Neutral Citation Number: [2022] EWHC 217 (Admin)

Case Nos: CO/3580/2019; CO/3835/2019; CO/4855/2019; CO/636/2020; CO/1727/2020; CO/3581/2020; CO/3590/2020; CO/4687/2020 & CO/285/2021

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

In the matter of various applications for judicial review brought by any/all of the Claimants named below

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 04/02/2022

Before

MR JUSTICE SWIFT

- -

THE QUEEN

on the application of

(1) ILDAR SHARIPOV
(2) ONLINE CURRENCY CORP LTD.
(3) GRIZZIO LTD.

Claimants

-and-

(1) DIRECTOR GENERAL OF THE INDEPENDENT OFFICE FOR POLICE CONDUCT
(2) CHIEF CONSTABLE OF MERSEYSIDE POLICE
(3) LIVERPOOL CROWN COURT

Defendants in one or more of the claims

-and-

(1) DIRECTOR GENERAL OF THE INDEPENDENT OFFICE FOR POLICE CONDUCT
(2) CHIEF CONSTABLE OF MERSEYSIDE POLICE
(3) CROWN PROSECUTION SERVICE
(4) NATIONAL CRIME AGENCY

(5) GEORGIOS SPANOS
(6) JUAN MOLINA
(7) DCI VAUGHAN

Named as Interested Parties in one or more of the claims

Mr Ildar Sharipov represented himself, Online Currency Corp Ltd & Grizzio Ltd.

Graham H. Wells and James Berry (instructed by the **Force Solicitor Merseyside Police**) for the **Chief Constable of Merseyside Police**

Russell Fortt and Remi Reichhold (instructed by **Independent Office for Police Conduct**) for the **Director General of the Independent Office for Police Conduct**

Jude Bunting (instructed by **Slater and Gordon**) for **DCI Vaughan** (written representations only)

Hearing date: 07/12/2021

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Approved Judgment

MR JUSTICE SWIFT

A. Introduction

1. I have before me nine renewed applications for permission to apply for judicial review made variously by Ildar Sharipov, Online Currency Corp Limited ("Online CC") and Grizzio Limited ("Grizzio"). Mr Sharipov is a director and shareholder in Online CC and Grizzio, companies it is considered are companies that Mr Sharipov controls.

2. Each of the claims arises out of either the conduct of an investigation known as Operation Kobus, commenced by Merseyside Police in August 2017, or decisions concerning the conduct of that investigation. Operation Kobus is being conducted by the Merseyside Police Economic Crime Team. The investigation started following complaints that Grizzio was participating in money laundering. The investigation is described by Merseyside Police as being directed to Mr Sharipov and companies he controls. As part of the investigation, Merseyside Police made various applications for production orders, restraint orders, and account freezing orders. For present purposes it is relevant to note an application of 10 August 2017 for a Production Order, and an application made on 23 April 2018 for Account Freezing Orders pursuant to the provisions of the Proceeds of Crime Act 2002. The Account Freezing Order applications came before District Judge Lloyd at the Liverpool, Knowsley and St Helens Magistrates' Court. She made four Account Freezing Orders: three directed to bank accounts held by Mr Sharipov; the fourth to an account held by Grizzio.

3. These Account Freezing Orders have prompted various further applications. On 2 August 2018 Mr Sharipov and Grizzio applied to vary the Account Freezing Orders (but not to set them aside). However, Mr Sharipov and Grizzio withdrew that application when it came on for hearing on 22 October 2018. Mr Sharipov and Grizzio then issued judicial review proceedings seeking to quash the Account Freezing Orders (CO/4878/2018, issued 6 December 2018). The application for permission to apply for judicial review was refused by King J on the papers by an Order made on 13 February 2019 (sent to the parties on 27 February 2019). King J's reasons for refusing permission included the following:

> "1. The Claimants seek to challenge Account Freezing Orders made against each on the 23 of April 2018 by the Defendant in Court without notice on the application of the Interested party pursuant to section 303Z1 of the proceeds of Crime Act 2002.
>
> 2. The only grounds sought to be pursued are allegations of procedural impropriety, including amongst other things on the part of the court, a lack of reasons for the decision, lack of proper scrutiny/questioning of the presenting police officer who gave sworn evidence in support of the application, lack of provision of a note of the hearing, lack of identification of material facts that could constitute a defence to the orders sought. It is said that the Claimants were not given sufficient material to enable them why the Orders were made, and the court cannot have given any

> proper consideration to the applications. The relief claimed includes the quashing of the Orders and /or an order the decisions be remitted to the Court for further reconsideration.
>
> 3. I consider this claim to be wholly misconceived and without any proper purpose or merit.
>
> 4. Even if there were merit in the complaints being made the remedy is not to have recourse to Judicial Review but to pursue the alternative remedy provided for by the statutory provisions, namely an application to the issuing Court to vary or set aside the account freezing orders see section 303ZA. Indeed, I note that the Claimants did make an application in August 2018 to vary the Orders to release funds to cover legal costs and there was a further contested hearing in relation to the extension of the orders before District Judge on the 22 October 2018 when the Orders were extended to 22 January 2019. These were the opportunities given to the Claimants to understand why the Orders were made in the first place and to seek to have the orders set aside if they had grounds to do so.
>
> 5. It is of note that the Claimants have been provided with a copy of the Freezing Order Applications in which the reasonable grounds for suspecting that the monies held in the accounts is recoverable property or is intended to for use in unlawful conduct (the statutory criteria for the making of the Orders) are set out in some detail. It is noteworthy that there is nothing in the grounds of this Claim which seeks to argue that these do not amount to reasonable grounds or otherwise seeks to challenge the substantive grounds on which the Applications were based. The submission of the Interested Party that whatever the merit in the procedural matters complained of the claim for relief would fall to refused pursuant to section 31(2A) of the senior Courts Act 1981 as amended is unanswerable."

4. As mentioned by King J in his reasons, the Merseyside Police applied to extend the Account Freezing Orders. The first application was made on 22 October 2018; a second application was made on 17 January 2019. Both applications were granted. On 28 February 2019 Mr Sharipov and Grizzio issued a further claim for judicial review challenging the extension granted on 17 January 2019 (CO/895/2019). Permission to apply for judicial review was refused on the papers by Sir Wyn Williams on 9 July 2019. Although the application for permission was renewed, the proceedings were discontinued on 10 October 2019 without any further decision on the claim.

5. On 19 April 2019, following the decision of King J rejecting the challenge to the decision to make the Account Freezing Orders, Mr Sharipov made a complaint to the Chief Constable of the Merseyside Police. The complaint was set out in a witness statement made by Oliver Wright, Mr Sharipov's solicitor. It concerned the conduct of

officers involved in the application for the Account Freezing Orders that had been made in April 2018. The gist of the complaint was that relevant information had not been put before District Judge Lloyd when the applications were made and that information that was put before her was inaccurate or incomplete and for that reason misleading. Mr Sharipov complained that the police officers had acted dishonestly; had concealed information from the court; and had misrepresented information that was shown to the Judge. The complaint was referred to the Merseyside Police's Professional Standards Department ("the PSD") for investigation. Ultimately this complaint came before, and has been considered by, the Independent Office for Police Conduct, the body with statutory responsibility for overseeing the system for handling complaints against the police.

6. All the judicial review claims now before me arise either from the events summarised by the above, or from steps taken while investigating Mr Sharipov's complaint about the way in which the April 2018 Account Freezing Order applications were made. Five of the claims (CO/3580/2019, CO/1727/2020, CO/3581/2020, CO/4687/2020, and CO/285/2021) are directed to the Independent Office for Police Conduct or its Director General; three of the claims are directed against the Merseyside Police and/or police officers in the force (CO/3580/2019, CO/636/2020 and CO/3590/2020); the remaining claim (CO/4855/2019) concerns the decision of HHJ Byrne, sitting at Liverpool Crown Court, on an application to set aside Production Orders made on various occasions in 2017, 2018 and 2019, and an application for a further Production Order.

7. Two other applications are also before me. One is contained in an Application Notice dated 18 November 2021 filed by the Director General of the IOPC asking that a General Civil Restraint Order be made against each of the three Claimants. The matters relied on in support of that application are set out in a witness statement dated 18 November 2021 made by David Emery, General Counsel for the IOPC. In very short summary, the IOPC relies both on the number of claims filed by the claimants to date – there have been some 14 judicial review claims against the IOPC – and the course of conduct that these claims reveal, which is aimed at disabling any attempt to pursue Operation Kobus. I consider this application below – see from paragraph 62. The other application is made by Mr Sharipov (made on 29 November 2021) that the Court exercise its *Hamid* jurisdiction to consider whether those representing the Chief Constable of Merseyside Police and the IOPC have abused the procedures of the court, including by making the application for the General Civil Restraint Order (see below at paragraph 70).

