



Neutral Citation Number: [2025] EWHC 195 (KB)

Case No: QB-2022-001002

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 31st January 2025

Before :

MR JUSTICE SWEETING

Between

GIJSBERT LUCAS VAN BUUREN

Claimant

- and -

- 1. THE CHIEF CONSTABLE OF
CAMBRIDGESHIRE CONSTABULARY**
- 2. THE CHIEF CONSTABLE OF HERTFORDSHIRE
CONSTABULARY**
- 3. THE CHIEF CONSTABLE OF BEDFORDSHIRE
CONSTABULARY**
- 4. THE INDEPENDENT OFFICE FOR POLICE
CONDUCT**

Defendant

s

George Thomas (instructed by **Weightmans LLP**) for the **1st, 2nd and 3rd Defendant**

Mark Thomas (instructed by **The Independent Office for Police Conduct**) for the
4th Defendant

Hearing dates: 25th April 2023

Approved Judgment

This judgment was handed down remotely at 14:00pm on 31st January 2025 by circulation to the parties or their representatives by email and by release to the National Archives

Introduction

1. Mr Van Buuren (“the Claimant”) was seriously injured in a road traffic accident and brings a claim against a number of defendants.
2. The first defendant (“D1”) is the Chief Constable of Cambridgeshire Constabulary. The second defendant (“D2”) is the Chief Constable of Hertfordshire Police. The third defendant (“D3”) is the Chief Constable of Bedfordshire Police. The fourth defendant (“D4”) is the Independent Office for Police Conduct (“IOPC” - previously the Independent Police Complaints Commission).

Applications

3. D1, D2, D3 have made application to strike out the claim because, they say, it is,
 - 1) time barred;
 - 2) discloses no reasonable grounds for bringing the claim (in that no complete cause of action is pleaded);
 - 3) an abuse of process or otherwise likely to obstruct the just disposal of the proceedings and;
 - 4) the Claimant has failed to comply with court orders.
4. D4 also seeks an order striking out the Claimant’s case pursuant to CPR 3.4, and in the alternative an order for Summary Judgment pursuant to CPR 24.2 because:
 - 1) the Particulars of Claim do not set out reasonable grounds for bringing a claim against D4; and/or
 - 2) the statement of case is an abuse of the court’s process or is otherwise likely to obstruct the just disposal of the proceedings; and/or
 - 3) there has been a failure to comply with a rule, practice direction or court order.
 - 4) Alternatively, the Claimant has no real prospect of succeeding in his claim against D4, and there is no other compelling reason why the case should be disposed of at trial.
 - 5) In the alternative Summary judgment should be entered against the Claimant on the whole or part of his claims against D4 pursuant to CPR 24.2.
5. The Claimant in turn seeks to strike out the defences of D1-3 and seeks summary judgment against all Defendants on the basis that they have no prospect of defending the claims.

The Hearing

6. The Claimant is a litigant in person. Prior to the hearing he was asked whether he had any particular vulnerabilities which the court needed to consider. He answered in the affirmative, identifying psychiatric illness and other consequential conditions which he indicated would impair his ability to attend at court and might prejudice his participation in the hearing. To minimise these adverse effects, he proposed that he attend the hearing

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remotely. I acceded to that request but, on the day of the hearing, the Claimant appeared in person.

7. Although the Claimant indicated that in recollecting the factual events which form the background to his injuries and their aftermath, he was he likely to become emotional or angry he was in fact able to present his case cogently and without the interruptions which he had anticipated might occur. He had also prepared a well thought out and complete bundle of documents. Although I gained the impression that he was at times emotionally labile I was satisfied at the outset of the hearing (from discussion with the Claimant) and throughout that he had capacity and was able to represent himself. He was offered breaks whenever he felt that he required them. I should also record that Defence counsel presented their applications in a sensitive manner.

Summary of the Claim

8. On 28th August 2013, while cycling on Glebe Way in Histon, Cambridge, the Claimant came off his bike. Although he was not aware of how the accident had occurred at the time, he now alleges that the accident was caused by a motorist referred to as "DG" who struck his bicycle. An independent witness named Lynn Coleman ("LC") was present at the scene. The Claimant suffered a head injury that caused him to lose consciousness for 31 minutes and has no memory of the accident. Two police officers from D1's force, namely Police Constable Kenneth Telfer Moffat ("KM") and Police Constable Judith Reeves ("JR") arrived at the scene. The Claimant asserts that, taking advantage of his unconscious state, D1's police officers "eliminated" LC as a witness, collaborated with and exonerated DG, and tampered with evidence.
9. The Claimant was taken to hospital in a police car, but it is alleged, due to the actions of the police, the severity of his injuries was not immediately recognised. The Claimant alleges that, although medical personnel noted no abnormalities after his arrival at the hospital, he later collapsed and was moved to the resuscitation unit. He argues that if the police officers had not interfered, medical personnel would have promptly diagnosed his ruptured spleen and treated him accordingly. He asserts that the attending police officers and their control room senior officer had formed the intention to kill him and sought to do so because of a shared hatred of cyclists.
10. In October 2013, the Claimant was informed by D1/D2's Collision Investigation Unit that no further action would be taken regarding the accident. The Claimant alleges that D1's and D2's employees had conspired to falsify the investigation into the collision. He claims that D1 created a false report concluding that his injuries resulted from a self-induced fall from his bicycle. Furthermore, he claims that D2 falsified investigation reports to support D1's dishonest account of events.
11. Upon discovering what he believed to be dishonesty in the police reports, the Claimant initiated his own investigation, including submitting multiple requests under the Data Protection Act. He developed PTSD and experienced income loss. In August 2014, the Claimant filed a complaint against D1 pursuant to the Police Reform Act 2002. He claims

