



Neutral Citation Number: [2024] EWHC 193 (Admin)

Case No: AC-2023-CDF-000025
CO/33/2023

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

Cardiff Civil and Family Justice Centre
2 Park Street
Cardiff
CF10 1ET
Date: 07/02/2024

Before :

THE HONOURABLE MRS JUSTICE FARBEY

Between :

JASON NICHOLAS JUUL

Claimant

- and -

**(1) CHIEF CONSTABLE OF DYFED-POWYS
POLICE**

(2) DIRECTOR OF PUBLIC PROSECUTIONS

Defendants

The Claimant appeared in person by video link

DAVID MESSLING (instructed by **Dyfed-Powys Police Legal Services**) for the **First Defendant**

CONNOR EVANS (instructed by **Crown Prosecution Service**) for the **Second Defendant**

Hearing date: 19 January 2024

Approved Judgment

This judgment was handed down remotely at 10.30am on 7 February 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

MRS JUSTICE FARBEY :

Introduction

1. The claimant (who is now aged 54) applies under section 18 of the Serious Crime Act 2007 and CPR Part 8 for an order discharging a Serious Crime Prevention Order (“SCPO”) made by HHJ Richards in the Crown Court at Swansea on 17 May 2022. The order replaced a previous SCPO imposed in the Crown Court at Inner London on 15 June 2016. The history before then is not easy to ascertain but the documents show that the claimant has been subject to SCPOs in one form or another since 8 June 2012.
2. At a case management hearing before Lane J on 16 October 2023, which all parties attended, the claimant appeared in person by video link from Russia. Lane J granted permission to the claimant to attend the substantive hearing before me by video from Russia where he says that he now lives. Before me, the claimant appeared remotely pursuant to Lane J’s directions; Mr David Messling (for the first defendant) and Mr Connor Evans (for the second defendant) appeared in court.

Legal framework

3. The imposition, variation and discharge of SCPOs is governed by Part 1 of the Serious Crime Act 2007 (“the Act”). The Crown Court has jurisdiction to impose a SCPO in relation to a person who has been convicted of having committed a serious offence (section 19(1)). The test to be applied is whether the court has “reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in England and Wales” (section 19(2)).
4. By virtue of section 19(5), the Crown Court may impose:
 - “(a) such prohibitions, restrictions or requirements; and
 - (b) such other terms;as the court considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting involvement by the person concerned in serious crime in England and Wales.”
5. It is plain from the statutory language that a SCPO is a preventive order whose purpose is public protection. It is not a punishment for past criminal conduct. Given its protective function, the court will undertake a prospective analysis of the risk of future crime albeit that past conduct may inform the court’s consideration of future risk.
6. Section 16 of the Act makes provision for the duration of orders:
 - “(1) A serious crime prevention order must specify when it is to come into force and when it is to cease to be in force.
 - (2) An order is not to be in force for more than 5 years beginning with the coming into force of the order.”

7. If a person breaches its terms, the Crown Court has the power to vary or replace a SCPO (section 21(1)). The test to be applied on variation or replacement involves the same considerations as on imposition (see section 21(2)).
8. Section 24(1) of the Act provides a right of appeal from the Crown Court to the Court of Appeal in the following wide terms:

“An appeal against a decision of the Crown Court in relation to a serious crime prevention order may be made to the Court of Appeal by–

 - (a) the person who is the subject of the order; or
 - (b) the relevant applicant authority.”
9. The powers of the Court of Appeal are contained in secondary legislation. Article 5 of the Serious Crime Act 2007 (Appeals under Section 24) Order 2008/1863 provides:

“(1) The Court of Appeal has all the powers of the Crown Court.