8. All the applications were heard on 7 December 2021. Mr Sharipov represented himself and the other Claimants. He chose to attend the hearing remotely by video-link. He was outside the United Kingdom and did not wish to travel to London to take part in the hearing. The remaining parties and their counsel attended in person.

B. Decision. The renewed applications for permission to apply for judicial review.

(1) CO/3580/2019

9. This claim was filed on 12 September 2019 by Mr Sharipov, Online CC, and Grizzio. The Defendant is the IOPC. Two decisions are challenged. The first is the IOPC's decision that Mr Sharipov's complaint made in the letter of 17 April 2019 should be

investigated by the Merseyside PSD rather than the IOPC. Merseyside Police had referred the complaint made by the Claimants to the Director General on 6 June 2019. The IOPC's decision was set out in a letter dated 14 June 2019. The material part of the letter was as follows:

> "We have reviewed the complaint and decided your complaint will be investigated by the Merseyside Police Professional Standard Department without IOPC oversight.
>
> Although this matter requires further investigation, based on the information provided the IOPC did not feel independent oversight was required. We consider the Merseyside Police Professional Standards Department are in a suitable position to investigate your complaint at this stage.
>
> Although this will be a local investigation, you will have the right to appeal to us at the end of the local investigation against its findings and outcome. If you chose to appeal at that stage, we will review the completed investigation and its outcome.
>
> In the meantime, the Merseyside Police Professional Standard Department are responsible for keeping you informed on the progress and findings of the investigation. The investigator should be in touch with you shortly."

10. The legal context for this decision is contained in Schedule 3 to the Police Reform Act 2002, in the form those provisions existed prior to amendment by the Police and Crime Act 2017 (i.e., in the form in force prior to 1 February 2020). Paragraph 15 of Schedule 3 provides that where a complaint has been referred to the Director General of the IOPC and he considers the complaint to be one that should be investigated, he must then decide the form of the investigation. The options are set out at paragraph 15(4): investigation by the appropriate authority on its own behalf (i.e., the relevant area police force, in this instance, Merseyside Police); investigation by the appropriate authority under the supervision of the Director General; investigation by the appropriate authority under the management of the Director General; or investigation by the Director General himself.

11. The Claimants' challenge to the Director General's decision that the complaint should be investigated by the Merseyside PSD is: (a) that the Director General failed to consider relevant factors and/or failed to attach the correct weight to relevant matters; and (b) that the decision was contrary to the Director General's own guidance. The Director General is said to have failed to follow his guidance by failing properly to access the matters relevant to whether he should oversee the investigation himself. As pleaded, both points come to a single rationality complaint. The challenge is to the effect that the complaint made, described in the Claimants' Grounds as an allegation of "group corruption by no fewer than nine officers", was too serious a complaint to be investigated by Merseyside PSD.

12. This claim is unarguable for the reason identified by Julian Knowles J when he refused permission to apply for judicial review after consideration on the papers. The decision under paragraph 15 of Schedule 3 to the 2002 Act is for the Director General and is not to be second-guessed by a court. The Director General must be afforded latitude to assess by whom the investigation is to be undertaken and absent any error of principle, or a conclusion that can genuinely be said to be irrational, his decision is not open to successful challenge. In this regard it is relevant to note that the paragraph 15 decision does not remove the complaint from consideration by the Director General for all purposes. Where a complaint is investigated by the appropriate authority, under the terms of the provisions then in force (i.e. prior to the amendment of the 2002 Act by the 2017 Act) the complainant had the right, under paragraph 25 of Schedule 3, to appeal to the IOPC. When such a request was made, the IOPC decided the matters specified in paragraph 25(5) of Schedule 3 to the 2002 Act, including whether "… the findings of the investigation need to be reconsidered …". Paragraph 25 therefore provides context for the approach to be taken by a court to a paragraph 15 decision.

13. In the present case there was nothing that required the Director General to conclude that investigation of the complaint by the Merseyside PSD was inappropriate. It is only in very rare circumstances that such a conclusion is likely to be required. In this case, the complaint concerned officers within the Merseyside Police Economic Team, and the allegation was that they had deliberately failed to present proper and complete information to the court when making applications for Account Freezing Orders. There is no obvious reason why the Director General should not conclude that, in the first instance, allegations of this sort ought to be investigated by the Merseyside PSD. Both Mr Sharipov's complaint and his pleaded case describe the matters complained of in florid terms. But that does not change matters. The Director General's decision was one that was reasonably open to him.

14. This claim is also unarguable for a further reason. It has now been overtaken by events. The Merseyside PSD reported on its investigation in May 2020. The Claimants then requested the Director General to review the conclusions reached, and the Director General has undertaken that task and has reported on it, on 20 October 2020. That decision is itself the subject of challenge in CO/285/2021, the ninth of the claims presently before me. That claim was issued on 25 January 2021. All this being so, this part of this claim serves no purpose. The Claimants must, or at the very least should, have realised this. I will return to this when considering the Director General's application for a General Civil Restraint Order.

15. This claim contains a challenge to a further decision. By letter dated 4 July 2019 the Merseyside PSD informed the Claimants that its investigation into their April 2019 complaint was to be suspended pending continuation of Operation Kobus. The letter explained this decision as follows:

> "I have taken the decision to suspend this complaint investigation as the issues you complain of refer directly to disputes in the evidence so far presented to the courts by the investigating officers in support of applications for Account Freezing Orders. These include but are not limited to allegations that officers concealed and misrepresented information provided to the court in furtherance of these applications. I understand

> that these orders were granted and your client may perceive that they should not have been and it is clear that he wants them to be lifted. It is not usual for a suspect under investigation to disagree with the evidence presented against them.
>
> Further I am informed that your client has not sought to use the procedure available to him in the Magistrates' court to have the orders varied or discharged.
>
> I am advised that this is a lengthy and complicated ongoing investigation into very serious matters in which your client is a suspect.
>
> I believe that the information provided to the court in the above orders is closely connected with the issues in the ongoing criminal investigation and is likely to be presented in any future criminal proceedings that may be brought against your client. At this point it will be tested by the court and the correct verdict reached. It would be inappropriate for PSD to carry out a concurrent investigation into the team who are conducting the investigation into your client's alleged illegal activities. I believe to do so would only serve to prejudice the criminal investigation and any future proceedings. Whilst I am sure that it is not your client's intention to frustrate the criminal investigation the likelihood remains.
>
> …
>
> The CPS are aware of the decision not to remove this operation from this current team and are satisfied that this course of action serves to reduce the risk of prejudice to the investigation".

16. The Claimants challenge this decision as an unlawful exercise of the IOPC's discretion. The Claimants contend the IOPC should have directed the Merseyside PSD to continue its investigation into the complaint.

17. This challenge is not arguable. *First*, the conclusion set out in the 15 August 2019 letter was a conclusion the IOPC was entitled to reach. The reference in that letter to "advice provided by the Crown Prosecution Service" was to advice to the effect that continuing the investigation into the complaint at that time risked prejudice to Operation Kobus, the criminal investigation. In the premises, it is not even arguably unlawful for the IOPC to decide the matter in the way it did. *Second*, the claim is academic and has been so since December 2019. In a pleading dated 2 December 2019, the CPS (joined by the Claimants as an Interested Party to this claim at the time of the renewed application for permission to apply for judicial review) explained that events had moved on, and the PSD investigation could now continue without risk of prejudice to Operation Kobus (in that regard particular reference was made to the decision on 14 November 2019 of HHJ Byrne, which is the subject of the Claimants' challenge in the CO/4855/2019 the third of the renewed applications before me). As the Claimants well know, the PSD did then

continue its investigation into the complaint, leading to the investigation report sent to the Claimants in May 2020.

18. For these reasons the renewed application for permission to apply for judicial review is refused. This application should not have been pursued by the Claimants to a hearing. By October 2020 the challenges raised in the claim had been overtaken by events.

