Neutral Citation Number: [2021] EWHC 1673 (Admin)

Case No: CO/3644/2020

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 23/06/2021

Before :

THE HONOURABLE MR JUSTICE LANE

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Between :

The Queen (on the Application of) Serrano	**Claimant**
- and –	
London Borough of Richmond upon Thames	**Defendant**

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- -

The Claimant: ***In person***
For the Defendant: ***Ms Ulele Burnham***, instructed by South London Legal Partnership

Hearing date: 18 May 2021

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Approved Judgment

Mr Justice Lane:

1. This is a renewed application by the claimant for permission to bring judicial review, following the refusal by Holman J, on the papers on 15 November 2020, essentially on the ground that the claim does not have a realistic prospect of success and that the claimant has an alternative remedy available in the form of the defendant's complaints procedure. The renewed application came before Lang J on 17 March 2021 when, according to Lang J's order, the claimant left the remote hearing shortly before it began. Lang J ordered that the hearing be adjourned and that it should be an in-person hearing at the Royal Courts of Justice, to be attended by the claimant and Counsel for the defendant. The case came before Linden J on 29 April. On that occasion, the defendant was represented by Ms Burnham. There was no attendance by the claimant. Linden J was in receipt of communications from the claimant, in which she indicated that she was unable to attend, owing to a requirement to isolate, as a result of the Covid 19 epidemic, prior to undergoing a medical procedure. Linden J adjourned the hearing; and in his order he stated that, at the adjourned hearing, the judge would consider:-

    (a) whether the claimant's renewal notice is in time and, if not, whether an extension of time should be granted;

    (b) whether permission to bring judicial review should be granted; and

    (c) whether a Civil Restraint Order should be made against the claimant.

2. It is also apparent from the reasons accompanying Linden J's order that he considered the claimant should bring with her to the adjourned hearing any further evidence to support her claim that she was unable to attend on 29 April, "as it will be relevant to the question of costs and, potentially, to whether a Civil Restraint Order should be made". He directed the claimant's attention to "Practice Direction 3C which provides guidance on Civil Restraint Orders".

3. An application for an anonymity order had been made by the claimant but was not addressed by Linden J, no doubt because of the claimant's non-appearance on 29 April. That application therefore remains live.

4. Accordingly, the issues before me are as follows:-

    (a) whether the notice of renewal is in time and, if not, whether time should be extended;

    (b) if so, whether permission to bring judicial review should be granted;

    (c) whether a Civil Restraint Order should be made against the claimant and, if so, what form that order should take;

    (d) the issue of costs in respect of the hearing on 29 April 2021; and

    (e) whether the claimant's identity should be protected by means of an anonymity order.

5. On 18 May, I heard the claimant in person and Ms Burnham for the defendant. Although their precise nature is of some dispute, the parties are agreed that the claimant has mental

health issues. I therefore treated her as a vulnerable party, giving her time to make her points and considering certain documentation, even though the same had not been properly filed and served. Overall, I gave the claimant such assistance as I considered to be appropriate and I am satisfied that she was able to engage fully in the proceedings. In this regard, it is relevant that the claimant is no stranger to litigation in the public law field. At the hearing, she was able to recite from memory various provisions of primary legislation, which she believes to be relevant to her.

6. Following the hearing, the claimant sent an email to the Administrative Court Office, copied to the defendant. In it, the claimant said that she "forgot to tell" the judge that "my case has relevance with the scandal of Jimmy Saville historic abuse allegations who only after he died he was exposed as an abuser and the public enquiry local authorities, from BBC to Parliament, from hospital to schools, etc all had colluded in keeping the lid on such crimes". The claimant said that the "same is happening in my case where all the agencies who owe to protect me and prevent wilful neglect and ill-treatment offences against NHS institutions and staff and social workers and to cooperate in an unlawful way in order to deceive or gain an advantage over me and the court, to keep a lid on such crimes, this is why there is no case law". The claimant said she had included information as to how she had requested a copy of a crime file relating to a judicial review brought by her in connection with an alleged incident on 16 June 2020, when the SW London and St George's Mental Health Trust "wilfully neglected not to offer me treatment for my severe levels of Complex PTSD". Since 1997, the claimant says that she has been forced to "live in the shadows of British society where my vulnerability has made me an easy target for wilful neglect and ill-treatment by NHS staff".