 - (2) The Court of Appeal may—
 - (a) make a serious crime prevention order;
 - (b) affirm, set aside or vary any order or judgment made or given by the Crown Court;
 - (c) refer any issue for determination by the Crown Court;
 - (d) order a new hearing in the Crown Court;
 - (e) make an order for costs in accordance with Part 3;
 - (f) make an order for the payment of interest on those costs.
 - (3) The Court of Appeal may exercise its powers in relation to the whole or part of an order of the Crown Court.”
10. The width of the language both in primary and secondary legislation is apt to include an appeal not only against the making of an order but also against the requirements of an order and its duration.
11. Subject to an irrelevant exception, an appeal under section 24(1) lies only with the leave of the Court of Appeal (section 24(3)).
12. A person who without “reasonable excuse” fails to comply with a SCPO commits an offence punishable by up to five years’ imprisonment (section 25).
13. As for the jurisdiction of the High Court, section 18 of the Act provides in so far as relevant:

“(1) On an application under this section–

(a) the High Court in England and Wales may discharge a serious crime prevention order in England and Wales...

...

(2) An application for the discharge of an order may be made by—

...

(b) subject as follows—

(i) the person who is the subject of the order...

(3) The court must not entertain an application by the person who is the subject of the order unless it considers that there has been a **change of circumstances affecting the order...** (emphasis added).

14. CPR PD 77 para 3.1 deals with applications to discharge a SCPO and provides in so far as relevant:

“The...claim form must contain—

(1) where the applicant is the person who is the subject of the SCPO, details of the change of circumstances affecting the SCPO...”

15. Proceedings before the High Court in relation to SCPOs are civil proceedings. The standard of proof to be applied by the court is the civil standard (section 35 of the Act). In considering the facts, I shall therefore apply the balance of probabilities.

Factual background

16. I did not hear oral evidence. I take the facts from the documents before me. The claimant has forty-two criminal convictions dating back to 1986. Of those convictions, twenty relate to offences of dishonesty such as fraud and theft.

17. On 24 February 2012, the claimant pleaded guilty in the Crown Court at Southwark to one count of conspiracy to defraud. He was sentenced to 81 months’ imprisonment and made the subject of ancillary orders including a SCPO. The facts of the 2012 offence are summarised in *R v Jason Place* [2017] EWCA Crim 884 which (despite the use of an alias) relates to the claimant. The judgment conveniently describes the 2012 offence as follows:

“It was identity theft or fraud on what was described as an industrial scale between September 2003 and June 2009. The judge described him as the **mastermind behind a scheme which used careful planning and sophisticated modern IT**. The false documents were high quality, created and used to steal identities or create fictitious people. A package was sold to

fraudsters who used them to support loan applications, for example” (emphasis added).

18. The claimant continued to offend. On 10 January 2013, in Westminster Magistrates’ Court, he was convicted of fraud. On 15 December 2015, across two indictments, he was convicted of fraud, stalking and fifteen counts of failing to comply with his SCPO. The judgment in *R v Jason Place* describes the stalking offence as follows:

“7....On 2nd April 2014, [a barrister] told police of an internet harassment campaign by the use of two websites, cowboysolicitors.com and bentasianlawyers.com.au. Cowboysolicitors was registered in the name Gary Wilson, the applicant's brother. Bentasianlawyers was registered to Garyninjatech, an email address the applicant had used.

8. The attack began on 27th March 2014 with malicious and derogatory emails to lawyers and barristers, links to websites supplied. It was timed to coincide with an AGM of the Society of Asian Lawyers to which [the barrister] sought election as Chairman. The attacks suggested he was corrupt, had rewarded a solicitor for work supplied, a false petition sought his disbarment and a fake item in the format of Sky News appeared to report his arrest. He was accused of plagiarism.

9. The Crown's case was that the applicant was responsible for a course of conduct which amounted to stalking...The defence was that the applicant, who gave evidence, had nothing to do with the material, did not know [the barrister] and that his brother Gary Wilson was Garyninjatech. Wilson and Patrick Connor had access to the applicant's laptops...