(2) CO/3835/2019

19. This claim was filed by the Claimants on 2 October 2019. The Defendant is the Chief Constable of Merseyside Police. The IOPC is named by the Claimants as an Interested Party. In the Claim Form, the decisions challenged are described as decisions taken on 4 July 2019,

> "(a) Refusal to remove officers of Merseyside Police Economic Crime Team from a criminal investigation of Claimants, named operation Kobus and,
>
> (b) Refusal to recuse Merseyside Police from Operation Kobus and to refer the investigation to an independent, external force."

The challenge pleaded in the Statement of Facts at Grounds is as follows:

> "27. The Claimant avers that the Decisions are unreasonable and/or irrational in the Defendant's:
>
> (1) Failure to consider all relevant factors;
>
> (2) Failure in the alternative to attach appropriate weight to all relevant factors;
>
> (3) Failure to properly follow and apply the legal principles to be applied in cases of alleged bias;
>
> (4) and in the Decisions' effects and consequences.
>
> 28. In summary, in support of these grounds, the Claimants submit that there is clear and unambiguous evidence of serial criminal and/or disciplinary misconduct by MP officers, in the course of Operation Kobus (as set out above and in detail in the appended documents). The only course of action, which would allay concerns of bias on the part of a right-minded observer would be for MP to recuse itself from further investigation of Operation Kobus and refer the matter to an outside force or agency for such further action as may be considered appropriate by that force or agency."

Two observations may be made on this. Paragraph 27 is entirely generic. This paragraph is the template (or perhaps more accurately, the boilerplate) for many of the

Claimants' later applications for judicial review. Paragraph 28 is also pleaded in the most general of terms.

20. The decision challenged is contained in the letter dated 4 June 2019 from DCI Vaughan of the Merseyside PSD. A major part of that letter explained the decision to suspend investigation of the Claimants' complaints against the Merseyside Police about the April 2018 application for Account Freezing Orders, pending continuation of Operation Kobus (i.e. the decision which led to one of the decisions challenged in CO/3580/2019). Only the final paragraph of the letter is relevant for present purposes. This reads as follows:

> "**Matters outside of the complaint regime**:
>
> I have also read your letter of 17/04/2019 in which you make a number of requests of Merseyside Police. Unfortunately, I am unable to assist you with your requests that the criminal investigation be concluded as no further action, that all Account Freezing Orders be discharged or that alternately the City of London Police be "invited" to investigate the matter. I understand that your client wants to have the criminal investigation referred for another police force to deal with but it is not usual for a person under investigation for serious offences to get to choose who investigates them. These demands are all beyond the scope of the procedures for investigating complaints."

21. Permission to apply for judicial review was refused on the papers by Julian Knowles J: see his order dated 31 October 2019. He was prepared to assume that the relevant part of the 4 July 2019 letter did contain a decision refusing the Claimants' request that certain officers be removed from Operation Kobus and/or Merseyside Police handover Operation Kobus to a different police force. His conclusion was that the claim was unarguable on its merits.

22. While I agree with that conclusion, I am not prepared to make the assumption made by Julian Knowles J on the substance of the decision at the end of the 4 July 2019 letter. Fairly read, it was no more than a statement that both removal of police officers from Operation Kobus and removal of Operation Kobus to a different police force were matters outside the scope of the complaints process. In this respect it is significant that the letter was written by DCI Vaughan of the Merseyside PSD as a response to requests contained within the Claimants' 17 April 2019 letter of complaint. It is also significant that the Claimants too came to recognise this point. In January 2020, following the renewed application to apply for judicial review, the Claimants applied to amend their grounds to challenge a decision of Assistant Chief Constable Critchley of 21 November 2019 to the effect that Operation Kobus would continue to be conducted by Merseyside Police and that the police officers singled out by the Claimants would not be removed from the investigation: see the Claimants' proposed Amended Statement of Facts and Grounds dated 22 January 2020, and a Supplemental Note dated 19 February 2020. The inference to be drawn from these documents is that the Claimants no longer sought to

contend that DCI Vaughan had taken any relevant decision on the future conduct on Operation Kobus. That conclusion is underlined by the fact on 18 February 2020 the Claimants filed CO/636/2020, a new claim challenging the legality of ACC Critchley's decision of 21 November 2019.

23. In the premises, this claim is unarguable on its merits and permission to apply for judicial review is refused. Any challenge to this part of 4 July 2019 letter had, by January 2020, been abandoned. This renewed application for permission to apply for judicial review should have been withdrawn at that time.

(3) CO/4855/2019

24. The Claimants in these proceedings are Mr Sharipov, Grizzio and Online CC. Liverpool Crown Court is the named Defendant. The Claimants identify the Chief Constable of Merseyside Police, Georgios Spanos, Juan Molina, the Crown Prosecution Service and the National Crime Agency as Interested Parties. The claim is a challenge to the judgment of HHJ Byrne given on 14 November 2019 at Liverpool Crown Court. In that judgment he (a) refused applications by the Claimants to discharge Production Orders made on 17 August 2017, 25 June 2018, 30 June 2018, 8 August 2018, 30 October 2018, and 20 February 2019; and (b) granted an application for a Production Order against Online CC.

25. The grounds of challenge repeat submissions made at the hearing before HHJ Byrne: (a) that information that should have been provided to the court when the applications for production orders were made had not been provided; (b) that there had been no grounds to suspect that the Claimants had committed offences under any of sections 327, 328 or 329 of the Proceeds of Crime Act 2002; (c) that it had been wrong to conclude that provision of material sought by each of the Production Orders was in the public interest; (d) that the new Production Order made by HHJ Byrne was over-broad.

26. The application for permission to apply for judicial review was considered on the papers and refused by William Davis J on 2 February 2021. I agree with his reasons for concluding that this claim is unarguable. HHJ Byrne considered the new application for a Production Order between paragraph 1 and paragraph 60 of his judgment. Overall, his reasoning is clear, methodical and careful. It demonstrates no legal error. There is no other error capable of giving rise to any challenge by way of judicial review. This part of the judgment (a) identifies the relevant legal provisions (paragraphs 3 – 7); (b) sets out reasons for his conclusion that there were reasonable grounds to suspect commission by the suspects of money laundering offences (paragraphs 8 – 49), including explanation of why the Claimants' submissions to the contrary were rejected; (c) explains his conclusion that there were reasons to believe Online CC was in possession of relevant material (paragraphs 50 – 51); (d) gives a reasoned explanation of his conclusion that there were reasonable grounds to believe that the material sought was likely to be of substantial value to the investigation (paragraphs 52 – 57); and (e) explains his conclusion that it was in the public interest for the material sought to be produced (paragraphs 58 – 60). The Claimants' challenge in this application for judicial review is that the scope of the production order is too broad. In substance this comes to a challenge on a matter of assessment. Having in regard, in particular, to the reasons at paragraphs 52 – 57, the Judge's conclusion to the contrary was clearly a conclusion

reasonably and lawfully open to him. In fact, I am satisfied not only that this ground of challenge is unarguable but also that the conclusion the Judge reached was correct.

27. The Claimants' challenge to the decision not to set aside the Production Orders already made is equally unarguable. The substance of the Claimants' submission is that the Judge's conclusion not to discharge the Production Orders was irrational. That submission was rejected on the papers by William Davis J, and the further submissions made to me on the application for renewal have only served to make clear that the submission is hopeless. There is no error in HHJ Byrne's general approach to these applications (at paragraph 63 – 67 of his judgment). He considers, each in turn, the various submissions made to him to the effect that some or all the Production Orders should be discharged. Some of those submissions were generic (see the judgment at paragraphs 68 – 78), others were specific to the Orders made (see judgment at paragraphs 80 – 108). The Judge's conclusion on each submission was a conclusion reasonably open to him. Each submission was carefully considered. On some matters the Judge accepted that there was force in criticism the Claimants made. But his overall conclusion was that each Order (save for the one made on 31 July 2018 which he considered duplicative and for that reason discharged), should stand and that any error made at the time of the original application was not a material error. These conclusions are not, even arguably, irrational conclusions. For these reasons this application for permission to apply for judicial review is refused.

(4) CO/636/2020

28. This claim was filed by all three Claimants on 18 February 2020. It is a challenge to a decision of the Chief Constable of Merseyside Police taken on 21 November 2019 that officers of the Merseyside Police Economic Crime Team would not be removed from Operation Kobus, and Operation Kobus itself would not be removed from Merseyside Police to a different police force. The Claimants identify the Director General of the IOPC as an Interested Party.