7. The present proceedings involve a challenge by the claimant to the defendant's decision of 8 July 2020 to refuse her request to carry out a safeguarding enquiry under section 42 of the Care Act 2014. Section 42 provides as follows:-

> "(1) This section applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there) –
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> (a) has needs for care and support (whether or not the authority is meeting any of those needs);
>
> (b) is experiencing or is at risk of abuse or neglect; and
>
> (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
>
> (2) The local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this Part or otherwise) and, if so, what and by whom."

8. The relevant factual background appears essentially to be as follows. A safeguarding referral by The Hestia Recovery Café ("HRC") was sent to the defendant's Mental Health Team on 22 June 2020, which was processed by the Mental Health Duty Team on 23 June. That team also received a self-referral from the claimant on 20 June. Two matters were reported by the claimant. The first concerned the claimant reporting to HRC that she had been victimised in the context of a GP appointment on 5 June 2020. The second related to a complaint about the behaviour of a nurse who undertook a mental health assessment of the claimant on that day. The 22 June referral did not disclose any

description of the nature of the incidents or treatment about which the complaint was made.

i) The 20 June referral was dealt with by members of the Richmond Mental Health Social Care Team and Safeguarding Adults Manager. They considered the information provided by HRC and concluded that the claimant did not appear to be at risk of abuse or neglect. In fact, the claimant had been recorded as having been insulting to HRC staff. The team concluded that no further enquiries pursuant to section 42(2) were required. A letter was sent to that effect to the claimant on 30 June. On 7 July 2020, the claimant spoke on the telephone with the defendant's Duty Safeguarding Adults Manager, who reiterated the conclusion reached in the letter of 30 June. The manager also concluded that no further enquiries pursuant to section 42(2) were indicated. He advised the claimant that she should initiate the NHS complaints procedure in relation to the incidents in question. The defendant wrote to the claimant on 8 July, confirming the information provided by telephone and also noting that since it was possible the claimant had care and support needs, the claimant's case would be allocated for an assessment of those needs. Having assessed them, the defendant concluded that these needs could be met by community resources. The defendant states, however, that the claimant has declined to avail herself of the relevant community provision.

9. The claimant submitted to the Head of Service and Assistant Director – Adult Social Care a complaint about the two letters received from the Mental Health Team. The complaint was determined at Stage 2 of the defendant's internal process. On 24 December 2020, the defendant wrote to the claimant stating that the complaints had been considered in respect of each of the letters to which I have made reference, but that those letters could not, in effect, be objectively faulted. The complaints were, accordingly, not upheld but the claimant was told that, if she was not satisfied with the response, she could complain to the Local Government and Social Care Ombudsman.

10. In his reasons for refusing permission on the papers, Holman J said that, although section 42(2) employs the word "must", it is otherwise very loosely textured, leaving a very wide discretion to the defendant to make whatever enquiries it thinks necessary to enable it to decide whether any action should be taken. Holman J considered that the enquiries made by the defendant, leading to the manager's letter of 8 July 2020, discharged that duty. Although the claimant disagreed with the defendant's decision, the court would not interfere in judicial review, given the nature of the discretion. In any event, Holman J considered that the claimant had a remedy through the complaints procedure and that the present claim was, at best, premature. The claimant had sought a stay of the judicial review, given that she had approached the Ombudsman. Holman J, however, declined to grant that stay. Paragraph 4 of Holman J's reasons reads as follows:-

> "4. I do not make a Civil Restraint Order on this occasion, but the claimant, who has now made numerous unsuccessful claims for judicial review, must take this as a clear warning that if she persists in making further unsuccessful claims against the local authority a Civil Restraint Order is likely to be made."

