that point, identifying the page in the transcript or skeleton argument, or saying why he did not address it or was in no position to make comments, and where Freedman J reached a conclusion either specifically by general comment on it.

The hearing

27. For the hearing before me Dr Rivers filed a skeleton argument and a further document entitled "Claimant's Particularised Schedule".

28. In summary, the skeleton argument alleged that the Chief Constable's solicitor created a schedule which did not match the police records but on which Freedman J relied. This schedule (what is called the Court Schedule in this judgment) also provided a fabricated document with the specific intent to show Dr Rivers in a worse light than he deserved. There was also an allegation against a detective sergeant (not a party to the proceedings) having committed several criminal offences by making inaccurate and unlawful disclosures. It was also said that the Chief Constable was aware of this. As to counsel, the third defendant, she is alleged to have misled the court and to have invented the threat to kill allegation, which she said was substantiated. She was aware of the falsity of the Court Schedule.

29. Under the heading "Case for Contempt", the skeleton states (in part) in relation to each of the defendants:

> "40. [Counsel] gives direct testimony to the Judge that the [Chief Constable] did not get involved in dismissal or referral of the Claimant and did not describe him as not being found not guilty in 2015 at Crown Court. She identifies the [Chief Constable] only described allegations. She invents a substantiated threat to kill. All of these statements are false and could prevent a Judge from identifying the Claimant was liable. They demonize the Claimant so that a judge believes he poses a risk necessitating disclosure. Mr Justice Freedman explicitly cites at judgement the comments of [counsel] helping form his decision to reject the application. The elements of whether [counsel] Could and Did interfere with the administration of justice are satisfied.
>
> 41. [The solicitor] created the schedule to present to the judge the [Chief Constable] made fair disclosure of the Claimant's police records. He invents the Claimant is charged of offences and the threats to kill. He also describes the Claimant as not being not guilty. This demonizes the Claimant again and makes

> the Judge believe disclosure was reasonable compared to this representation. Mr Justice Freedman explicitly cites the schedule as being helpful in making his judgement. The elements of whether [the solicitor] Could and Did interfere with the administration of justice are satisfied.
>
> 42. [The solicitor's] awareness is without question. He released the Claimant's PND records to the court 18 June 2022. He is therefore demonstrated having possession of the documents proving his schedule was not truthful and that the Claimant is not charged or in possession of outstanding or substantiated threats to kill. The schedule was provided with intent to deceive.
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> 43. [Counsel] must also be seen acting with awareness. She is instructed by [the solicitor] and makes similar allegations as appear in the schedule. She would therefore be aware of the creation of these false records…
>
> 46. The [Chief Constable's] behaviour is equally evident. [The detective sergeant] committed two counts of wrongful disclosure, contrary to S.11 Contempt of Court Act (2011). He gave false versions of the 2015 Ipswich Crown court ruling and the Huntingdon Employment Tribunal 2016. He may also have breached the Police and Criminal Evidence Act (1984) by falsely describing the records of the Claimant…
>
> 47…[The detective sergeant] not only made an unlawful disclosure without full authority or knowledge of the details, he misled superiors during questioning that he had acted appropriately.
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> 48. The [Chief Constable] was clearly aware of the criminal action of [the detective sergeant] but has decided to tell this Court that he acted appropriately. Disguising a criminal offender's action has caused loss for the Claimant. The elements of awareness, and whether it could and did interfere with justice are evident; alongside being criminal. The [Chief Constable] can also be held accountable for withholding the recording of the Disclosure from standard disclosure to the Court and Claimant…"

30. Dr Rivers' skeleton argument also requested the court to subpoena a named employee of Suffolk Police Data Management and a named employee of the Suffolk Police DBS liaison for hearing. "These persons can give an accurate assessment of the Records at the heart of this matter."

31. The "Claimant's Particularised Schedule" is not a schedule in the accepted sense. Rather, it is a detailed document, with cross references to other documents, outlining the background to the Disclosure, its inaccuracies, and the judicial review. After the eight principal documents for the contempt applications are identified, the it recalls and

elaborates in succeeding paragraphs the allegations about the defendants contained in the skeleton argument.