29. The decision challenged is set out in a document signed by Assistant Chief Constable Ian Critchley, dated 21 November 2019. ACC Critchley states that his decision was in response to a request by the Claimants that Merseyside Police be "recused" from Operation Kobus. He states he had "considered [his] decision in line with the National Decision-Making model"; he identifies material provided by Mr Sharipov that he had considered, and also makes it clear that he had considered HHJ Byrne's judgment of 14 November 2019 which had identified errors made in the course of applications for production orders. The material part of the decision is as follows:

> "I am satisfied that my officers are carrying out a detailed and complex investigation into money laundering by Mr Sharipov and others and that they are doing so in a way that is in line with the high standards of quality I expect and set for my investigation teams, through my Head of Crime, notwithstanding error that have been identified and have been subject to comment and ruling by HHJ Byrne. I am also satisfied that MPECT is conducting this investigation with the impartiality that I would expect.

> I note Mr Sharipov's counter arguments to these points and his reasons for Merseyside Police to recuse itself. There is no legal basis for me to do this, subject to the fact that it is my duty as a senior representative of the Chief Constable to ensure I am satisfied with the current investigative arrangements. Of that at this time I am, however, I will endeavour to keep this matter under review.
>
> In order to provide the continued support and scrutiny of the investigation the following is now in place:
>
> - By weekly written updates provided to me.
> - Monthly personal briefings by the investigative team and senior leadership from MPECT.
> - Review of resources; at this time I am content that the investigating officers have the required qualifications to undertake this investigation in a proportionate and timely manner recognising the complex nature of the matters under investigation.
> - Command Structure; I am content that there is an appropriate command structure in place that will be kept under review.
> - Auditable; I am content that all actions and police decisions are being recorded; I am content that all actions and police decisions are being recorded.
> - Partnership; I am content that there is an active partnership approach to this matter between MPCET, CPS and Counsel. I note the procedures that have been put in place to eradicate any procedural errors and I have tasked the Head of MPCET to review any immediate lessons learned in consultation with the Force Solicitor."

30. The challenge is summarised as a rationality challenge (see Grounds at paragraph 26) alleging failure to consider relevant matters and/or to assess matters appropriately; that the consequences of the decision are irrational; and that the conclusion reached fails "to follow the legal principles to be applied in cases of alleged bias".

31. The bias allegation is the one that is central to the Claimants' case. The Claimants' submission is as follows: the Claimants had made complaints against officers of the Economic Crime Team alleging misconduct when the applications for freezing orders were made in April 2018; those complaints remained outstanding; the complaints of misconduct called into question the impartiality of those officers such that, at the least, those officers should have been suspended from the investigation while the complaints were being investigated; whether the officers were suspended or not, the complaints

were sufficient evidence that the investigation was not impartial, that there was a real possibility it was biased, with the consequence that it was unlawful for ACC Critchley to decide that the Operation Kobus investigation should remain within the Merseyside Police and/or the officers who were the subject of the complaints should remain part of the investigation.

32. I do not consider this submission is arguable. Although the claim is put as a claim of apparent bias, relying on the very familiar case law in that area (specifically the judgment of the House of Lords in *Porter v Magill* [2002] 2 AC 357 and the judgment of the Court of Appeal in *AWG Group v Morrison* [2006] 1 WLR 1163), the notion of apparent bias explained in those authorities is not applicable in this context. The cases relied on are instances of judicial or similar (i.e., adjudicative) decision-making. The role of the police in the course of an investigation is very different, as is the context provided by the criminal investigation process. Any investigation is to be conducted in accordance with the law and any further obligation arising from recognised policing standards; if court orders are sought in the course of an investigation those applications too should properly conducted. There are established procedures available when there are complaints that failures have occurred. Conduct allegations can and are to be pursued through the procedures established by and under the provisions of the 2002 Act. Allegations of irregularity when applications for court orders are made can be addressed by the court itself – for example applications to discharge orders obtained *ex parte* may consider both the merits of the application and whether the *ex parte* process was properly used. Separate from both, during any criminal trial that may follow from an investigation a court may, in the exercise of its discretion in an appropriate case, exclude evidence that has been improperly obtained.

33. These matters are the context for complaints such as the one in this case, that a senior officer has acted unlawfully by declining, at the request of a suspect, to agree that one or more officers should be removed from an investigation. The relevant standard is not that of the fair-minded and informed observer who provides the touchstone for accessing the standard required of judicial and other similar decision-makers. Rather the relevant standard is provided by *Wednesbury*. Moreover, a court considering such a complaint must allow the decision-maker significant latitude both to access the evidence relied on in support of the request and to decide how and by whom investigations should be conducted. A decision to refuse such a request is, in principle, open to challenge, but in practice such a challenge would be likely to succeed only in rare circumstances. Any court must genuinely hesitate before taking any step amounting to an exercise of control over an investigation: see/compare the observations of Gross LJ in *R(Soma Oil and Gas) v DPP* [2016] EWHC 2471 (Admin) at paragraphs 21 to 30. In particular, I can see no proper legal basis for a submission that would equate error in the course of an investigation with a conclusion that the officers or the police force responsible for the error could no longer properly conduct the investigation.

34. The circumstances of this case do not come close to establishing even an arguable case. *First*, insofar as the Claimants complained about what had happened when the applications for Account Freezing Orders were made in April 2018, their legal challenge to those orders had failed. The challenge (CO/4878/2018) which had raised allegations of procedural impropriety, had been described by King J as "wholly misconceived and without any purpose or merit". Further, the Claimants' application to set aside the Account Freezing Orders had been abandoned, and their challenge to

subsequent decisions extending those Orders had also failed (CO/895/2019). The complaints, which also concerned how the applications for Account Freezing Orders had been made, were only raised when the claim in CO/4848/2018 had been refused. *Second*, the simple fact that this complaint had been made did not raise even a *prima facie* case that the investigation had not been or would not in future be properly conducted. It would have been clear to ACC Critchley from consideration of HHJ Byrne's judgment on the Production Orders that some errors had been made during the investigation. This brought with it the possibility that errors might have been made at the time the applications were made for the Account Freezing Orders. However, it was for ACC Critchley to assess whether that possibility made it appropriate for him to remove officers from the investigation. The reasons given in the 21 November 2019 decision document show that he had carefully considered the course of the investigation to date. He also considered the future management of the investigation. There is nothing either in his reasoning or his conclusion that is capable, even arguably, as being characterised as irrational.

35. There are two further matters to address for the purposes of this claim. The first is the Claimants' contention that ACC Critchley failed properly to consider the College of Policing's National Decision-Making model ("the NDM") and the Code of Ethics that is part of the NDM. This too is a submission without substance. It is plain from the 21 November 2019 document that ACC Critchley did have regard to the NDM. The second is the submission that the decision failed to take proper account of the Merseyside Police's "Service Confidence Procedure" ("the SCP"). I accept the Defendant's submission that the SCP was irrelevant to the decision taken by ACC Critchley. The SCP is relevant only when a complaint against a member of the Merseyside Police cannot be addressed through the formal complaints procedure. Patently this was not such a case.

36. For all these reasons this renewed application for permission to apply for judicial review is refused.

(5) CO/1727/2020

37. This claim was filed by all three Claimants and was issued on 13 May 2020. The Defendant is the Director General of the IOPC. The Claimants identify the Chief Constable of Merseyside Police and DCI Vaughan as Interested Parties. The decision challenged was taken on 14 February 2020 and is described in the Claim Form as a decision "… to permit local investigation into complaints against DCI Vaughan of Merseyside Police".

38. The facts relevant to this claim are as follows. On 7 August 2019 Mr Sharipov made a complaint against DCI Vaughan of the Merseyside PSD. On 23 July 2019 DCI Vaughan had decided to delay investigation of the Mr Sharipov's complaints made on 19 April 2019 pending further progress of Operation Kobus. The 23 July 2019 decision had figured in claim CO/3580/2019 which had included a challenge to the decision of IOPC not to direct the PSD to lift the suspension of its investigation into the April 2019 complaint. Mr Sharipov's complaint against DCI Vaughan was that (a) when taking the decision of 23 July 2019, he had acted in bad faith; and (b) DCI Vaughan's failure to remove those officers who were the subject of Mr Sharipov's complaint of April 2019 from Operation Kobus was also a decision taken in bad faith. This latter decision was a

decision challenged in claim CO/3835/2019. On 18 October 2019 the Director General decided that these complaints should be investigated by the Merseyside PSD without oversight of the IOPC. On 20 December 2019 the PSD completed its investigation of the complaints, and dismissed them. On 17 January 2019 Mr Sharipov appealed to the IOPC. The appeal repeated the complaints against DCI Vaughan. The decision on 14 February 2020 was IOPC's decision on the appeal. The appeal was refused.