11. Under the heading "Notes for the Claimant" at the foot of Holman J's order, the claimant was told that if she requested the decision to be reconsidered at a hearing in open court under CPR 54.12, "you must complete and serve the enclosed Form 86B within 7 days

of the service of this order". There is no dispute that the order of Holman J was deemed served on 17 December 2020.

12. On 5 February 2021, it appears the claimant contacted the Administrative Court Office about her case. She was told that Holman J's order had been emailed to her on 15 December 2020. On 9 February 2021, the claimant filed a blank notice of renewal, along with an application for assistance with fees. On 17 February 2021, she submitted a notice of renewal which, this time, was filled in. The claimant stated the reason for the delay in requesting reconsideration was that she had been in Portugal between 14 December 2020 and 11 January 2021. She said that she was not aware that the email had been sent to her on 15 December.

13. The claimant expanded upon this explanation in her written submissions, and in her oral submissions on 18 May. According to the claimant, she decided to go to Portugal over Christmas and New Year 2020/2021, as she did not wish to become a burden on the Accident and Emergency Services during this period, given that Christmas is a very vulnerable time for her, as someone without any family or support. She therefore decided that "being away doing volunteering work" would help her to manage "the crisis, and prevent hospitalisation and profound suffering". Although the claimant says her anxiety is very high before she travels, she nevertheless managed to reach Portugal. Whilst "she is away she does not answer phones or check emails, in order to de-stress and reduce her anxiety". She stayed in Portugal with an acquaintance who did not know that the claimant "suffers from Complex PTSD or her traumatic existence in London. She is able to hide her symptoms and suffers in silence". During her time abroad, the claimant undertook volunteer work with children. After the claimant returned to the United Kingdom, she enquired about her judicial review application. The Administrative Court staff helped her by sending her a new Form 86B, which she returned to the court.

14. In determining whether to extend time and, thus, admit the renewal request, I must have regard to the extent of the non-compliance with the CPR, the explanation for it and the overall circumstances, including the substantive merits, insofar as these are very strong or, conversely, very weak. So far as the extent of the breach is concerned, it is of an extreme nature. The renewal notice was over a month late, even if one treats the "blank" notice of 9 February 2021 as relevant for this purpose. That is, on any view, a serious breach of the seven day time limit.

15. I find the explanation given by the claimant for the delay to be entirely unsatisfactory. She has considerable experience of bringing judicial review claims. She is aware of the requirement for oral renewal, where a claim is not categorised at the "paper" stage as being entirely without merit. Indeed, she told me that she has on other occasions decided not to make a request for reconsideration, having received the initial "paper" refusal of permission. There is no coherent explanation for why the claimant decided, during her time in Portugal, not to look at any emails. The fact that she may regard communications from the court as stressful has, as we shall see, in no sense deterred her from bringing judicial review proceedings, as a result of which the claimant knows the importance of official communications and deadlines. In any event, as Ms Burnham submitted, the claimant could and should have made arrangements for someone else to monitor her emails, whilst she was away. The claimant pleads that she is socially isolated; but she was staying with an individual during her time in Portugal.

16. Finally, I turn to consider all the circumstances. As I have already said, it is common ground that the claimant has mental health issues. She says that these comprised Complex PTSD, following traumatic experiences in 1997 when the claimant says she was the victim of a stalker, who even managed to visit her in hospital, where she was receiving treatment. Neither the police nor the medical professionals would believe the claimant, when she said that this individual (who appears to have been known to her) was stalking her for sexual purposes. The claimant told me that eventually the stalker was brought to justice and a restraining order made against him. He has subsequently died.

17. There is a lack of documentary evidence regarding this aspect of the claimant's history. The claimant has, however, produced a copy of a letter of 15 September 1999 from the Criminal Injury Compensation Authority, in which it is stated that, having considered the claimant's application for compensation, the authority had determined that she was entitled to a sum of £4,750.