32. At paragraph [44] the document states: "As the Claimant believes the three parties have committed contempt to the Criminal standard, he believes this level of interference in the administration of justice necessitates reconsideration of the safety of the original judgement. This is not to rehear the matter…" The document draws as well on material which was not before Freedman J to elaborate what is said to be dishonest behaviour by the three defendants. In the course of the document, Dr Rivers states that Freedman J's judgment is unreliable, as a result of the defendants' action. Freedman J's ability to administer justice was derailed by their dishonesty. The document says that the claimant "will itemise all false statements in the schedule at hearing…": [102]. Again, there is the request to subpoena the named persons mentioned in the skeleton argument.

33. At the hearing Dr Rivers began his oral submissions with the points made in the skeleton about the severe impact on him of the wrongful disclosures. These included the impact on his personal relationships and the loss of his employment, coupled with his inability to obtain a further teaching position. As well there was the severe implications for his health including what he described as a life-threatening neuronal loss. There was also the incorrect information he had been given at various points by court staff as to how to bring these applications, although a senior court lawyer had apologised for this. Dr Rivers' McKenzie friend, his father Mr Abbott, explained that he had tried to mediate but was fobbed off by those representing the Chief Constable.

34. In his oral submissions Dr Rivers majored on a schedule he prepared for the hearing and foreshadowed at paragraph [102] of the Claimant's Particularised Schedule. (Counsel for the third defendant did not have the schedule.) The document is of some 14 pages, with 15 different aspects, each setting out submissions by counsel as to Dr Rivers' behaviour, the subject of the Chief Constable's disclosure. In the right-hand column, entitled "Contrary Evidence", Dr Rivers itemised what he submitted was evidence which showed that different aspects of the disclosure, in some cases even when corrected, were wrong. With some aspects information was readily available to the Chief Constable, he submitted, or at least to those who had supplied information to him, which made plain the flaws in the disclosure. Dr Rivers also referred to recent documents from the Department of Education and ACRO (the Criminal Records Office) as providing further support for his allegations of dishonesty.

35. Dr Rivers submitted that the criminal contempt was constituted by the deliberately false statements to Freedman J, which misled him; the withholding of evidence from the judge; and the provision of false documents to him.

The key issue: specifying the contempt: issue (vii)

36. The hearing was ordered to address the issues raised in the Ouseley Order. In my view the key issues in the Ouseley Order are those set out at paragraph (vii). As the Order put it at what I have called paragraph (vii)(a), the applications as they were could not proceed as they stood to contempt hearings because the allegations had to cover both the acts alleged to constitute the contempt and the question of dishonesty on the part of the defendants. In his Ordre Sir Duncan Ouseley said specifically that the court would need to consider whether there was evidence which could meet the criminal standard.

37. Moreover, the Ouseley Order stated at what I have called paragraph (vii)(b) that the allegations needed to be particularised. As the Order put it, "at present, the applications are "muddled up (i) with criticisms which amount to no more than a disagreement with or repeated misunderstandings of what was said and done by the Defendant and his lawyers and upon which Freedman J ruled, (ii) with general comments about the effect which the proceedings have had on him, (iii) with allegations of dishonesty unsupported by anything beyond the assertion that what was said was dishonest, and (iv) actions which may have only come to light after the hearing. "That is simply not good enough for allegations in contempt proceedings", Sir Duncan Ouseley said, "which are closer to criminal proceedings, and where the obligation lies on the Claimant to prove his case beyond a reasonable doubt, both as to facts and as to dishonesty."

38. The Ouseley Order has a very firm legal base. Due to the serious implications of a finding of contempt, the procedural requirements in respect of applications for committal in Part 81 of the CPR are quite specific. They are intended to reflect the requirements for procedural fairness and article 6 of the European Convention on Human Rights. The alleged contemnor must know clearly what is being alleged against them and have every opportunity to meet the allegations. As Vos LJ (as he then was) put it in *Re L; In the matter of Gous Oddin* [2016] EWCA Civ 173, it could not be over-emphasised:

> "[73]…the importance of any court dealing with an alleged contempt of court, whether a breach of a court order or a contempt in the face of the court, identifying or requiring the party bringing the contempt proceedings to identify precisely the particulars of the contempt with which it is dealing. This is a basic but crucial point. The alleged contemnor is entitled to know precisely the particulars of the charge he faces; put in layman's terms, he is entitled to know what precisely he is said to have done wrong. It is simply not fair to proceed with a hearing that leads to a finding that a person has committed a contempt of court by which they are punishable by imprisonment without identifying precisely the allegation which the evidence to be relied upon is directed at proving against him.…
>
> [75]…the process of committal for contempt is a highly technical one … for a very good reason: namely the importance of protecting the rights of those charged with a contempt of court."