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that, in 2015, officers from D1, D3, and D4 conspired to falsify the investigation of his complaint to cover up the false version of events presented by D1.

12. Through Data Protection Act requests, the Claimant obtained over 300 documents, including, in 2017 (over three years after the collision), contact information for LC. As a result of obtaining documents in this way the Claimant asserts that he uncovered conspiracies between the various defendants and his rights of action against each of them. He also claims to have discovered that he had sustained undiagnosed and untreated psychiatric injuries. He contends that PTSD disturbances including suicidal thoughts led to the collapse of his professional and personal relationships. He claims to have developed, amongst other conditions, sleep-wake disorders, panic disorder, and parasomnias. He believes that the stress of these events was also a factor in his father's suicide in 2019. He claims that his career came to an end and that he became unemployable due to his injuries and illnesses. His relationships with his friends and family have also been seriously affected by his fragile mental health.
13. The Claimant filed his Claim Form on 29th March 2022. The sole cause of action now pursued is misfeasance in public office against all four defendants. He is seeking £4.8 million in damages, including special damages for personal injury, aggravated and exemplary damages, and an account of the defendants' allegedly unlawful gains.
14. The Claimant was anxious, at the hearing, that the basis of his claim should not be mischaracterised. Although I have summarised it (above) for the purposes of this judgment, I note that the Claimant himself provided a summary of the background, as he alleged it to be, in a letter dated 8th February 2022 to a Dr Robinson whom he was seeking to persuade to act as witness. The letter is a more succinct and narrative account than that set out in his witness statements and makes reference to further alleged conspiracies between the Defendants. The Claimant's account in the letter was:

“While riding my bicycle on a public road on 28 August 2013, I was intentionally struck from behind by the motorist DG. I was thrown over my bike and landed on the road surface with my helmeted head and the left side of my body. The impact rendered me unconscious for a period of 31 minutes. To this day, I have no recollection of any events during this time. The impact also caused rupturing of my spleen and various other injuries. Police officers of Cambridgeshire Constabulary ("D1") chanced on the scene 7 minutes after the collision. An independent witness LC immediately briefed them. In their assured belief that I was too severely injured to witness events or intervene, the officers eliminated LC, collaborated with the offender BS to falsely brief the East of England Ambulance Service ("EA"), summarily exonerated DG and BS and destroyed collision evidence. Having unlawfully seized control of the scene and case, the officers entered into an agreement with the most senior serving employee in D1's communications control room to attempt my death. To this end, police radios were switched off and private mobile phones were used for covert communication. The above malicious acts were motivated by shared hatred of cyclists as a group to which the antagonists believed I belonged...

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D1 subsequently falsified its report into the collision. It claimed that I had inflicted injury on myself by falling off my bike and that DG had witnessed this. To this end, D1 fabricated DG's witness statement. The report eliminated the independent witness LC and all offenders. D1 exploited my unconsciousness and the destruction of evidence to make elaborate false statements. D1 subsequently entered into an agreement with Hertfordshire Constabulary ("D2") to falsify a mandatory technical and criminal investigation into the collision. As part of this, D1 briefed D2 on their wrongdoing and fraud. D2 then summarily approved D1's findings, barred criminal prosecutions of DG and BS, eliminated all liabilities for damage and buried the fabricated witness statement. Following a Subject Access Request to D1, D1 and D2 collaborated to provide a heavily redacted version of D1's collision report. On detection of wrongdoing, I began a process of legal discovery that continues to date, including numerous further requests under the Data Protection Act. All Defendants identified in this letter used unlawful means to undermine these efforts. Two-and-a-half months after the collision, I developed the first diagnostic features of PTSD. With reference to DSM-5, these were avoidance conduct and, a month later, arousal and intrusion features. In January 2014, I first consulted the Practice with relevant symptoms. I had no contemporaneous knowledge or belief of PTSD...