18. For present purposes, I shall proceed on the basis that the claimant is correct in her account of these events of the late 1990s. It is plain that she regards them as having an extremely deleterious effect upon the course of her life thereafter. That is evident from her oral and written submissions, including the post-hearing submissions to which I have made reference. It is also evident from other judicial review proceedings brought by the claimant, to which I shall turn in due course. What is, however, unclear is the nature of the mental health problems from which the claimant suffers. Despite what I have said about the 1997 matter, it is unclear whether the claimant was subject to a mental health problem beforehand. Although she is adamant that her condition is one of Complex PTSD, the diagnosis she received from South West London and St George's Mental Health NHS Trust as recently as 18 June 2020 is one of "mixed and other personality disorders". What can be said with some confidence is that the claimant "did not in fact suffer manic depression (bi-polar effective disorder) or manic depressive psychosis at the time of or during her admission to hospital in February 1997". That was expressly acknowledged by the South West London and St George's Mental Health NHS Trust in case HQ06X02562, which was a claim for clinical negligence against the Trust brought by the claimant, which appears to have been dismissed (or otherwise discontinued) on 1 April 2011. The passage I have quoted comes from an order of Master Yoxall of 12 February 2013, whereby the Trust agreed to the insertion of the quoted passage, which was based on their independent expert who had been instructed in relation to the clinical negligence claim.

19. I do not find that the claimant's mental condition falls to be accorded significant weight in the overall decision I must make as to whether to extend time for the renewal request. Although her propensity for bringing judicial reviews against the defendant and others may be driven by her subjective mental state, as I have already indicated the claimant is well aware of the requirements of judicial review, including the seven day limit for making a renewal request. The reality of the matter is, I find, that the claimant simply chose to take a holiday in Portugal (albeit involving a voluntary service component), and to cease reading her emails during that time, in the full knowledge that she would thereby not be in a position to consider communications relating to the proceedings she had herself chosen to commence.

20. I turn to the issue of merits. This falls to be considered in the present context because I am firmly of the view that there are no substantive merits at all in the claim. Having listened carefully to the claimant, I find she has fundamentally misconstrued the nature

of the duty imposed upon the defendant by section 42 of the 2014 Act. I accept Ms Burnham's submission that the duty under section 42(2) to make "whatever enquiries it thinks necessary" arises in respect of a local authority only where, as provided in section 42(1), the authority has reasonable cause to suspect that an adult in its area has needs for care and support; is experiencing or is at risk of abuse or neglect; and as a result of those needs is unable to protect herself against the abuse or neglect or the risk of it. The word "reasonable" puts it beyond argument that the test is objective. Contrary to what the claimant plainly believes, the duty does not arise merely because she thinks it does. In the present case, the vagueness of the claimant's claims regarding the behaviour of NHS professionals in June 2020 could not, even arguably, have generated a reasonable cause for suspicion in the minds of the defendant's officers. In any event, I agree with Ms Burnham that if and insofar as section 42(2) might have been engaged, the defendant unarguably made whatever enquiries it considered were necessary to decide whether to take any action.

21. When asked at the hearing if she could give any further details as to the alleged actual or threatened ill-treatment, the claimant returned to the events of 1997. Although she was adamant that she was referring to those events only as an example of how she had not been believed in the past, the claimant was unable to explain to what her present allegations relate.

22. At the end of the day, the position of the South West London and St George's Mental Health Trust, as set out in the letter of 18 June 2020, is that the claimant does not present with any acute mental health or risk concerns that warrant crisis intervention. The letter states that the claimant has not benefitted from any interventions offered to her and, as such, there are no available suitable treatment pathways in the Trust. The claimant has been offered a service when in crisis and a GP could re-refer her if such a mental health crisis were to arise in the future. The claimant does not agree with these views. She considers that something more is needed. She is, however, completely unable to point to any objectively arguable error on the part of the defendant (or, I might add, of the Trust).

23. Before me, the claimant sought to rely upon a letter from the Mayor's Office for Policing and Crime ("MOPAC") dated 17 March 2021. This letter was in respect of a complaint made to the Metropolitan Police regarding alleged ill-treatment of the claimant by (it seems) NHS staff. The letter upheld the claimant's complaint but, importantly, only to the extent that MOPAC considered the Metropolitan Police had not sufficiently explained to the claimant how they handle and investigate complaints of ill-treatment and wilful neglect by NHS staff. That is very far from constituting an objective finding that there may have been such ill-treatment and wilful neglect, as arguably to have put the defendant in breach of its duties under section 42.