39. Although the pleaded case describes the decision challenged as the decision to permit local investigation – i.e., the decision under paragraph 15(4) of Schedule 3 to the 2002 Act – the pleaded grounds of challenge are directed to the IOPC's decision on the appeal. The other feature of this challenge is that it is the first of a series of challenges in which having failed successfully to challenge a decision, in this instance the decision temporarily to suspend the investigation into Mr Sharipov's April 2019 complaints pending progress in Operation Kobus, the Claimants then allege a lack of *bona fides* on the part of the person who took the decision.

40. The Claimants' grounds of challenge are not reasonably arguable. The 14 February decision letter methodically considered and rejected each of the Claimants' complaints on the appeal. There is no need in this judgment to set out the terms of the decision letter. That letter speaks for itself. Read as a whole, it is a perfectly permissible response to the points raised. The pleaded grounds of challenge raise no point of any substance at all. In large part they tried to focus on marginal matters and then allege these were not properly considered. That takes the Claimants nowhere. In this case, on the appeal under paragraph 25 of Schedule 3 to the 2002 Act, the IOPC had significant latitude to decide for itself whether matters were relevant or not, subject only to a *Wednesbury* standard of review.

41. The remaining ground – that once the Claimants had threatened to complain about DCI Vaughan that raised a "conflict of interest" that prevented him from further consideration of the Claimants' April 2019 complaint – begins to reveal the Claimants' true colours. Having failed in their challenge to the decisions suspending the investigation into the April 2019 complaint pending further progress of Operation Kobus and refusing to withdraw officers from Operation Kobus, the Claimants then complain about the decision-maker to try to remove him from the picture. For present purposes the only point that is material is that the simple fact that the Claimants have told DCI Vaughan they intended to complain about him does not give rise to any form of "conflict of interest". The Claimants' submission that it does is simply wrong.

(6) CO/3581/2020

42. This claim was filed by Mr Sharipov and issued on 6 October 2020. The Defendant is the Director General of the IOPC. It is a challenge to a decision taken on 1 July 2020 by the IOPC described in the Claim Form as a decision "… to dispense with Mr Sharipov's complaint against two members of its staff, Ms Hancox and Ms Turner in relation to their handling of an earlier complaint made by Mr Sharipov against officers of Merseyside Police".

43. Haley Hancox is an Assessment Analyst at the IOPC. She took the decision, set out in the letter dated 14 June 2019, to refuse Mr Sharipov's request that investigation of his complaint of April 2019 be subject to oversight by the Director General of the IOPC.

This was the decision challenged in claim CO/3580/2019 filed by the Claimants on 12 September 2019. Sarah Turner is a Casework Manager employed by the IOPC. She wrote the letter dated 14 February 2020 which was the subject of the challenge in CO/1727/2020.

44. On 5 June 2020 Mr Sharipov made a complaint about both Ms Hancox and Ms Turner. He complained that Ms Hancox acted negligently because when taking the decision in the 14 June 2019 letter she had failed to take account of a witness statement made by Oliver Wright, the Claimants' solicitor. He complained that Ms Turner had not properly replied to his request to be told when Merseyside Police had sent a copy of his April 2019 complaint to the IOPC. These complaints were considered by Lesley Hyland, an Internal Investigation Officer with the IOPC. Her decision (in an email of 1 July 2020) was that the complaints would be dismissed as an abuse of process. She relied on regulation 6(1)(d) of the IPCC (Staff Conduct) Regulations 2004. That regulation permits the Director General to dispense with the requirements of regulations 3, 4 and 5 of the 2004 Regulations to record and determine a complaint, if he is of the opinion that the complaint is vexatious, oppressive or is otherwise an abuse of the procedures for dealing with complaints". Ms Hyland stated:

> "It would appear that you are attempting to use the IOPC complaints procedure in order to have the decisions on your appeals re-examined. This is not the purpose or within the remit of the Complaints and Feedback Team."

45. Mr Sharipov's challenge in this claim for judicial review is that this conclusion was irrational. This ground of challenge is unarguable. If Mr Sharipov wished to challenge decisions taken by the IOPC he knew full-well that the proper course was by way of application for judicial review. As set out above he had commenced judicial review proceedings both against the decision taken by Ms Hancox (CO/3580/2019, filed on 12 September 2019) and the one taken by Ms Turner (CO/1727/2020, issued on 13 May 2020). That being so there is no room at all to doubt that at 1 July 2020 Ms Hyland was entitled to reject the complaints as a form of collateral attack, attempting indirectly to impeach the substantive decisions.

46. Two further points need to be made. The first is that this claim for judicial review was not commenced promptly. The Statement of Facts and Grounds is dated 30 September 2020. The very last day of the three-month period running from the date of decision. Even assuming the Claim Form was filed that day (within the three-month period), Mr Sharipov had no reason to wait until the last possible minute to start this claim. The decision letter was straightforward; the challenge should have been commenced sooner. The second point is that it is clear from the facts that the complaint about Ms Hancox and Ms Turner was entirely artificial. Mr Sharipov claimed to be concerned (a) that his solicitor's witness statement had not been considered; and (b) that the IOPC may not have seen a full copy of his April 2019 complaint. I accept the submission at paragraph 19 of the Summary Grounds of Resistance that Mr Sharipov must have known that neither of these concerns was valid. The complaint – and therefore it also follows the claim for judicial review – was manufactured. I am satisfied this application for judicial review is not simply unarguable it is totally without merit.

(7) CO/3590/2020

47. This claim was filed by Mr Sharipov on 6 October 2020. The Defendant is the Chief Constable of Merseyside Police. It is a challenge to a decision taken on 7 July 2020 described as a refusal "… pending the resolution and outcome of an extant appeal to the IOPC, to make a decision in relation to recusal".

48. The factual context is as follows. On 12 May 2020 the report of the investigation by the Merseyside PSD into Mr Sharipov's April 2019 complaint was sent to Mr Sharipov's solicitor. Mr Sharipov appealed to the IOPC under paragraph 25 of Schedule 3 to the 2002 Act (in the form then in force). On 6 July 2020 Mr Sharipov wrote to the Chief Constable of Merseyside Police, the Deputy Chief Constable, ACC Critchley, and two other officers. The letters were long (some 27 pages each) and repeated various complaints made on various occasions since April 2018. The letter invited the Chief Constable to "recuse" the Merseyside Police from Operation Kobus and refer the investigation to a different police force.

49. On 7 July 2020 the following response was sent by Stephen Keefe of the Merseyside PSD:

> "Mr Sharipov has sent a number of emails to officers in our force which includes the Chief Constable, DDC Kennedy and ACC Critchley. As you are aware your client has complained about all of the above officers, with the complaint against the Chief Constable being investigated by South Wales Police, and the IOPC determining on my request to dis-apply the complaints against the ACC and DDC.
>
> It would not be appropriate for any of the officers to respond to what appears to be an appeal against the outcome of my investigation. This is currently being reviewed by the IOPC, following your client's representations, and he will have to await the decision. If your client has additional representations to make, I would ask that he follows the correct process by making them to the IOPC.
>
> There also seems to be an indication that Mr Sharipov will be making a complaint against myself and other officers within PSD. If that is his wish can you confirm that to be the case so that the complaint can be recorded and assessed."

Mr Sharipov then sent further letters on 27 July 2020 and 6 August 2020. The former repeated matters in the 6 July 2020 letter, the latter was to the effect that he did not want further response to the complaints, only that the Merseyside Police "recuse" itself from Operation Kobus. He contended the May 2020 investigation report was a "material development". Responses were provided to both of these letters. Each was to the effect that if Mr Sharipov wanted to raise further matters he should direct them to the IOPC which was considering the appeal relating to the investigation of the April 2018. The

6 August 2020 letter also said that if following the decision of IOPC on the appeal any further matter needed to be addressed, it would be addressed at that time.

50. Mr Sharipov's pleaded case is very thin. It comprises a narrative of events of events from 2017, an assertion that the Chief Constable "retains an on-going power to make substantive/operational decisions to recuse", reference to the Merseyside Police SCP and an assertion that it is applicable because the conclusion of the PSD investigation into Mr Sharipov's April 2019 complaint was that there had been no misconduct. Next follows the boilerplate language at paragraph 29:

> "The Claimant avers that, as set out above, the Decision is unreasonable and/or irrational in the Defendant's:
>
> (1) Failure to consider all relevant factors;
>
> (2) Failure in the alternative to attach appropriate weight to all relevant factors;
>
> (3) Fettering its discretion to make a relevant decision;
>
> (4) Failure to following the Defendant's own policy;
>
> (5) and in the Decisions' effects and consequences."