In 2014, I made a complaint to D1 under the Police Reform Act 2002. In 2015, D1 entered into an agreement with Bedfordshire Police ("D3") and the Independent Police Complaints Commission ("D4", now IOPC) to falsify an investigation into this. In doing so, all criminal prosecutions were eliminated. Numerous offending employees of the Defendants were later forced to resign and remain free. The primary objective of the agreement between D1, D3 and D4 had been to minimise their greatest residual risk: my discovery of any civil liability and the bringing of a claim. To this end, D1, D3 and D4 entered into an agreement to cause psychiatric injury to me. They calculated to repeatedly exploit existing injuries, create false narratives, fabricate, destroy and conceal evidence and attack my credibility. By May 2014, I exhibited all the diagnostic features of PTSD. Of particular note were its progressive effects on relationships. I had developed intense feelings of anger, horror, distrust and human detachment. I routinely had angry outbursts at people I dealt with. This was exacerbated by the disbelief of my then unproven allegations expressed by family members and solicitors. By 2015, my injury-induced conduct had caused the collapse of my personal relationships with all friends, business associates and colleagues...

To date, 52 firms of solicitors and barristers chambers have been consulted. Even after sufficient legal discovery, all disbelieved my allegations and declined representation. This is not uncommon in cases involving outrageous conduct and high-handed defendants."

15. The Claimant's summary of his claim, at paragraph 2 of his skeleton argument for the hearing before me, under the heading "Synopsis of Case," is as follows:

"2.1.1 The essence of this claim is concerted and protracted abuse by 4 holders of public office.

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2.1.2 D1 attempted C's death following serious personal injuries sustained in a malicious road traffic collision. This attempt was motivated by hatred of cyclists as a group to which C was perceived to belong.

2.1.3 Following the failure of the murder attempt, D1 caused aggregated and further loss to C that is actionable in civil law.

2.1.4 D2, D3 and D4 variously conspired with D1 to enhance and aggravate C's losses over a period of almost 9 years.

2.1.5 C's losses include longstanding, ongoing and untreated psychiatric illness with high associated suicide risk.

2.1.6 Each Defendant is held liable in misfeasance in public office. D1, D3 and D4 are jointly and severally liable in the same loss to C.

2.1.7 C seeks damages of £4.8m including exemplary and aggravated damages. C additionally seeks accounts of the Defendants' unlawful gains and their disgorgement to charity.

4.1.8.2 The Defendants' concerted and protracted abuses are so outrageous that they have been consistently disbelieved by all medical and legal professionals. The majority of personal injuries caused, including psychiatric illness, remain undiagnosed and untreated to date."

16. Counsel for D1-3 helpfully, and in my view accurately, reduced the Claimant's overall case to the following factual propositions:
17. On the day that he was injured, D1's officers/staff attempted deliberately to delay his arrival at hospital in order to kill him (i.e. attempted murder);
18. D1's officers deliberately falsified the record/ investigation of the incident to conceal the existence of a collision between a motor car and the Claimant's bicycle which knocked him off his bicycle; and
19. Subsequent actions by D1-D4 have knowingly (and in bad faith) continued to conceal the truth of the initial collision and/or the falsified investigation.
20. The Claimant has filed two witness statements in response to the applications. In his first witness statement of the 18th of November 2022, under the heading "basis of action", the Claimant says "Each defendant is liable in the tort of misfeasance in public office. The damage caused is personal injury." His Particulars of Claim essentially plead the same cause of action, although at great length.
21. The Claimant's second witness statement has three exhibits: GLvB1, GLvB2, and GLvB3, which are relied upon as evidence to support his claim of misfeasance in public office.
22. Exhibit GLvB1 includes a witness statement which the Claimant alleges was fabricated by one of the attending police officers, JM, and falsely attributed to DG, the individual the Claimant alleges collided with his bicycle. The statement was made using a standard police

form, apparently sent to the witness, which poses a series of questions relevant to a road traffic accident that may have involved a collision. The first, and rather slim, reason for suggesting fabrication is that, at paragraph 9, the statement refers to the cyclist requiring hospitalisation, a feature of the incident which the Claimant suggests the witness could not have been aware of. Although the witness's personal details have been redacted, the date on which the statement was made appears to be the 1st of September 2013, a few days after, rather than on, the day of the accident.