24. The claimant also contended that her human rights, in particular Article 3 of the ECHR, were violated by the defendant's decisions. There is no evidence whatsoever that the claimant has, even arguably, been subjected to inhuman or degrading treatment or punishment at the hands of the defendant or anyone else. The claimant also made reference to discrimination legislation; but, again, without showing any arguable basis for concluding that the defendant has behaved in a discriminatory manner towards the claimant, whether because of her Spanish nationality or otherwise.

25. Accordingly, viewing matters in the round for the purpose of my overall consideration of whether to extend time, I find there is no valid basis for extending the time for making the request for renewal. It follows that the judicial review application is dismissed.

26. I turn to the issue of a Civil Restraint Order. The claimant was specifically put on notice that the court would be considering this matter. She was first so informed in the order of Holman J and, subsequently, in the order of Linden J. In her supplementary skeleton argument, filed and served in connection with the hearing on 24 May, Ms Burnham specifically submitted that an Extended Civil Restraint Order was necessary and that a limited one, restricted only to the present proceedings, "would be of no use in preventing the claimant from issuing further unmeritorious claims in respect of the wrongs she fervently believes the defendant has committed against her for some two decades". In her written submissions the claimant engages in detail with the question of whether a Civil Restraint Order should be made. At paragraph 35, the claimant notes that under CPR 31 the court "could make a limited Civil [Restraint] Order in [these] proceedings". The claimant's case is that her mental symptoms have improved since she issued the present claim and that her last judicial review was not found to be totally without merit. The issue of whether I should make an Extended Civil Restraint Order is, thus, squarely before me and I heard oral submissions from the claimant and Ms Burnham in respect of it. In reaching my decision, I have had full regard to CPR 3.11 and PD 3C; I have also had regard to the guidance in Sartipy v Tigris Industries [2019] 1 WLR 5892.

27. The threshold requirement for an Extended Civil Restraint Order is proof that the party against whom it is sought "has persistently issued claims or has made applications which are totally without merit" (PD 3C para 3.1). Proof of three such unmeritorious claims or applications is the minimum needed in order to constitute persistence. The restraint imposed by an Extended Civil Restraint Order affects claims and applications "concerning any matter involving or relating to or touching upon or leading to the proceedings in which that order was made" in any court identified in the order. Such an order made by a High Court Judge may restrain the issuing of claims or the making of applications in the High Court or the County Court.

28. In its summary of Sartipy, the White Book notes that, if an earlier claim issued by the person concerned was, itself, totally without merit and if individual applications made within that claim were also totally without merit, there is no reason why both the claim and individual application should not be counted for the purpose of considering whether to make an Extended Civil Restraint Order in the course of a subsequent claim. Whilst at least three claims or applications are the minimum required for the making of such an order, the question still remains whether the person concerned is acting "persistently". That requires an evaluation of the party's overall conduct; and it may be easier to conclude that a party is persistently issuing claims or applications which are totally without merit if he or she seeks repeatedly to re-litigate issues which have been decided, than if there are three or more unrelated applications many years apart. The last situation would not necessarily constitute persistence. Finally, when considering whether to make an Extended Restraint Order, the court is entitled to take into account any previous claims or applications which it concludes were totally without merit and is not limited to claims or applications which were so certified at the time: R (Kumar) v Secretary of State for Constitutional Affairs [2006] EWCA Civ 990.

29. In CO/2683/2003, the claimant brought a judicial review against the Richmond and Twickenham NHS Primary Care Trust, seeking permission to challenge an alleged failure

to provide her with proper care consistent with her clinical needs, requesting a mandatory order directing the defendant to refer the claimant to the Priory Hospital for treatment and to fund private treatment for her there. The claim was subsequently withdrawn.