12. The judge said this was a course of internet bullying and harassment. Considering *R v Liddle and Hayes* [1999] 3 All ER 816 CA he found the offence serious, the offending persistent, sophisticated and made up of malicious allegations designed to do damage and to hurt. [The barrister], worn down, hired private investigators. There was no remorse. The applicant denied responsibility and blamed his brother and another. He was intelligent and resourceful. Aggravating the matter were his previous convictions and that the offences were committed whilst he was on licence.”

19. The court made a five-year SCPO to start from the date of the claimant’s release from the custodial part of his sentence. The claimant was released on 24 August 2018 so that the SCPO was due to expire on 23 August 2023.
20. The claimant’s licence expiry date was 23 February 2021. On that date, he became free to leave the United Kingdom provided that he complied with his obligation under the SCPO to notify the relevant authorities of his address. The claimant says that in April 2021, he began an online relationship with his now wife who is a citizen of the Republic of Belarus. He began to travel between the United Kingdom and Belarus.

21. In around July 2021, the claimant relocated from Kent to his brother's address in Burry Port, West Wales. On 19 August 2021, the management of his SCPO was transferred from the Kent Police to the first defendant to reflect this change of address. The police officer tasked with managing the order on behalf of the first defendant is DC Danielle Evans. The claimant does not trust DC Evans and has levelled some serious criticisms at her. Among other things, he has launched proceedings against her for contempt of court. I do not need to determine whether or not the claimant's criticisms are well-founded; nor are the contempt proceedings before me.
22. On 1 October 2021, the claimant married his now wife at the Central Minsk Registry. An untranslated copy of what is said to be the marriage certificate has been produced.
23. On 7 January 2022, in the Crown Court at Swansea, the claimant pleaded guilty to nine offences of breach of his SCPO. On 11 March 2022, he was sentenced by HHJ Richards to 12 months' imprisonment on each count to run concurrently.
24. In a witness statement dated 21 March 2022, the claimant said:

“I live at my brother's address at...Burry Port...when I live in the United Kingdom. I also reside with my wife permanently in the Republic of Belarus.”
25. By written application dated 10 May 2022, the prosecution applied for a SCPO. The application states:

“[The claimant] can be regarded as a prolific fraudster and cybercriminal who ran a ‘confidential access’ business, selling fraudulent identities to other serious criminals and obtaining a financial benefit from further criminal activities these identities were able to facilitate.”
26. In his written submissions in the Crown Court opposing a SCPO, the claimant (who represented himself) stated unequivocally that he lived in Belarus with his wife. Any SCPO would not be enforceable and would be a disproportionate interference with his human rights.
27. On 17 May 2022, the judge made a SCPO for a period of five years beginning with the date on which the claimant was released from prison. It replaced the 2016 order.
28. I have been provided with a transcript of the judge's ruling. She held:

“The test is whether there are reasonable grounds to believe that the terms of the order would protect the public by preventing, restricting or disrupting involvement by the Defendant in serious crime in England and Wales. I bear in mind that **I am having to consider future risk** and whether there is a real or significant risk, not just a bare possibility.

...

The Defendant maintains that I should not make an order as he lives in Belarus, he also asserts in another statement before the

Court that he lives in South Wales, he maintains he lives in both countries. I have considered the terms of the proposed Serious Crime Prevention Order, with one exception to which I will return, I am satisfied that there are reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by the Defendant in serious crime in England and Wales. **I do not consider that Paragraph 3.4 is necessary to protect the public...The order already requires the Defendant to notify the police of premises within and outside the United Kingdom, in which he resides or operates as a business premises, the Defendant knows the consequences if he acts in breach of the order”** (emphasis added).

I should explain that Paragraph 3.4 (mentioned by the judge) would have required the claimant to notify the relevant authorities in advance of any foreign travel.