51. William Davis J considered the application for permission to apply for judicial review on the papers. He described the challenge as being "an attack on the substance of the investigation of the Claimant" (i.e., Operation Kobus). He concluded the claim was "wholly unarguable".

52. I agree. Mr Sharipov's request that Operation Kobus be conducted by a different police force had already been considered and determined by ACC Critchley: see his decision dated 21 November 2019, challenged in CO/636/2020. There was no legal obligation on the Defendant to reconsider that decision. The conclusion to do nothing pending IOPC review of the investigation report was legally permissible. It was in fact an eminently sensible course of action. The suggestion in the pleading that because the PSD investigation had found no misconduct that itself provided cause under the SCP for the Merseyside Police to hand Operation Kobus over to another police force is absurd. This claim is both unarguable and totally without merit.

(8) CO/4687/2020

53. This claim, brought by Mr Sharipov, was issued on 17 December 2020. The Defendant is the Director General of the IOPC. The challenge is to a decision taken on 15 September 2020. This decision concerned a complaint made by Mr Sharipov against Sunny Bhalla raised on 14 August 2020. Mr Bhalla is the Operations Manager at the IOPC. He wrote the letter dated 15 August 2019 setting out the IOPC's decision declining to interfere with the decision by Merseyside PSD in July 2019 to suspend its investigation of Mr Sharipov's April 2019 complaint pending progress in Operation Kobus. This was one of the decisions challenged in CO/3580/2019.

54. As explained above (see at paragraph 17), the suspension of the investigation into the complaint was lifted in December 2019. The complaint about Mr Bhalla was to the effect that he had misconducted himself because the decision of the 15 August 2019 had been wrong and in taking that decision, he had acted either "recklessly or negligently"

55. On 15 September 2020 Joanne Yassine, an Internal Investigations Officer at the IOPC wrote to Mr Sharipov explaining that his complaint against Mr Bhalla would not be recorded or determined. Her letter was in materially the same terms as the email dated 1 July 2020 written by Lesley Hyland in response to Mr Sharipov's complaints about Hayley Hancox and Sarah Turner: see above under CO/3581/2020. The pleaded grounds of challenge in the Statement of Facts and Grounds include the boilerplate paragraph 29. That paragraph is preceded by a lengthy and somewhat tendentious narrative. There is no attempt to link the generic pleading at paragraph 29 of the Statement of Facts and Grounds to any aspect of the lengthy narrative.

56. This claim too is entirely unarguable. Mr Sharipov's complaint against Mr Bhalla was obviously a collateral attack on the decision in his 15 August 2019 letter. The Defendant made no error in reaching either that conclusion, or the further conclusion that the complaint was an abuse of the complaints procedure. I am satisfied that the complaint was a thinly disguised attempt to harass the IOPC at the time that it was undertaking its review of the Merseyside PSD investigation of the April 2019 complaint. The application for judicial review of the 15 September 2020 decision is unarguable and is totally without merit.

(9) CO/285/2021

57. This claim was filed by Mr Sharipov and issued on 25 January 2021. The Defendant is the Director General of the IOPC. The challenge is to the decision of 20 October 2020, the decision on the appeal against the Merseyside PSD investigation of Mr Sharipov's complaints made in April 2019.

58. The IOPC's decision is fully reasoned, running to over 80 pages. It identified 70 complaints made by Mr Sharipov arising from the investigation. The IOPC decided to refer 61 of the 70 complaints for further investigation as on those matters it was not satisfied all appropriate lines of investigation had been considered. The remaining complaints were refused. The decision letter ends with the following direction to the Merseyside Police:

> "**Because I have decided to uphold your appeal, the following actions are required by Merseyside Police**:
>
> **Merseyside Police is directed to reinvestigate the complaint allegations, as detailed above**.
>
> The scope of the reinvestigation is for the Investigating Officer to decide however it is suggested that it should include (and is not necessarily limited to) the following actions:
>
> - Obtain a sufficiently detailed and meaningful response from *all* officers subject to *each* individual complaint

> allegation. This may be through interview or by some other auditable means, as considered necessary, reasonable and proportionate.
>
> - Consider other relevant forms of evidence which are necessarily *objective*, and which may either *support* the officer accounts, *negate* them, or provide the basis for reasonable challenge and/or further enquiry. Also, and as appropriate, provide explanation for *not* pursuing a particular line of enquiry
>
> - Provide clarity as to what should reasonably be expected from an officer when compiling an application for three types of Order (AFO, PO, RO), as discussed above at paragraphs 88, 337 and 550, respectively.
>
> - Ensure all elements of the original complaint receive a recording decision. As required, seek clarification from the complainant or his representative as which matters do, and do not, constitute a complaint allegation.
>
> - Make a recording decision in respect of each matter raised under *Allegations X1 to X11*, with the expectation of *Allegation X4* as discussed.
>
> - Consider making the reinvestigation subject to *Special Requirements*, according to the content of any new evidence that may be reviewed.
>
> - Your client is entitled to a fresh right to appeal in relations to the allegations returned for reinvestigation."

59. Five grounds of challenge are relied on: first that the IOPC was wrong to dismiss the nine complaints that were dismissed; second that it should have concluded that the complaints it did uphold gave rise to allegations of misconduct that should be investigated, and that the misconduct might entail commission of one or more criminal offences; third that the IOPC had been wrong to direct the re-investigation be undertaken by Merseyside Police; fourth that the IOPC's decision had failed to consider matters "holistically"; and fifth that the IOPC had been wrong to conclude that the investigation report contained information sufficient to allow Mr Sharipov to understand the findings.

60. William Davis J considered the application on the papers and refused permission to apply for judicial review: (a) because the application made only on 20 January 2021, had not been made promptly; and (b) because the grounds of challenge were unarguable. I agree with these conclusions. So far as concerns substantive merits of the grounds challenged I accept the response set out in the Director General's Summary Grounds of Defence. As explained in that document each ground of challenge comes to no more than disagreement with evaluations made with IOPC. The IOPC's reasons

disclose no error of law; the assessments made by the IOPC were permissible in every respect. William Davis J summarised the position, ground by ground, as follows:

> "(i) In relation to six grounds of complaint which the Defendant did not uphold it is said that decision was wrong and unreasonable. In respect of four of the grounds, the argument amounts to no more than a disagreement on the facts. In respect of the other two, the relevant issues were considered by HHJ Byrne in a hearing at Liverpool Crown Court (which has been the subject of a previous application for permission). It was not irrational of the Defendant to follow and adopt the views of the judge.
>
> (ii) Whether special requirements should be adopted in relation to an investigation of misconduct and whether there is a case to answer is for the officer conducting the investigation. Since the Defendant remitted the case for re-investigation, it was not for the defendant to pre-empt the decision of the investigating officer.
>
> (iii) The decision to remit the investigation to the Professional Standards Department of the Interested Party was rational. Amongst the factors supporting a conclusion of rationality are the fact that the Defendant did not remit on the basis of any fundamental fall in the original investigation and the fact that the re-investigation itself will carry a right of appeal to the Defendant.
>
> (iv) Grounds four and five can be taken together. The Defendant's decision was set out in a 77-page document with well over 500 paragraphs. The complaints can only have been considered holistically and the nature of the report was more than sufficient to allow the Claimant to understand the findings."

I agree entirely. This application for judicial review is also refused.

C. Decision. The application for a General Civil Restraint Order

(1) The merits of the application

61. I have concluded that three of the renewed applications for permission to apply for judicial review before me are totally without merit (CO/3581/2020, CO/3590/2020 and CO/4687/2020). CPR 3.3(7) provides that when an application is dismissed as totally without merit the court must consider whether it is appropriate to make a civil restraint order. In addition, by an Application Notice filed on 18 November 2021 the Director General of the IOPC requests that a General Civil Restraint Order ("GCRO") be made against all three Claimants.

62. Six further applications for permission to apply for judicial review have also been determined by other judges to be totally without merit: CO/1018/2021, CO/1576/2021 and CO/2197/2021 (all decisions of Collins Rice J); and CO/2280/2021,

CO/2904/2021, and CO/3151/2021 (all decisions of Mostyn J). Mr Sharipov was a claimant in all nine of the applications. Grizzio was also a claimant in CO/3151/2021.