23. There is a further and more developed basis for suggesting that the statement is not authentic which arises by reason of the accident investigation report (“the collision report”) which is also within Exhibit GLvB1. The author of that report is KM, although it also includes a note from JR giving a short account of the Claimant’s condition after the accident which is silent as to the presence or involvement of any members of the public and other drivers. The report includes sections in relation to individual witnesses which have been redacted to remove their names and personal details. However, the first section must apply to DG and states “see pro forma statement” and “statement received”. The main body of the report appears to have been filled in by KM as the reporting officer. The Claimant produced a comparison document of handwriting samples from the witness statement attributed to DG and KM’s handwriting from the collision report. He copied 18 graphic selections of handwriting from each document and pasted the 36 selections side-by-side in two columns asserting that they were close to identical and arguing that the probability of two random individuals having such similar handwriting is “infinitesimal”. The Claimant’s analysis therefore suggests, if correct, that the witness statement attributed to DG was written by KM. For my part I would observe that KM has very distinctive capitalised handwriting and that a comparison between the two documents would indeed suggest to the reasonable reader, as the Claimant argues, that they may have been completed by the same individual.
24. As far as the remainder of the collision report is concerned it asserts that there were a further two potential witnesses, in addition to DG, neither of whom witnessed the accident. That is confirmed explicitly later in the report where it is stated that there were no independent witnesses to the incident. In context that must mean “other witnesses” since the statement from DG contains at Section 3 what reports to be an eyewitness account of how the accident occurred which is referred to and repeated in the collision report. The conclusion of the report is that the Claimant was going too fast on his bicycle for the conditions, lost control and was responsible for his own injuries so that no further police action was required. That can only have been based on the evidence attributed to DG. The final paragraph of the report says “extensive inquiries have been made regarding any witnesses to the incident, this is negative.”
25. D2 and D3 became involved in the case because by November 2011, D1’s Professional Standards Department (PSD) had become a collaborative function of D1, D2, and D3. Similarly, in April 2013, the Collision Investigation Unit (CIU) became a joint function, with D2 predominantly staffing the unit and hosting it at their Stevenage premises pursuant to S22A of the Police Act 1996. D2 investigated the collision and produced a report.

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26. The Claimant alleges that D2 conspired with D1 to falsify its investigation into the collision. The Claimant alleges that D2's report substantially replicated statements from D1's report and concealed the witness statement fabricated by KM.
27. In November 2014, a mandatory referral of the Claimant's complaint was made to D4. D4, under the provisions of the Police Reform Act (PRA) 2002, determined that D1 would be the "appropriate authority" for a "local investigation" of the complaint, allowing for a right of appeal to D4. A report of the investigation into the complaint was provided to the Claimant on 31st March 2015.
28. The Claimant alleges that D3 (specifically, detective superintendent Mark Hodgson) conspired with D1 and D4 to falsify the investigation into his complaint. In April 2015, the Claimant submitted a 14-page appeal letter to D4, including medical records. D4 assigned Emma Byrne (EB) to assess the appeal. The Claimant alleges that EB was part of a conspiracy to falsify the assessment. Ultimately, D4 dismissed the appeal, upholding the findings of the local investigation. This marked the end of D4's direct involvement in the initial stages of the complaint.
29. The Claimant further alleges that in 2016, D1, D2 and D3 collaborated to provide a heavily redacted version of D1's collision report in response to a subject access request. The Claimant argues that D1, D2 and D3 used unlawful means to undermine his efforts to find out what had taken place.
30. The Particulars of Claim assert that in 2018, D1-3's information access department became a collaborative function provided by D3 at cost to D1 and D2. The Claimant alleges that D3 committed further torts by unlawfully redacting D2's report and concealing evidence of wrongdoing.
31. Exhibit GLvB2 contains several versions of the further collision report prepared by D2, with different redactions. The Claimant argues that the redactions in the report, which were made by D1 and D4, show that these defendants are deliberately concealing evidence of wrongdoing. The Claimant also draws attention to an entry in the D2 electronic collision report, dated 15th October 2013, which indicates that the decision was made to take no further action because there were no witnesses. The Claimant suggests that this is evidence of misconduct and concealment of evidence. Exhibit GLVB2 also includes correspondence from D4 relating to the Claimant's complaint, including a letter in which D4 dismisses his appeal. One version of the collision report was unredacted (perhaps in error) to the extent that it gave the address of an "Other Person Involved" which proved to be the home address of LC.
32. The conclusions which the claimant draws in relation to D2's collision reports and the subsequent role of D3 and D4 from this material appear to me to be speculative, contentious and not founded on any reasonable analysis of the documents. They assume rather than prove the conspiracies that the Claimant says must have existed. As the Claimant says in his witness statement D2's report substantially replicated statements from D1's report. This was inevitable. As the Claimant was informed, D2's "Camera, Tickets & Collision Unit" had *reviewed* the available evidence which came almost entirely from the material

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generated by the police officers who had attended at the scene. There were no cameras recording footage of the incident or an account from the Claimant and, on the face of the initial collision report, no witnesses who contradicted the version of events said to have given by DG. The same observations might be made in relation to D4's role and the outcome of the investigation into the complaint. As the Claimant acknowledges in his 2nd Witness statement the conduct alleged against D2, D3 and D4 would have involved them in taking "immense objective risks in committing to further D1's tortious and criminal acts by similar acts of their own".