29. The claimant was released from prison on 1 June 2022 so that the SCPO will come to an end in 2027. His licence expiry date was 3 December 2022 which was also his sentence expiry date.
30. On 12 June 2022, the claimant was recalled to prison on the grounds that he had attempted to leave the United Kingdom by ferry in breach of his licence conditions. Those conditions did not contain a prohibition on travel per se. Following the claimant’s use of complaints procedures, the police removed an erroneous travel restriction marker from his police record. He was however obliged under the terms of his licence to obtain the permission of his supervising Probation Officer before travelling out of the United Kingdom. The Parole Board did not consider his recall and so did not consider whether he had breached his licence. He remained in custody until his release on 2 December 2022 which was (inexplicably) a day before his sentence expired.
31. On 5 December 2022, as part of his post-sentence supervision, the claimant underwent an interview with the Probation Service and sent the first defendant an email under clause 3 of the SCPO in which he provided two residential addresses. The first address was in Burry Port. The second address was in Minsk.
32. According to the claim form, the claimant left the United Kingdom on 9 December 2022. He does not appear to have returned since then. On 16 December 2022, he sent the Probation Service an email in which he claimed to have been receiving death threats such that he had left the United Kingdom permanently and had no intention of returning. On the same day, he informed the Probation Service that he was residing in Belarus.
33. The present claim was lodged in January 2023. An email from the claimant to the first defendant dated 19 January 2023 indicates that he moved from Minsk to Tyumenskaya oblast in Russia in that month. In an application to amend his statement of case, dated 23 January 2023, the claimant said that he was living permanently in Russia.
34. On 8 February 2023, in his response to the first defendant’s summary grounds of resistance, the claimant stated that he now lived permanently in the Russian Federation and gave the address in Tyumenskaya oblast. The claimant’s skeleton argument (dated 31 March 2023) is posited on his residence in Russia.

35. In his witness statement dated 27 November 2023, the claimant provided the address in Tyumenskaya oblast but then stated that he was “currently” residing in Belarus with his wife. In an Affidavit dated 28 November 2023, the claimant provided the Tyumenskaya oblast address.
36. The claimant’s post-sentence supervision period expired on 4 June 2023. I confirmed with the parties during the course of the hearing that the only restrictions presently upon him are those imposed by the SCPO.

The SCPO

37. The terms of the SCPO are lengthy and detailed. It would be laborious to set them out here, but I have considered them in full. They concern restrictions on, and notification to the relevant authorities of, communication devices (phones and laptops); restrictions on email accounts; notification of using certain postal services and virtual offices; and restrictions on, and notification of, the acquisition of web domains and servers.
38. In relation to where the claimant lives, clauses 3 and 7 of the SCPO provide as follows:

“3 Notification of Premises/Travel both within and outside the UK

3.1 On the date of the coming into force of this Order, the Offender shall notify the [relevant authorities] of the full postal addresses and any postal codes of all premises, including business premises, which he may own, possess the keys to, occupy (whether as a tenant or not) or control, specifying in that notice which of the premises is his home address.

3.2 During the operation of this Order, the Offender shall notify the [relevant authorities] in writing immediately of the full postal addresses and any postal codes of any premises, including business premises, which he may acquire, possess the keys to, occupy (whether as a tenant or not) or control, specifying in that notice which of the premises is his home address.

3.3 For the purposes of this Order premises includes, but is not limited to, caravans, hotels, garages, outbuildings, allotments, garden buildings and sheds.

...

7 Notification of changes related to the Order

7.1 Save for as stipulated above, the Offender must send written notice informing [the relevant authorities] of any changes related to this Order within 7 days. Such changes include: (i) any change of any of his names; (ii) any change of his home address; (iii) his acquisition of a temporary address; and (iv) any change of his temporary address or his ceasing to have one.

7.2 In the case of a change of a name or address or the acquisition of a temporary address, the Offender must specify the new name or address.”