63. The criteria for making a GCRO are at paragraph 4.1 of Practice Direction 3C. A GCRO may be made "where the party against whom the order is made persists in issuing claims or making applications which are totally without merit, in circumstances where an extended civil restraint order would not be sufficient or appropriate." In his judgment in *Chief Constable of Avon and Summerset Police v Gray* [2019] EWCA Civ 1675 (at paragraph 14) Irwin LJ approved the following as statement of the correct approach when considering a GCRO should be made.

> "The judge correctly identified the tests for the imposition of a GCRO and the extension of a GCRO as follows:
>
> > "14. The test for imposing a GCRO is stated by [4.1] of PD 3C to be that the party against whom the order is made persists in issuing claims or making applications which are totally without merit, *in circumstances where an extended civil restraint order would not be sufficient or appropriate*. In *R(Kumar) v Secretary of State for Constitutional Affairs* … at [60] the Court of Appeal said that this language:
> >
> > "… is apt to cover a situation in which one of these litigants adopts a scattergun approach to litigation on a number of different grievances without necessarily exhibiting such an obsessive approach to a single topic that an extended civil restraint order can appropriately be made against him/her."
> >
> > 15. The test when the Court is asked to extend a GCRO pursuant to [4.10] of PD 3C is different and is that the Court "considers it appropriate" to do so. That test must be read in the light of the criteria for imposing a GCRO in the first place, since the restriction upon the party's right to bring litigation is the same during the original term of a GCRO or during its extension. In briefest outline, the question either on an original application for a GCRO or on an application for an extension is whether an order (or its extension) is necessary in order (a) to protect litigants from vexatious proceedings against them and/or (b) to protect the finite resources of the Court from vexatious waste. This question is to be answered having full regard to the impact of any proposed order upon the party to be restrained. The main difference between an original application for a GCRO and an application for an extension is that, on an application for an extension, the respondent will have been restrained from bringing vexatious proceedings during the period of the existing GCRO."

64. The difference between an extended civil restraint order ("ECRO") and GCRO is that while the former prevents a party from making any claim or application without leave

of the court "… concerning any matter involving or relating to or touching upon or leading to the proceedings in which the order was made …", the latter can be directed to prevent a party filing any claim or application in any proceedings in the High Court or County Court. When considering making a GCRO, the opening words of paragraph 4.2 of Practice Direction 3C ("… unless the court orders otherwise") permit the possibility that any GCRO made may be tailored in some way if the court considers the circumstances of the case require. For example, in *Moore v Ministry of Justice* [2019] EWHC 3661 (QB) a GCRO was made preventing the party making any claim or application only against named defendants.

65. Mr Sharipov's first response to the application for a GCRO (on his own behalf, and behalf of the Online CC and Grizzio) is that he had insufficient time to respond to the application, which should be considered instead on a later date. I do not accept this submission. The application by IOPC was made on 18 November 2021. Mr Sharipov had ample time to prepare his response. To the extent that the time to prepare a response was reduced by the need to prepare for the hearing of the nine renewed applications for judicial review, that is a situation entirely of the Claimants' own making. I gave directions for the hearing of the renewed applications for permission as long ago as 14 July 2021. The date for this hearing was set the same month. The directions required the bundle for the hearing to be filed three weeks before the date of the hearing, and for the Claimants' skeleton argument for the hearing to be filed and served two weeks before the hearing. On this timetable the major part of the Claimants' preparation for the hearing of the applications for permission to apply for judicial review would have been completed by 23 November 2021. The Claimants failed to comply with those directions. The Claimants' skeleton argument (76 pages plus 190 pages of attachments) was not sent to the court until 9:14pm on 6 December 2021, little more than twelve hours before the hearing was listed to start. The Claimants failed to cooperate with the Defendants and Interested Parties in preparing a bundle. Hundreds of documents (on inspection, mainly duplicative) were provided, chaotically. Between 17 November 2021 and 3 December 2021, the Claimants made six applications attempting to adjourn the hearing of the renewed permission applications. Those applications were hopeless and repetitive. The Claimants prepared and filed documents and witness statements running to over 400 pages in support of those applications. If the Claimants' time to prepare a response to the application for a GCRO has been limited that is because they chose not to use the time available to them.

66. The further point is that, in any event, extensive time was not needed to respond to the issues raised by the application for a GCRO. That application calls for an explanation by the Claimants either of why their conduct has not been persistent, or why it is not necessary to impose restraint on their access to a court. This point is borne out by events following the hearing. At the hearing on 7 December 2021 Mr Sharipov asked for permission to put in a further document in response to the GCRO application (he had sent a three-page response by email at 9:10am on the morning of the hearing). I refused that application but that notwithstanding, on 8 December and 9 December 2021 Mr Sharipov sent two further documents setting out his response to the application for a GCRO. I have considered the contents of those documents for the purposes of deciding whether or not to make a GCRO. The time taken to prepare these documents, which I can only assume comprise the Claimants' full response to the application for a GCRO, shows that there was ample time prior to 7 December 2021 for a response to be prepared.

67. The Claimants' next line of response is that the application made by the IOPC was "tactical". From context it is clear the Claimants deploy the word pejoratively. I take this to mean the application was not made for any proper purpose but rather as an attempt either to divert the Claimants' attention from the renewed applications for permission to apply for judicial review applications, or to encourage them not to pursue them. This submission is disingenuous. The IOPC is a party to fourteen judicial review claims brought by some or all of the Claimants. As is pointed out in the witness statement made by David Emery, General Counsel of the IOPC, dated 18 November 2021, made in support of the IOPC's application, in the period June to September 2021 alone five claims were filed. At the time the GCRO application was made the Claimants through Mr Sharipov, had threatened further claims. These matters alone, all well-known to the Claimants, entirely undermine any suggestion that the GCRO application was a tactical device.

68. In his evidence, Mr Emery also points out that responding to these claims has cost the IOPC over £184,000 in either money or moneys-worth (including over 800 hours work undertaken by the IOPC's in-house lawyers). This is not the only point he makes. Nevertheless, it is sufficient to demonstrate that the GCRO application is made genuinely, in order to bring the Claimants' present *modus operandi* to an end.

69. The Claimants' imputation against the IOPC is all the more audacious given their own application made on 29 November 2021 to the effect that the court should exercise its power to address misconduct by litigants (the so-called *Hamid* jurisdiction) against the legal representatives of the IOPC and those representing Chief Constable of Merseyside. This application ran to 29 pages plus 150 pages of supporting documents. I need not set out the allegations the Claimants make. It is unnecessary and it would be unfair to the Defendants for me to repeat them in this judgment. Suffice it to say I am satisfied that the Claimants' only intention in filing this document was to attempt to derail the hearing of the applications in the judicial review claims so that those applications would continue to hang over the various Defendants and Interested Parties.

70. So far as concerns the substance of the GCRO application, the Claimants submit: (a) that not all of the judicial review claims made have been certified as totally without merit; (b) that each of the claims certified as totally without merit was settled by leading counsel and so must have been a claim that could properly be advanced; (c) that the claims certified as totally without merit were not totally without merit and that appeals in each claim are pending before the Court of Appeal; (d) that a GCRO would prejudice Mr Sharipov (no such claim is made either for Online CC or Grizzio); and (e) that no order is necessary because Mr Sharipov is willing to offer an undertaking not to issue further judicial review claims.

71. I am satisfied that a GCRO should be made. I will explain the form of the order below. But I make it clear now that the order will be made against Mr Sharipov but not against Online CC or Grizzio.

72. Mr Sharipov has persistently made claims that are totally without merit. Since October 2020 he has made nine such claims (see above at paragraphs 62 and 63). I do not consider making an ECRO would be sufficient or appropriate. The overarching theme of the claims is an attack, direct or indirect, on Operation Kobus. Mr Sharipov has used claims for judicial review as part of a tactic of complaint, followed by legal

challenge aimed at undermining the will of Merseyside Police to pursue its investigation into him and his companies. Some sense of the way of the judicial review claims proliferate is given at paragraph 23 of Mr Emery's witness statement.