33. Exhibit GLvB3 contains selections from the Claimant's s medical records. They establish that he suffered a splenic rupture that was not diagnosed until more than five and a half hours after the collision. They also evidence the undisputed fact that he arrived at the hospital by police car and that he underwent emergency surgery. The Claimant accuses the police officers who brought him of deliberately delaying his transport to the hospital with intent to cause his death, amounting to attempted murder. The other way in which the evidence could be viewed is that, having waited for some time for an ambulance to arrive, the police officers took it upon themselves to take the Claimant to hospital because they were concerned for his welfare, had noted that he had a head injury and were worried about the elapse of time. This is not the interpretation which the Claimant places on events but it seems to me to be the more likely reason, and it is the Defendants' pleaded case based on what is said in the Collision Report, as to why, despite an ambulance having been called, the Claimant arrived at hospital in a police car.
34. There is no medical evidence to suggest any causative link between delay in taking the Claimant to hospital and the onset of significant symptomology or the emergency treatment required for his injuries. There is, equally, no medical evidence to support a diagnosis of psychiatric illness which he refers to as "undiagnosed and untreated to date". His Particulars of Claim contain what is referred to as a "diagnostic self-assessment".
35. The exhibit, GLvB3 also includes a letter from his GP in which his GP confirms that he could not act as an expert witness. This followed a consultation by telephone which the Claimant had recorded and transcribed. The Claimant characterises his GP's refusal to assist as an example of "belief bias". This is indicative of the Claimant's overall approach to any suggestion that his allegations are irrational or unsubstantiated.
36. As referred to earlier the Claimant learned of LC's address through the second disclosed version of a police collision report. This version of the report was disclosed to the Claimant by Kathleen Love of D1 on 5th April 2016. The original report, which the Claimant had previously received, had redacted the address of the third "other person involved".
37. As a result of obtaining LC's address, the Claimant visited her home and conducted a covertly recorded interview with her on 10th January 2017. The interview was conducted in the presence of her husband James Coleman and her son Scott Coleman, who also made verbal statements. The Claimant transcribed the interview himself. The Claimant argues that LC's account provided the necessary evidence of damage, causation, and bad faith to support his claim of misfeasance in public office against D1 and that the discovery of his

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rights of action against D2, D3 and D4 were entirely dependent on the emergence of a basis for a claim against D1.

38. The Claimant had not produced the recording of the transcript as part of the material on which he relied at the hearing. Had he been legally advised and represented he would almost certainly have done so and for that reason I adjourned the hearing giving him permission to serve a further witness statement exhibiting the recording and the transcript.
39. On 3rd May 2023, the Claimant filed a witness statement exhibiting a transcript and digital copy of the interview with LC. The Defendants filed submissions in response to this further evidence.
40. The key fact revealed in LC's interview is that she witnessed the Claimant being hit by a car which she describes as going "pretty fast" and having "clipped" the Claimant's bicycle. LC states that she was driving directly behind the car that hit the Claimant and saw the entire event. This contradicts the conclusion in the collision report that the Claimant simply fell off his bicycle.
41. LC's son, Scott, was also a passenger in her car and witnessed the collision. He describes seeing the car hit the Claimant and the Claimant being "sent flying".
42. LC immediately stopped her car and confronted the driver of the car that hit the Claimant. She told the driver that he needed to call an ambulance. When the police arrived, LC gave them her account of what happened and provided them with her contact information. She reiterated this information to the same police officers when she returned to the scene a short time later, having dropped her son off. She also heard KM say that the police would take the Claimant to hospital following the ambulance's failure to attend. LC mentions expressly that she told the police everything and gave them her details, but they never contacted her again. She expresses surprise at this, as she believed that she had provided all the necessary information. This lies uneasily with the statement in the collision report that extensive inquiries had been carried out to ascertain if there were any independent witnesses.
43. The interview is plainly a crucial piece of evidence in the case. It is the only independent account of what happened (other than the statement attributed to DG) and directly challenges D1's version of events. The fact that this interview was conducted covertly, to some extent in a leading fashion, and several years after the incident may raise questions about its reliability but the consistency of LC and her son's accounts, and the fact that LC reported what she had seen to the police at the time, potentially lends weight to the evidence.

The Litigation

44. On 29th March 2022 the Claimant issued his Claim Form. The claim, as initially set out, was for damages for both misfeasance in public office and negligence, although the negligence claim was later abandoned.

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45. On 30th March 2022 the court, on its own initiative, issued an order staying the proceedings for 28 days and requiring Particulars of Claim compliant with CPR 16.4 and PD16 to be filed within that period.
46. On 23rd April 2022 the Claimant filed his Particulars of Claim. However, the court did not immediately release the Claim Form for service, which was not effected by the court until 30th August 2022, when it was served on all Defendants.
47. On 9th September 2022 D4 filed an Acknowledgement of Service. On 13th September D1-D3 did likewise followed by a joint defence. D4 has not filed a defence.
48. On 28th September 2022 D1-D3 filed an application to strike out the claim and on the following day D4 filed an application to strike out the claim or for summary judgment in the alternative.
49. On 30th September 2022 the Claimant filed a request for default judgment against D1-D3. The court rejected the request, stating, incorrectly it appears, that these Defendants had filed their defences on time.
50. On 18th November 2022 the Claimant filed an application to strike out the defences of D1-D3 and D4, along with an application for summary judgment against D4. He also filed his supporting witness statement.