39. As the claimant has emphasised in his written and oral submissions, there is no prohibition on foreign travel. He is not prohibited from living in Belarus or Russia: he will comply with the SCPO provided that he gives the required notifications as set out in clauses 3 and 7.
40. Although I have not been provided with a transcript of the parties’ submissions before the judge, the claimant accepts that he submitted to her that the SCPO was unenforceable given his permanent residence in Belarus. The claimant says that the judge accepted that he lived in Belarus and so refused, on human rights grounds, to make any travel restrictions. As I have indicated, the draft SCPO submitted to the Crown Court contained a requirement to notify the relevant authorities before undertaking any foreign travel. I accept that the judge deleted this part of the draft order on account of the claimant’s residency, meaning the place where he would reside after his release from the custodial part of his sentence.
41. By notice of appeal dated 27 May 2022, the claimant applied to the Court of Appeal for leave to appeal against the SCPO, seeking its discharge. In his grounds of appeal, the claimant told the court that he was married to a Belarus citizen and that he was himself a resident of Belarus. He contended (among other things) that the SCPO had “no value if the offender lives outside the UK jurisdiction.” He emphasised that the order had been in existence for 10 years. He submitted that, during that period, he had not committed any further serious crime and that it was disproportionate for the SCPO to continue merely as a consequence of breaches of its provisions. The SCPO was unworkable and breached his human rights.
42. In supplementary correspondence to the Court of Appeal, the claimant pointed out that he would be nearly 60 years old at the expiration of the SCPO and that people change over time. He said that he had established a new life in Belarus. He described various ways in which he said that his SCPO had been poorly managed. He said:

“I am not going to live in the UK upon my release from prison in December 2022. I have a home. I have a wife in the Republic of Belarus. I am emigrating from this country, I am prepared to renounce my citizenship in the pursuit of happiness. How is the SCPO going to be monitored in Belarus? Am I going to be arrested for alleged breaches every time I return to the UK? Do I have to live in exile for the rest of my life from this terrible burden of an SCPO...?”
43. On 2 September 2022, the Single Judge (McGowan J) refused leave to appeal on the papers. On 4 November 2022, the claimant abandoned his appeal which was not, therefore, the subject of any judgment by the full court. The claimant says that he abandoned the appeal on pragmatic grounds as he was serving a short sentence and as he had no access to legal advice in the difficult conditions of the Covid-19 pandemic.

The claim and the defendants' responses

44. The claimant submits in his claim form and in his written and oral submissions that there has been a change of circumstances since the judge imposed the SCPO in May 2022. At the time of the hearing before the judge, he was in custody and so within the United Kingdom. Prior to his imprisonment, he was travelling back and forth between the United Kingdom and Belarus. The judge could not be expected to know whether he would actually move to Belarus or remain in the United Kingdom upon his release. Since his release, he has left the UK on a permanent basis, relocating first to Belarus and more recently to the Russian Federation.
45. In support of this submission, the claimant relies on a copy of Lithuanian stamps on his passport to demonstrate that he went by land from Lithuania to Belarus on 9 December 2022. He relies on a copy of his Belarus residence permit which was issued on 30 October 2021 and expired on 30 July 2022. He asserts (without producing independent evidence) that his residence permit will be renewed and that a Belarus residence document means that he can live in Russia. His wife can sponsor his family members to visit him in Belarus or Russia, so that he has no need to return to the United Kingdom to maintain his family life. He has no need to return to the United Kingdom at all.
46. The claimant submits that, in light of this change of circumstances, the operation of the SCPO cannot be monitored and is therefore ineffective. It is unenforceable, as the jurisdiction to enforce it does not extend abroad (*R v (KBR Inc) v Director of the Serious Fraud Office* [2021] UKSC 2, [2022] A.C. 519, paras 21-22). The claimant submits that the ineffective and unenforceable nature of the SCPO means that it cannot serve the purpose of the 2007 Act which is to protect the public.
47. The claimant submits that the passing of time represents a further or alternative change of circumstances. It is now over a decade since he has been convicted of the sort of serious crime that would justify the making of a SCPO. His more recent convictions relate to breaches of the SCPO which are not “serious” offences in the sense required (see section 2 of the Act). He has accrued no further criminal convictions since the proceedings in Swansea Crown Court. In these circumstances, the connection between the reduction of serious crime and the stringent provisions of the SCPO is now tenuous and increasingly vanishing. In the meantime, he has transformed his life. He is married with every disincentive to avoid offending in Russia. His offending is a thing of the past.
48. The claimant submits that, in the changed circumstances, the SCPO has become a punitive and not a protective measure, contrary to the purposes of the Act. The SCPO is unjustified and unlawful not only under the Act but also under the protection afforded to basic rights by the common law (including Magna Carta) and under the Human Rights Act 1998. In terms of his human rights, he relies principally on article 8 of the European Convention on Human Rights which provides a qualified right to respect for private and family life. He relies on the right to respect for private life because the requirements of the SCPO are intrusive. In relation to family life, the claimant makes the broad assertion that the SCPO has generated undue strains on familial relationships. The only particularised example is that the SCPO has generated undue intrusion into his brother’s life because the relevant authorities treat his brother’s home as the address from which the claimant should be monitored.