In CO/2037/2004, the claimant brought a judicial review against the same PCT, seeking permission to challenge its decision "to force her to use the Primary Extra Service despite this decision being flawed and detrimental to her health". The claim was subsequently withdrawn.

30. In CO/00327/2005, the claimant brought a judicial review against the Healthcare Commission and the South West London Strategic Health Authority. On 28 October 2005, Wilkie J refused permission, stating that the application was totally without merit. The TWM decision followed a renewed oral permission hearing. In those proceedings, the claimant contended, amongst other things, that there had been a breach of Article 6 of the ECHR in that she had not been able to obtain legal representation. In the present proceedings, the claimant complains about what she described as an inequality of arms, because no legal aid solicitors would take her case. They had, it seems, rejected her out of hand. This is, I consider, a further instance of the claimant's inability to grasp the fact that, despite her own subjective assessments, her claims have no objective merit.

31. In CO/6348/2013, the claimant brought judicial review against the General Medical Council, challenging a decision of the Council's Assistant Registrar to close a complaint made by the claimant about a psychiatrist. The application was refused on the papers by Saunders J on 13 August 2013. He recorded that the case was "considered to be totally without merit". The claimant later obtained an anonymity order in respect of those proceedings, following an oral re-consideration hearing before Devinder Gill, sitting as a Judge of the High Court. She also refused the application for permission.

32. In CO/203/2014, the claimant brought judicial review against the Richmond upon Thames Borough Council in respect of a decision not to provide the claimant with direct payments in order to fund services to meet community care needs. The claimant had previously been in receipt of payments to fund activities of her choice, for the purpose of aiding her mental health recovery. These activities included membership of a sailing club, sailing courses, employment training and law courses. Following review, the defendant decided that payment for such activities was not supporting the claimant's recovery. It was also decided not to fund the claimant's membership of a gym. In its acknowledgment of service, the defendant said that during the last seventeen years, the claimant had made almost continuous allegations of ill-treatment. Permission was refused on the papers by Nicol J on 17 February 2014. He considered that the application had not been brought promptly, being only two days short of the three month period set by the CPR. The claimant had not made use of an alternative remedy in the form of a complaint to the Local Government Ombudsman. In any case, the claimant had no arguable basis for submitting that the decision of the defendant was unlawful. There was "no basis for seeking judicial review".

33. In CO/3694/2014, the claimant applied for permission to bring judicial review against the London Borough of Richmond upon Thames and the Local Government Ombudsman. Her application was refused on the papers by his Honour Judge Bidder QC, sitting as a Deputy High Court Judge. He found the application was totally without merit. He held there was "ample evidence for [the London Borough of Richmond Upon Thames] to conclude that it was not established that the claimant had sustained a

potentially life threatening injury through abuse or neglect. No other ground for ordering a serious case review was remotely arguable. It is not arguable that the First Defendant's decision was unlawful". The judge also held the contention that the claimant was victimised and discriminated against and that her Convention rights were breached were "unparticularised, confused and unarguable". Furthermore, the claim for review against the first defendant's decision was out of time and there were no sufficient grounds for extending time. Finally, the first defendant's internal complaints process provided an adequate alternative remedy. The claim against the second defendant [the LGO] was wholly unparticularised.

34. The claim in CO/3694/2014 is, thus, similar in a number of material respects to the present judicial review.

35. In CO/6067/2016, Karen Steyn QC, sitting as a Deputy High Court Judge, refused the claimant permission to bring judicial review against the London Borough of Richmond upon Thames, categorising the application as totally without merit. The nature of this claim was also very similar to that of the present one. According to the Deputy Judge's reasons, the claimant described her concerns as relating to a period from May 2015 but, when asked to set out her safeguarding concerns, she made no reference to any specific event that had occurred within that timeframe. "The only specific event she mentioned dated back to 1997". The local Government Ombudsman had detected no fault in the way the defendant had dealt with the claimant's request. The Deputy Judge considered that the claim before her was in essence a repetition of her earlier unsuccessful claim.