The Defendants' Arguments for Strike Out

51. The first, second, and third Defendants (D1-D3) argue that the claim should be struck out for the following reasons:
52. The claim is time-barred. They contend that the claim, which arises from an accident on 28th August 2013, was not issued until 29th March 2022, and not deemed served until 2 September 2022, which is more than three years after the cause of action accrued (that being the relevant limitation period). D1-D3 argue that the last act complained of in relation to them was the investigation report completed on 28th January 2015. They further argue that even if the date of knowledge was 10th January 2017, as the Claimant asserts, the claim would be out of time by 10th January 2020. D1-D3 maintain that there are no grounds to extend time under s.33 of the Limitation Act 1980.
53. The Particulars of Claim disclose no reasonable grounds for bringing the claim. D1-D3 argue that the Particulars of Claim fail to formulate a complete cause of action. They assert that the allegation of attempted murder is inconsistent with the pleaded primary facts, and that there is no basis for asserting fabrication or concealment by any officer or staff member of D1-D3. They contend that the physical injuries were sustained in the accident and not caused by their alleged misfeasance. D1-D3 also rely on the fact that that no medical evidence is provided to support the claim for psychiatric injury, nor will it be.
54. The Particulars of Claim constitute an abuse of process. D1-D3 argue that the lack of expert medical evidence for physical or psychological injuries means the claim is an abuse of

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process. D1-D3 assert that the Claimant is unwilling or unable to provide a concise statement of facts and the particulars of claim are simply too long and incoherent.

55. The Claimant has failed to comply with a court order. They argue that the particulars of claim do not comply with the order of 29th March 2022, which required a concise statement of facts.
56. The claim is totally without merit. D1-D3 seek an order confirming that the claim is totally without merit.
57. The fourth Defendant (D4) argues that the claim should be struck out for the following reasons:
58. The claims against D4 are presented beyond the relevant limitation period and are statute barred. D4 also contends that the claim for personal injuries arising from the alleged misfeasance in public office is subject to a three-year limitation period. D4 argues that the Claimant was aware of a potential cause of action against D4 in April 2017, or alternatively April 2018. Therefore, the three-year limitation period for a personal injury claim expired in April 2021. The claim form was not issued until 29th March 2022. D4 also argues that there is no good reason to extend time for the claims against D4 under s.33 of the Limitation Act 1980.
59. The Claimant has failed adequately to particularise his claims. D4 asserts that the Particulars of Claim are inadequate and prevent or hinder D4 from being able to plead a defence. They are prolix, repetitive, confusing, contradictory and fail to provide a concise statement of facts. D4 argues that they fail to properly identify the allegations against D4 or plead the necessary elements of the cause of action. The missing elements include the powers being exercised, who exercised the power, and what act was done that was unlawful and with the requisite state of mind. D4 also contends that the claims of unjust enrichment, acquisition of false reputation, and unlawful acquisition of power are insufficiently particularised and not causes of action open to the Claimant on the facts.
60. The claim for physical damages is misconceived. D4 argues that the Claimant's claim that "the Defendants" caused his physical injuries is incorrect, because D4 had no involvement with the Claimant at the time of his accident.
61. The Claimant has failed to adequately plead the claim for personal injuries. D4 claims that the Claimant fails to include a reference to a CPR compliant medical report to support his claim. D4 does not accept the fact or extent of the Claimant's psychiatric injuries which are unsupported by medical opinion.
62. The Claimant's application is misconceived. D4 argues that the Claimant's application for summary judgment is primarily a reply to D4's application and should be dismissed. Further the Claimant may not obtain default judgment when there is a pending application for an order to strike out or summary judgment of the Claimant's case.
63. D4 also argues that the allegations made by the Claimant against Mr Trott, the solicitor with conduct of the case on behalf of D4, are baseless and a collateral attack on D4's

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response to the claim. As far as this is concerned, I agree. The Claimant's suggestion that Mr Trott has improperly signed D4's application notice or has an undeclared conflict of interest is simply wrong.

The Claimant's Arguments

64. The Claimant's arguments in response to the applications and in support of his own were not always easy to understand but I think may fairly be summarised as follows:
65. The claim is not statute-barred. The Claimant argues that D4 has failed to plead a defence, and cannot rely on limitation to terminate the claim by strike-out or summary judgment. The Claimant also asserts that D1-3 cannot rely on limitation because the particulars of claim would remain in his action against D4. The Claimant argues that his claim is for misfeasance in public office, and not negligence, therefore the limitation period would be six years rather than three. Additionally, the Claimant argues that the Defendants' actions constitute a continuing tort, meaning that the limitation period has not expired.
66. The Claimant argues that a cause of action in misfeasance accrued no sooner than 10 January 2017. This is the date he interviewed LC whose statements evidence the damage, causation, and bad faith elements of the claim. Until that time there was active concealment.
67. He argues that the discovery of rights of action against D2, D3 and D4 was entirely dependent on this first discovery regarding D1. Whilst the Claimant does acknowledge that he believed his symptoms met all diagnostic criteria for PTSD by May 2014, he asserts that he had no "contemporaneous knowledge" of those symptoms. He states that he first believed he had PTSD in October 2017. He also states that he was only aware of what he claims were symptoms of psychiatric illness in 2013 and again in April 2014.
68. Misfeasance in public office is the sole cause of action. The Claimant asserts that all Defendants are liable in the tort of misfeasance and that the Particulars of claim formulate a complete cause of action against them.
69. The Claimant contends that D1-3's defence consists of bare denials and is incoherent, disclosing no reasonable grounds in fact or law, and is an abuse of court process. The Claimant also argues that the Defendants have failed to comply with the rules.
70. The Defendants do not have a real prospect of successfully defending the claim. The Claimant argues that D1-3's statement of case denies every allegation in the Particulars of claim without explanation and is incoherent and incorrect.
71. The Particulars of Claim identify cause-effect relationships between the Defendants' actions and his psychiatric impacts. The Claimant maintains that the probability that the events which have taken place in his life could have occurred in the absence of severe psychiatric damage is very low. He therefore asserts that no further assessment of loss is needed.