49. On behalf of the first defendant, Mr Messling submits that there has been “no change of circumstances affecting the order” within the meaning of section 18 because the statutory language cannot have been intended by Parliament to include circumstances where the subject of the SCPO leaves the United Kingdom without notifying the authorities, in breach of the subject’s SCPO. In the absence of any change of circumstances, the court should not entertain the application.
50. Alternatively, should the court be minded to entertain the application, the SCPO should not be discharged. The argument that the order is unenforceable was made before the judge and rejected. The claimant has a long history of failing to comply with the conditions of his SCPOs. In so far as the claimant’s situation has changed, it has only changed as a result of his deliberate flouting of his licence conditions, the conditions of his post-licence supervision and the conditions of his SCPO.
51. On behalf of the second defendant, Mr Evans likewise submits in writing and orally that the court should not entertain the application because there has been no change of circumstances. The claimant’s submissions in the present proceedings are identical to those advanced before HHJ Richards in 2022. In particular, the judge considered the issues of foreign travel and residency. She considered the issue of the limited enforceability of the order.
52. In relation to the claimant’s assertion that his intention never to return to the United Kingdom marks a change of circumstances, Mr Evans points to the different addresses that the claimant has provided at different times. It is difficult to know where he has been living. He retains close ties to the United Kingdom through his mother who lives in Burry Port and whose address is the claimant’s address for service.
53. Mr Evans submits that it cannot have been the intention of Parliament to allow individuals subject to a SCPO simply to move abroad, even to multiple countries, in order to frustrate the effectiveness of monitoring and prevention of crime, only then to allege change of circumstance necessitating a complete review of the order with a view to its discharge.
54. Mr Evans submits that the claimant is in effect challenging the imposition of the order by the judge. The proper route for such a challenge was the Court of Appeal. Following the exercise of his appeal rights, the claimant chose to abandon his appeal. He cannot now ask this court to remove the SCPO on the grounds that the judge was wrong to impose it.
55. Mr Evans submits in the alternative that the claimant’s breaches of the SCPO, his breaches of licence conditions following release from prison, his breaches of post-sentence supervision requirements, and his continued non-compliance with the present SCPO demonstrate the necessity of keeping the order in place. The true purpose of the present application is to enable the claimant to travel to and from the United Kingdom freely without monitoring in place.

Analysis and conclusions

56. The claimant makes a number of complaints about how his licence conditions and his release on licence were managed, claiming that the licence conditions did not reflect the realities of his residence in Belarus. He complains about how his SCPO has been

managed, monitored and supervised. Irrespective of whether they have any merit, I do not regard these other complaints as relevant to the present statutory application.