36. Notwithstanding Karen Steyn QC's rejection of the application, the claimant sought permission to appeal to the Court of Appeal. On 15 November 2018, Newey LJ refused permission, holding that the appeal had no real prospect of success and there was no other compelling reason to hear it. Newey LJ held the Deputy Judge had been right to find that the challenge to the defendant's decision was without merit; and that the court had already considered, and rejected, a similar claim. Having regard to the guidance in Sartipy, it is relevant that the claimant insisted on taking this challenge to the Court of Appeal.

37. In CO/1625/2018 the claimant brought judicial review against the Commissioner of Police and the Metropolis. In 2017, the claimant attended Twickenham Police Station to lodge a complaint against a General Practitioner in Chiswick, contending that she was being woefully neglected and an appropriate referral was not being made for her to receive the treatment she said she required. The police concluded that no offence had taken place. The claimant lodged a complaint with the Director of Professional Standards at the Metropolitan Police. Permission was refused on the papers by Jonathan Swift QC, sitting as a Judge of the High Court, on 5 June 2018. He found that the application for judicial review was premature because the claimant should await the outcome of the complaint she had made to the Director of Professional Standards of the Metropolitan Police. The Deputy Judge also concluded that the claim was not, in any event, arguable. In the light of the position taken by the defendant in the pre-action correspondence "the claimant ought to have realised that there was no need to issue the present proceedings". At an oral renewal hearing on 3 July 2018, Upper Tribunal Judge Markus QC, sitting as a Judge of the High Court, refused permission.

38. In CO/2771/2019, the claimant sought permission to bring judicial review against the Commissioner of Police and the Metropolis and the Independent Office for Police

Conduct. Permission was refused on the papers by Ms Margaret Obi, sitting as a Judge of the High Court. She also declared the application to be totally without merit. The impugned decisions "were that the allegations of crimes committed by [the claimant's] care providers and GP in not referring her for treatment fast enough should not be investigated". Here also, there are material similarities with the present proceedings, which also stem from unparticularised and unsubstantiated allegations against staff acting in similar capacities. At paragraph 6, the Deputy Judge held that the claimant ought to have realised, based on her previous JR application made with regard to her dissatisfaction with her mental health care, that such complaints should be raised and dealt with under the complaints procedures that govern healthcare.

39. In oral submissions, the claimant accepted that she had brought "a lot of judicial reviews". She seemed to ascribe this to her disability and to the fact that she had not been believed in 1997, when she complained about the stalker.

40. The claims that have been judicially categorised as totally without merit are CO/00327/2005 (Wilke J, on oral renewal); CO/6348/2013 (Saunders J, on the papers); CO/3694/2014 (HHJ Bidder, on the papers); CO/6067/2016 (K Steyn QC, on the papers); and CO/2771/2019 (M Obi, on the papers). I have regard to the passage of time between 2005 and 2013, some 8 years, in which it does not appear that the claimant brought claims that were found to be totally without merit. I also have regard to the fact that Wilkie J made his pronouncement at the oral renewal stage and that, for some reason, despite Saunders J's categorisation of the claim, the claimant seems to have been able to renew her application orally. The fact remains, however, that Wilkie J and Saunders J made the findings they did. Even erring on the side of caution so as to begin the analysis with CO/6348/2013, the claimant has brought claims that have been found to be totally without merit on four occasions between 2013 and 2019. Furthermore, I consider that the claimant's unsuccessful application to the Court of Appeal in CO/6067/2016 falls to be treated as totally without merit.

41. The subject matter of the claims that have been adjudged to be totally without merit, beginning in 2013, is very similar, displaying the claimant's extreme propensity to litigate whenever a public body fails to react to her demands in the way she wants; and to make unparticularised complaints about the actions of health professionals. Although there was no totally without merit designation in CO/203/2014 and CO/1625/2018, the claimant can, in my view, be said to have been fortunate in that regard. Be that as it may, I am fully satisfied that, beginning in 2013, the claimant has persistently issued claims, mentioned in paragraph 40 above, that are totally without merit.