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72. The Claimant argues that he has filed all necessary documents. The Claimant's Particulars of Claim filed on 23rd April 2022 complied with all court orders.
73. The Defendants' actions demonstrate bad faith. The Claimant believes that the Defendants are conducting proceedings in bad faith and that their acts are entirely consistent with their tortious conduct.

The Limitation Chronology

74. Against this background the key dates in relation to the limitation arguments are as follows:
75. 28th August 2013: The accident occurred, giving rise to the Claimant's initial injuries (although not the alleged psychiatric injury).
76. 25th August 2014: The Claimant submitted a formal complaint about the conduct of D1. The Defendants argue this demonstrates the Claimant's awareness of a potential claim well before the six-year limitation for tort claims expired.
77. 28th January 2015: The investigation report concerning the accident was completed. The Defendants argue that this marks the last act complained of in relation to D1-3, setting the latest possible date for the accrual of the cause of action against them.
78. 18th June 2015: The Independent Office for Police Conduct (IOPC) dismissed the Claimant's appeal and upheld the findings of the local investigation. This marks the last substantive involvement of the IOPC (D4) with the Claimant's appeal.
79. 10th January 2017: The Claimant asserts that this date marks the earliest possible date for the accrual of the cause of action for misfeasance in public office. He bases this argument on Section 32(1)(b) of the Limitation Act 1980, which postpones the limitation period in cases of deliberate concealment of facts relevant to a plaintiff's right of action.
80. February 2017: The Claimant decided to proceed as a litigant in person against D1. The Defendants rely on this as further evidence of the Claimant's recognition of a potential claim.
81. April 2017: The Claimant states that he first became aware of a prima facie claim against D4 (the IOPC) during this month.
82. April 2018: Alternatively, the Claimant suggests that he first discovered a prima facie claim against D4 in April 2018.
83. 28th August 2016: This marks the expiration of the primary limitation period for a personal injury claim under section 11 of the Limitation Act 1980.
84. 28th August 2019: This marks the expiration of the limitation period for a tort claim under section 2 of the Limitation Act 1980.

85. 29th March 2022: The Claim Form was issued, initiating the legal proceedings. This date falls outside both the three-year and six-year primary limitation periods.

Discussion and Conclusions

86. The first issue is, logically, which period of limitation applies to the claim. Section 2 of the Limitation Act 1980 sets a six-year limitation period for claims in tort, while Section 11 specifies a three-year limitation period for claims for personal injury. *A v Hoare* [2008] UKHL 6 was a landmark case that addressed the issue of limitation periods in personal injury claims, particularly those involving intentional torts. The House of Lords considered several appeals relating to claims of sexual abuse, some of which were brought against public officials, and sought to clarify the interpretation of section 11 of the Limitation Act 1980.
87. The central issue was whether the phrase "negligence, nuisance, or breach of duty" in section 11(1) of the Limitation Act 1980 included intentional torts causing personal injury, or if it was limited to unintentional acts like negligence. Prior to *A v Hoare*, the House of Lords had held in *Stubbings v Webb* [1993] AC 498 that section 11 did not apply to deliberate acts of trespass.
88. In *A v Hoare*, the House of Lords confirmed that the three-year limitation period in Section 11 applies to all claims for personal injury, including those arising from intentional torts. Lord Hoffmann's judgment identified several reasons for the change of course. He traced the phrase "negligence, nuisance or breach of duty" in the 1980 Act back to earlier legislation, noting consistent judicial interpretation that included intentional torts within "breach of duty." He thought it was "inconceivable" that Parliament, when enacting the 1975 Act that led on to the 1980 Act, intended to exclude victims of intentional torts from the benefits of a potentially extendable limitation period. He recognised the "anomalies" created by *Stubbings v Webb*, where victims of abuse could sue negligent institutions but not their abusers. He thought it unjust to deny these victims access to justice due to a restrictive interpretation of the limitation period.
89. The Claimant has consistently argued that the actions of the Defendants led to physical and psychiatric injuries. The pleadings clearly indicate that the Claimant is claiming damages for pain, suffering and loss of amenity. The nature of the tort, misfeasance in public office, does not remove it from the scope of section 11, as *A v Hoare* made clear. It follows in my view that the claim is subject to the primary three-year limitation period applicable to personal injury litigation. There is no residual claim which falls within a six period; all of the claims arise from or are parasitic on the personal injury claim. Although the Defendants fairly raised and discussed the point at the hearing, there are evident difficulties in framing the case as one for a loss of a chance of pursuing the driver of the vehicle which the Claimant alleges collided with him and that is not, in any event, the way in which the claim is articulated.