> "23. The Flow Chart can be used to follow events chronologically, starting with the yellow box titled "OPERATION KOBUS" at the bottom left. For illustrative purposes, I will use the Flow Chart to describe the events that flow from Mr Sharipov's first complaint. Following the black arrow from "OPERATION KOBUS", it can be seen that:
>
> a. Operation Kobus led to Mr Sharipov's first complaint to Merseyside Police PSD on 17 April 2019 ("**Complaint 1**").
>
> b. Following on from Complaint 1, two events take place:
>
> i. Complaint was recorded by Merseyside Police PSD on 14 May 2019 but suspended on grounds of *sub judice* pending the ongoing Operation Kobus; and
>
> ii. Mr Sharipov went to make a second complaint on 24 July 2019.
>
> c. After the Merseyside Police decision referred to in paragraph 23(b)(i) above, on 10 June 2019 Mr Sharipov asked the IOPC to direct Merseyside Police PSD to refer Complaint 1 to the IOPC for independent investigation. This was rejected by IOPC Assessment Analyst Hancox on 14 June and 24 June 2019. Mr Sharipov also requested that the IOPC direct Merseyside Police PSD to lift the suspension on Complaint 1. This considered and rejected by Sunny Bhalla on 15 August 2019. This, in turn, resulted in:
>
> i. the first judicial review claim (JR1: CO/3580/2019);
>
> ii. Mr Sharipov's first complaint against Hayley Hancox alleging misconduct on her part [**30-37**]
>
> iii. Mr Sharipov's complaint against Sunny Bhalla alleging misconduct on his part [**38-49**];"
>
> iv. the decision of DCI Vaughan at Merseyside Police PSD that Complaint 1 would not be referred to the IOPC or transferred to another police force, and that Complaint 1 would remain suspended on grounds of *sub judice.*
>
> d. DCI Vaughan's refusal referred to immediately above spurred Mr Sharipov to make a complaint against DCI Vaughan himself and bringing the second judicial review challenge (JR2: CO/3835/2019).

e. Mr Sharipov's complaint against DCI Vaughan then ultimately led to the fourth judicial review challenge (JR4: CO/172/2020).

f. The IOPC decision maker who, on 14 February 2020, rejected Mr Sharipov's complaint against DCI Vaughan (Sarah Turner) was then herself subjected to a misconduct complaint by Mr Sharipov, … which in turn, ultimately led to the fifth judicial review claim (JR5 CO/3581/2020.

g. The IOPC decision-maker who, on 1 July 2020, rejected Mr Sharipov's complaint against Sarah Turner (Lesley Hyland) was herself subjected to a misconduct complaint by Mr Sharipov, which ultimately led to the eighth judicial review claim (JR8: CO/1018/2021).

h. Mr Sharipov's complaint against Sunny Bhalla (referred to in paragraph 23(c)(iii) above) who, on 15 August 2019, decided that Complaint 1 should remain suspended on grounds of sub judice ultimately results in the sixth judicial review claim (JR6:CO/4687/2020)."

73. Overall, Mr Sharipov wages a campaign aimed at bringing Operation Kobus to a halt. The campaign involves complaints aimed at "casting an ever-growing net of alleged misconduct" (see Mr Emery's statement at paragraph 38(B)). Overlapping and repetitive claims are made (see above at paragraphs 14, 23 and 53). If a complaint is dismissed, Mr Sharipov's next port of call has come to be a complaint about the decision-maker. Applications for judicial review have then been deployed further to distract the attention and resources of either the IOPC or the Merseyside Police, or both. The ever-extending network of claims means there is a real risk that an ECRO would not be sufficient properly to control Mr Sharipov's misuse of court proceedings, or might itself give rise to satellite disputes as to whether one or other future claim fell within the range of claims covered by the ECRO. Since Mr Sharipov's real targets have been both the IOPC and Merseyside Police the best approach, the approach the more likely to ensure fairness to all concerned and appropriate use of the court's resources, is a GCRO directed to any claim made by Mr Sharipov either against Merseyside Police, its Chief Constable or any other of its officers or employees, and to any claim made against the IOPC, its Director General, or any of its officers or employees.

74. I have no doubt that a GCRO in this form represents a proportionate restraint. I accept the evidence of Mr Emery as to the extent of the disruption caused to the IOPC. Whilst it is true that some of this is the consequence of claims that have not been certified as totally without merit, the disruption caused by claims that have been so certified will have been significant. The overall picture, to date, is one of indiscriminate claims. The GCRO that will be made is the minimum necessary to bring that to an end.

75. The submissions made by Mr Sharipov do not satisfy me that the GCRO that will be made is unnecessary. It does not assist him that only nine of the claims he has commenced have been certified as totally without merit. What is important is that he

has made a large number of claims that have been certified. Since that is so, the court must, in fairness to the Defendants, consider whether a GCRO is necessary. Looked at in this way, there is more than enough evidence that Mr Sharipov has issued claims to harass rather than to pursue any legitimate objective. I do not consider it relevant that Mr Sharipov has commenced appeals in all the claims certified as totally without merit. Unless and until the Court of Appeal concludes those claims are in fact meritorious, the existence of the appeals is at best irrelevant and at worst an aggravating matter. I am entitled to proceed on the basis of the totally without merit determinations made by Collins Rice J and Mostyn J and by me are correct.

76. Given the findings that nine claims made are totally without merit it does not matter that the pleadings in any or all of them were settled by leading counsel. The substance of each case is what it is – i.e., what it has been determined by the court to be – regardless of the identity of the pleader of the case. Mr Sharipov must take responsibility for claims he has pursued. He cannot hide behind his lawyers. It was his decision to pursue each claim. I do not accept Mr Sharipov's submission on prejudice. The GCRO would only prejudice him in any relevant sense if it were made without good reason.

77. Mr Sharipov's final submission is that a GCRO is unnecessary as the Claimants are prepared to undertake not to issue new proceedings. He proposed that on that undertaking there be an order (a) staying IOPC's application for a GCRO and (b) providing:

> "The three-month limitation term for any potential judicial review claims that could be issued by the by the Claimants but are not issued as a result of this undertaking is extended by the duration of this order".

It is immediately apparent that this proposal is not any true alternative to a GCRO. A GCRO permits the court to regulate claims and applications so that only those that are properly arguable claims may be issued. That would not be achieved by the proposed undertaking and order which in substance are a form of stand-still agreement – all claims are held back for an unspecified period, and when that period comes to an end all claims may then be brought, regardless of merit.

78. Be that as it may, the relevant point goes beyond any matter of mere drafting of the form of any undertaking or the form of an order. Given Mr Sharipov's conduct to date I am not satisfied it would be appropriate for me to conclude that any form of promise by Mr Sharipov as to his future conduct was sufficient. Rather, the IOPC, and for that matter also, the Merseyside Police, are entitled to the protection a GCRO would provide to filter out unmeritorious claims. More importantly that approach also better serves the public interest in the proper use of the court's process.

(2) The form of the order

79. The order that will be made should provide for the following:

> (1) Mr Sharipov shall not whether personally or through any other person on his behalf or acting under his direction, issue any claim or make any application in the High Court or County Court against any of (a) the Merseyside Police, (b) the

Chief Constable of Merseyside Police, (c) any officer or employee of Merseyside Police, (d) the IOPC, (e) the Director General of the IOPC, or (f) any officer or employee of the IOPC, without first obtaining the permission of the Judge in Charge of the Administrative Court, or such other Judge as may be nominated by him.

(2) Mr Sharipov shall not act as representative or *McKenzie* friend of any person, company or partnership, in any claim within the scope of paragraph (1) above.

(3) This order will remain in effect until 4 February 2024.

The usual provisions relating to applications to amend or vary and the contempt warning should also be included.

80. The GCRO made will not apply directly to either Online CC or Grizzio. Neither has been party to any of the claims certified as totally without merit. However, in claims where they have been parties there has been nothing to suggest that they have been anything other than Mr Sharipov's proxies. He should not be able to use either company to subvert the effect of the GCRO, hence the prohibition within the GCRO against Mr Sharipov acting in any representative capacity.

D. Disposal

81. Each of the renewed applications for permission to apply for judicial review is dismissed. Claims CO/3581/2020, CO/3590/2020 and CO/4687/2020 are certified as totally without merit.

82. Mr Sharipov's application dated 29 November 2021 for an order under the *Hamid* jurisdiction is refused. That application is also totally without merit.

83. A GCRO will be made against Mr Sharipov in form explained above. The GCRO will remain in effect for two years starting from the date this judgment is handed down (i.e., 4 February 2024).

84. I would be grateful if counsel for the Defendants could prepare a draft order reflecting the conclusions set out in this judgment.