42. The claimant is, in my view, deserving of some sympathy. As I have indicated, I am prepared to accept that she was subjected in 1997 to the unwanted attention of a stalker and that, for a time at least, she may not have been believed by those responsible for her protection and welfare. She presents as both intelligent and articulate. She is, however, regrettably unable to restrain herself from bringing entirely meritless claims regarding the way in which her health issues are handled by the defendant and others. The claimant told me that she felt safe in the environment of a court. There is, I find, a possibility that bringing legal proceedings may operate to ameliorate, to some extent, the frustration she feels as a result of being unable to make others reach the same conclusions that she has reached about her experiences and needs. The inescapable fact, however, is that the claimant's propensity to litigation in this area has occasioned the expenditure by the defendant and other public bodies of time and money, which manifestly could have been

better spent. By the same token, the resources of the High Court are not without limit and time spent on entirely unmeritorious applications is time not spent on those which may have some merit.

43. I do not accept the claimant's assertion that, even if she should not have brought the present claim, any Civil Restraint Order should be limited to the present proceedings. The pattern of her behaviour makes it unarguable that, unless an extended Civil Restraint Order is made, there is a great risk that she will bring further meritless applications. The claimant's post-hearing submissions serve only to reinforce this concern.

44. For these reasons, I have decided to make an extended Civil Restraint Order in respect of the claimant.

45. As for the costs of the hearing of 29 April 2021, Ms Burnham did not press me to make an order in her client's favour, were I minded to make an Extended Civil Restraint Order. Although there is no formal connection between the two, I can understand the defendant's pragmatism in this regard. I make no order as to the costs of that hearing. I also note that the defendant's acknowledgement of service does not seek the costs of preparing that document and the summary grounds; and that no order for costs was made by Holman J. Nor was any application made for the defendant's costs in respect of a hearing of 18 May.

46. The final matter is the issue of anonymity. In some of the previous proceedings the claimant was granted anonymity. In the present case, the claimant seeks anonymity, lest she be subjected to what she categories as shame and distress. Ms Burnham opposes that application. In her skeleton argument of 26 April 2020, which appears to have been before Linden J, Ms Burnham points out that CPR 39.2(1) reflects the fundamental principle of open justice. An anonymity order made pursuant to CPR 39.4 gives the court power to "order that the identity of a party … must not be disclosed if it considers non-disclosure necessary in order to protect the interests of that party or witness". It was, however, established in R (C) v Secretary of State for Justice [2016] 1WLR 444 that there is no presumption of anonymity, even for patients detained under the Mental Health Act 1983. In R (C) the court also distinguished between ordinary civil proceedings, in which a patient subject to the Mental Health Act 1983 might be involved, and proceedings specifically concerned with the deployment of compulsory powers under that Act. In cases truly concerned with the detention, care and treatment of those with mental disorders who are subject to compulsory powers, the starting point is anonymity/privacy. That principle may, however, be departed from. At paragraph 36, the court held that in ordinary civil proceedings, even those in which a person who is a mental patient is involved, "the public has a right to know not only what is going on in our courts, but who the principal actors are".

47. In the present case, the claimant is not a patient within the meaning of the 1983 Act. The present proceedings are, I consider, in the nature of ordinary civil proceedings, as identified in R (C). There is a public interest in favour of affording the public the opportunity to be informed of the claimant's repeated unsuccessful attempts to pursue entirely unmeritorious litigation. Furthermore, there is a particular and obvious public interest in knowing the identity of those who have been made subject to Extended Civil Restraint Orders.

48. The fact that, in several of the previous sets of proceedings, there has been no anonymity order and that in the present proceedings neither Holman J nor Linden J has seen fit to

impose such an order, are also matters to which I have regard. I am not aware that the claimant has suffered in any material respect hitherto as a result of the fact that certain of the claims she has chosen to bring have not been the subject of anonymity. It appears that the claimant's reluctance to be named in the present proceedings is because she does not wish to be identified as a person against whom a Civil Restraint Order has been made. As I have said, however, there is a strong public interest pulling in the opposite direction on precisely this issue. Balancing the claimant's legitimate interests against the public interests in open justice I have concluded that it is not appropriate to make an anonymity order.