57. When she made the order, the judge was inevitably aware that: (i) the claimant lived abroad in the sense that he intended to live in Belarus on release from his sentence; (ii) the order would not in practical terms be enforceable during any period of residency abroad; (iii) the SCPO was first imposed as long ago as 2012; and (iv) the claimant had since 2015 been convicted of only two offences other than offences of breaching the SCPO, such that the ties between the 2012 offence and the SCPO may have been weakening. I agree with the defendants that a challenge based on any of those matters is a challenge to the imposition of the SCPO that should have been made to the Court of Appeal under section 24 of the Act.
58. The claimant lodged an appeal but then abandoned it. The statutory scheme for discharge in this court is not designed or intended to enable an offender to circumvent the appellate process by launching a collateral attack on the imposition of the order. This court will treat the SCPO as lawfully made and as compatible with the claimant's human rights and common law rights at the time it was made. Any other approach would undermine the statutory scheme for appeals.
59. It is self-evident that time has passed – both since the order was made and since the appeal was abandoned. However, the passing of time was already within the contemplation of the judge when she imposed a five-year period of duration and so cannot constitute a “change of circumstances.” In any event, there must be a change “affecting the order” which (as Mr Messling emphasised) is the statutory test. The order is founded on the decision of the sentencing judge that it should remain in place for five years. Parliament cannot have intended that the order be affected solely by the passing of time which would undermine the authority of the judge's decision and the scheme for appeal by permitting collateral challenge.
60. If the claimant had wanted to challenge the duration of the order, he should have applied to the Court of Appeal. A request to this court to discharge an order solely on the basis of the passing of time amounts to an illegitimate collateral attack.
61. The judge was aware and took into consideration that (subject to his confinement in prison in Swansea) the claimant did not live, and did not want to live, in the United Kingdom. The claimant accepts as much. The judge properly considered future risk. Read as a whole, her ruling demonstrates that she undertook a prospective analysis, which involved the consideration of the claimant's future circumstances including his plans to live abroad. Despite knowing that the claimant planned to live abroad, the judge interpreted the requirement upon the claimant to notify the police of his home address - and other property which he owns or occupies - as extending to addresses “outside the United Kingdom.” The issue of whether the SCPO was enforceable and effective abroad was before her. That issue cannot in my judgment be regarded as marking a change of circumstances.
62. Taking the claimant's case at its highest, he now asserts that he does not intend to return to the United Kingdom. He is no longer dividing his time between Wales and Belarus, which was the situation before the judge when she made the SCPO. This assertion may mark a difference between his submissions to me and his submissions to the judge: he

may not have said in terms to the judge that he would not return to the United Kingdom at all.

63. In my judgment, the claimant's simple expression of intention is not the sort of circumstance that Parliament would have intended to affect a SCPO. Otherwise, he would defeat the SCPO simply by the announcement of an intention. Such an approach would prevent the court from analysing his conduct (i.e. what he has said and done) since the SCPO was imposed.
64. Analysing what the claimant has said and done since the SCPO was made, I agree with Mr Evans that it is still too early to determine whether the claimant will in fact sever his ties with the United Kingdom. The reliability of the claimant's expression of intention is weakened by the difficulties that the court has encountered in understanding when and where the claimant has lived since the order was made. His expressions of intention to live in Belarus have proved to be unreliable when he now lives in Russia. He retains family links to Wales.
65. There is no more than an initial attraction in the submission that the order fails to serve the purpose of the Act because its requirements cannot be effective or enforced while the claimant is abroad. The order is no less effective or enforceable than many other orders where the person subject to the order leaves the United Kingdom. While there may be barriers to enforcement while the claimant is abroad, the order is neither too vague nor too unclear to be enforceable in this jurisdiction.
66. The claimant relies on *KBR* to submit that the starting point for a consideration of the scope of the Serious Crime Act 2007 is the presumption in domestic law in this jurisdiction that legislation is generally not intended to have extra-territorial effect (*KBR*, above, para 21). However, the same case makes plain (at para 23) that nationals travelling or residing abroad remain within the personal authority of their state of nationality and, consequently, Parliament may legislate with regard to their conduct when abroad subject to limits imposed by the sovereignty of the foreign state.
67. I was not directed to full authority on the points raised by *KBR* and did not hear full argument on the jurisdictional question from any party. It was not necessary for me to do so because it does not raise any change of circumstance affecting the order.
68. By way of observation only, it seems to me that, given the international reach and cross-border nature of much serious crime, it may be regarded as surprising that Parliament would not have intended the statutory scheme to extend to conduct abroad. I agree with Mr Messling that it is contrary to public policy that an offender may avoid the operation of an SCPO by leaving the jurisdiction. Parliament would not have intended such a consequence which would undermine rather than promote the purpose of the Act. Section 5(2) of the Act enables "prohibitions, restrictions or requirements in relation to places other than England and Wales" which may suggest that Parliament expressly empowered the courts to impose restrictions of a sort that relate to places other than the United Kingdom. In the absence of full argument, I reach no final conclusions in relation to these various matters.
69. It is incorrect to say, as the claimant says, that the order amounts to exile because he may be subject to arrest for breach of the order if he were to enter the United Kingdom.