39. The difficulty for Dr Rivers, and why these applications must be struck out, is that he has focused yet again on whether the disclosures were true or false and has made allegations of dishonesty which, as Sir Duncan Ouseley put it, are "unsupported by anything beyond the assertion that what was said was dishonest." The inaccuracies in the Chief Constable's disclosure, and as alleged in the submissions to Freedman J, were the burden on much of Dr Rivers' submissions before me. The Ouseley Order gave Dr Rivers a further opportunity to set out his allegations in a way that might meet the requirements of the rules and procedural fairness, but he has failed to take it.

40. What Dr Rivers needed to do was to provide a proper schedule so that the nature of the contempt was clear: CPR r.81.4(2)(a). There also needed to be a "brief summary" of the

facts alleged to constitute the contempt: CPR r.81.4(2)(h). His applications are still not supported by written evidence given by affidavit or affirmation (CPR r.81.4(1). Indeed, Dr Rivers requests as I have said that two named witnesses be summoned. These are all mandatory requirements. Consequently, Dr Rivers has failed to comply with the CPR r.81.4 requirements and with the Ouseley Order. That he is a litigant in person does not exempt him from complying with the rules or the order: *Taylor v Robinson* [2021] EWHC 664 (Ch), [51]. In light of the failure to observe the procedural requirements of CPR Part 81 and to comply with the Ouseley Order the applications must be struck out as totally without merit.

41. Moreover, these applications must also be stuck out since they do not disclose any tenable grounds. As regards each defendant they are not clear as to elements of the wrongdoing and are unsupported by proper evidence. As an allegation of interference with the course of justice or contempt in the face of the court they are bound to fail since there is no evidence satisfying the requisite mental element of contempt.

42. With the Chief Constable – in fact the former Chief Constable, as identified in the applications - the alleged contempt seems to hinge on the behaviour of his officers, including the detective sergeant, without an explanation as to how the Chief Constable can be criminally liable on the back of their behaviour. As to the second defendant, the Chief Constable's solicitor, the case seems to be based on a misunderstanding of the status of the Court Schedule produced for Freedman J.

43. The case against counsel, the third defendant, is that she provided "testimony" on behalf of the Chief Constable which misled the court. That again is founded on a misunderstanding. What counsel said before Freedman J were submissions on behalf of her client, the Chief Constable. Counsel was not giving evidence ("testimony" in Dr Rivers' terms) to Freedman J; she was representing her client and acting on the client's instruction making submissions to the court. At one point before me Dr Rivers acknowledged this when he said that counsel may not have known what she was saying to Freedman J was wrong. That, of course, is fatal to the mental element of contempt.

Re-litigation and abuse of process: issue (vi)

44. Another reason these contempt applications fail is that they attempt to relitigate matters which were before Freedman J. It will be recalled that in his judgment Freedman J rejected allegations of dishonesty against the Chief Constable and his representatives, including dishonesty in court. He was aware of the post-hearing material of 20 September 2022. When Freedman J's order was appealed to the Court of Appeal, Dingemans LJ rejected the argument that Freeman J had been misled. That there are additional allegations and arguments on the same theme following these decisions does not affect the matter.

45. Dr Rivers' applications, certainly in relation to the second and third defendants, revolve around the Court Schedule. His case is that it gives rise to a contempt because it was false and there was a contempt in using it before Freedman J. The judge relied upon it, in part, finding it helpful. In effect, therefore, this is a complaint about Freedman J's judgment, which was upheld by Dingemans LJ on appeal (who had additional material before him). For these applications to proceed would constitute relitigating Freedman J's judgment, and the factual arguments on which it was based. It would be an abuse of process.

46. The court has power to strike out a committal application if it is an abuse of process where there is an attempt to relitigate issues raised, or which should have been raised, in previous proceedings: *Taylor v Robinson* [2021] EWHC 664 (Ch), [47], [81], per Eyre J (as he now is).That is because there is an inherent power to strike out committal applications deriving from its right to control its own proceedings so as to prevent abuse of its process: [43]. As well, the *Henderson v Henderson* principle (and the broad approach of considering all the circumstances of a person's conduct, per Lord Bingham in *Johnson v Gore Wood & Co* [2002] 2 AC 1, 31) applies to committal proceedings.