It is nothing to the point that he will (just like everyone else) be subject to English law if he enters. Submitting to law cannot possibly be the cause of exile.

70. Neither the Human Rights Act nor the common law (including Magna Carta) requires a different outcome. In refusing leave to appeal against HHJ Richards' order, the Single Judge observed that Judge Richards took very great care in her consideration of the application. She was entitled to find that no third party would be adversely affected the making of the order. There was no question of discrimination; nor was the order unduly oppressive or inhumane. The Single Judge concluded that the SCPO was a "perfectly proper way of seeking to protect the public from future harm." I have been provided with no persuasive grounds to disagree with the Single Judge's assessment. There is no reason to suppose that the order poses a disproportionate interference with article 8 rights or with any rights founded on common law.
71. For these reasons, I do not consider that there has been a change of circumstances affecting the order. I decline to entertain the application. The claim is dismissed.

Postscript

72. I venture to add three more general observations which have no effect on my conclusions above. First, as is common in the Administrative Court, the claim was case managed by one judge and heard by another. The order making the case management directions did not set out whether the claimant had appeared at the case management hearing by video link or by attendance at court. I understand that he appeared by video link from Russia but was not supplied with those details before the substantive hearing. Further, the case management directions permitted the claimant to attend the hearing of his claim by video link but there was no mention of the country from which he was permitted to appear and no enquiries were made about this.
73. The court has a responsibility for ensuring that a party's appearance by video link from abroad (if permitted at all) remains consistent with the interests of justice and the broader public interest. It is a responsibility that vests in the court on a continuing basis rather than with an individual judge who may have more or less involvement with the case. The responsibility is not a light one and the parties should assist the court in ensuring that it is fulfilled. To this end, it seems sensible for court orders to record (i) where a party was located where a hearing has taken place and (ii) the country in which a party is permitted to appear at any future hearings.
74. Secondly, the High Court in this sort of application will consider whether there has been a change of circumstances since the imposition of the SCPO by the Crown Court. It follows that the Crown Court's reasons for making the order are important as they mark the base line from which a change of circumstances will be assessed. The claimant should obtain a transcript of the judge's reasons for imposing the order. If the claimant does not have the means or ability to do so, the Director of Public Prosecutions should - as part of the Crown's public interest duties - assist the court by obtaining a transcript and placing it before the court. I was rather surprised that, in this case, the existence of the transcript of Judge Richards' ruling was unknown to me until part way through the hearing, when the claimant told me that the CPS had sent him a copy.
75. Thirdly, the prosecution and not the police applied to the Crown Court to make the SCPO. The Director of Public Prosecutions has expertise in the operation of the

criminal justice system in the public interest and was well placed to deal with the claimant's claim before me. In the event, I heard separate but similar submissions from both defendants (who instructed separate counsel) which has added to costs. The Director of Public Prosecutions is in my view the correct defendant in this kind of application.