47. Consequently, the contempt applications are also struck out as totally without merit as an abuse of process of the court.

Compliance with service requirements: issue (i)

48. CPR r.81.5 provides that a contempt application and evidence in support must be served on the defendant personally. As Cockerill J noted in *ICBC Standard Bank Plc v Erdenet Mining Corp LLC* [2017] EWHC3135(QB*)*, service was especially important in contempt matters given the potential sanctions under CPR Part 81 such as imprisonment which can follow from a finding of contempt: [44]. In addition to the CPR, there are also the fairness rights of defendants under article 6 of the European Convention on Human Rights.

49. There has been correspondence with the second defendant as the Chief Constable's solicitor but no personal service on him. Not has Dr Rivers personally served counsel, the third defendant. The applications fail in relation to them for this reason alone.

Permission: issue (iii)

50. Permission is required for an application in relation to interference with the due administration of justice unless brought "in existing High Court or County Court proceedings": CPR81.3(5)(a). The second and third applications were lodged and issued after proceedings in this court ceased. As regards the second and third defendants, they were not parties to the underlying proceedings until the Ouseley Order, so well after Dingeman LJ's order. On one interpretation CPR81.3(5)(a) refers to proceedings in existence at the time the alleged contempt was committed . On another, if there is an alleged contempt in proceedings, and they are over and do not affect them, permission is required.

51. There is no need to determine if permission is required since to grant permission the court must be satisfied in relation to each allegation that there is a strong prima facie case that it would be proved beyond reasonable doubt and that the bringing of proceedings is in accordance with the public interest, proportionality and the overriding objective. From what has been said earlier in the judgment at the very least the applications do not satisfy the first aspect. Moreover, a claimant in committal proceedings must be an appropriate guardian of the public interest: see *Elliott v Tinkler* [2014] EWCA Civ 564, [24]. That cannot be said in this case.

Remaining issues: issues (ii), (iv)-(v)

52. Dr Rivers states that the second application is an updated application with new evidence. It seemed sensible to treat them as separate applications.

53. There is no need for further directions.

OTHER APPLICATIONS

54. Dr Rivers made an application dated 21 March 2023 to strike out the defendants' statement of case and seeking summary judgment. This application goes nowhere since there are no ongoing judicial review proceedings to which it can attach. As I explained the application for permission to apply for judicial review was dismissed by Freedman J and an application to the Court of Appeal refused. This application is totally without merit.

55. As to the application dated 5 May 2023 to adduce the bad character evidence of the Chief Constable pursuant to section 101(1) Criminal Justice Act 2003 under gateways (c) – (f), this application is totally without merit as well since that Act has no application to civil contempt or, for that matter, judicial review. Dr Rivers has alleged misconduct against the Chief Constable, but that does not fall within section 98 of the legislation.

CIVIL RESTRAIN ORDER

56. During these proceedings Dr Rivers has filed with the court voluminous documents. Documents are lodged, and amending and further documents follow. There is significant correspondence. The burden placed on court staff of this pattern of behaviour has been considerable. For the court there has been a rolling set of allegations and arguments, or at least variations on existing allegations and arguments, making it difficult to identify what actually is Dr Rivers' case.

57. The same occurred with the hearing before me where shortly beforehand what were referred to as an amended skeleton argument and schedule, different from the previous versions, were filed. Then after the hearing itself further documents were presented. The same had occurred with Freedman J, where after the hearing and as he was preparing judgment further documents were lodged: [2022] EWHC 2382 (Admin), [79], including one alleging dishonesty on the part of the Chief Constable and his representatives. All this is characteristic of the vexatious litigant and provides another reason to strike out the applications.

58. Coupled with Dr Rivers' applications which I have held are totally without merit, this also provides an additional basis to make an extended civil restrain order against Dr Rivers. If ordered this means that he will not be able to bring further proceedings in relation to these matters or make further applications without the permission of the court. He will have seven days from the date of this judgment to explain why an extended civil restraint order should not be made.

CONCLUSION

59. The applications for committal are struck out as without legal foundation. The defendants are to have their costs of responding to the committal applications. Counsel for the defendants are invited to draw up an order for approval reflecting the findings in the judgment.