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90. The Claimant argued that the tort of misfeasance in public office should be considered a continuing tort, such that the limitation period should be calculated from the last instance of the tortious conduct. In *Escott v Tunbridge Wells Borough Council* [2016] EWHC 2793 the court acknowledged that there may be situations in which a tort continues due to ongoing acts of bad faith but that simply continuing to suffer a loss due to a prior action does not constitute a continuing tort. In *Escott* the court held that the continuing loss suffered as a result of the defendant's action did not make the conduct complained of a continuing tort, which in principle is, in my view, the appropriate analysis in this case. Further, a sequential consideration of the last acts of which the Claimant complains does not, ultimately, assist his limitation arguments.
91. *A v Hoare* also addressed the meaning of "significant injury" under section 14(2) of the Limitation Act 1980. The court clarified that the test of significance is objective: a claimant's injury is considered significant if a reasonable person, with the claimant's knowledge of the facts, would consider the injury sufficiently serious to justify instituting proceedings for damages against a defendant who would not dispute liability and would be able to satisfy a judgment. The court clarified that any consideration of how a claimant's personal characteristics or their psychological state impacted their ability to bring a claim is a matter for the court's discretion under Section 33. The Claimant's case as to when and what injury he was aware of is at best opaque and the difficulties of making any assessment are compounded by the absence of any medical evidence.
92. Section 32 of the Limitation Act 1980 provides that where a defendant has deliberately concealed any fact relevant to the claimant's cause of action, the limitation period will not begin to run until the claimant has discovered the concealment, or could with reasonable diligence have discovered it. The Court of Appeal in *Arcadia Group Brands Ltd (in administration) v Visa Inc* [2015] EWCA Civ 883 clarified that the concealed fact must be one which is "essential for [the claimant] to prove in order to establish a prima facie case in his cause of action.". The question of whether there was such concealment is of course the central allegation on which the alleged tort is founded. It is not one that I can decide in the context of the applications before me despite the Claimant's arguments to the contrary.
93. However section 14(1) of the 1980 Act also requires knowledge that the injury was attributable to the defendant's actions. Although the Claimant made a complaint in 2014 and received some disclosure from D1 in 2016 I am prepared to accept, on the material before me for the applications, that this did not provide the Claimant with sufficient knowledge of the essential facts of his cause of action, specifically, on his case, that he was struck by a car and that LC had made a statement to this effect to the police (these being the essential facts that the Claimant asserts had been concealed from him). Considering all of the evidence, I conclude that the Claimant's date of knowledge in respect of a claim against D1, for the purposes of section 14 of the Limitation Act 1980, is 10 January 2017, the date on which he obtained the crucial interview with LC. I consider that he had proceeded with reasonable diligence in investigating his claim up to that point. For this purpose, I also accept that the relevant injury is the psychological disturbance caused to the Claimant by his suspicion that information known to the police officers was being withheld and falsified. I further accept that, notwithstanding his earlier complaints and enquiries, any action against the other defendants was necessarily dependent upon

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establishing his case against D1. Nevertheless, even with that later date of knowledge the claim was not issued within the applicable limitation period.

94. In *Richards v McKeown & another* [2017] EWCA Civ 2374, the Court of Appeal held that the lower courts had erred in striking out a negligence claim, including a personal injury claim, on limitation grounds when the defendants had not specifically pleaded a limitation defence. The judgment emphasised the importance of procedural fairness and the need for defendants to clearly articulate their reliance on limitation arguments in their pleadings. On behalf of D4, Mr Thomas conceded that in raising this argument the Claimant had “a fair point”. In fact it appears to me to be a fatal one as far as any reliance on limitation by D4 is concerned. This is of course only one of the grounds on which D4 seeks to strike out the claim.
95. In contrast Limitation defences are pleaded and available to D1, D2 and D3. As the Defendants acknowledged that is subject to the potential application of section 33 of the 1980 Act which gives the court discretion to extend the limitation period. Section 33(3) sets out specific factors that the court must consider including the length of the delay, the reasons for it and the extent to which evidence is likely to be less cogent as a result. Questions as to the cogency of evidence may well fall to be addressed in the context of the Claimant's case that material was withheld from him. The Defendants' conduct is also part of the balancing exercise. The psychological impact of the injury on the Claimant is also a relevant factor. The court's discretion is wide, allowing it to consider all of the relevant factors to ensure a just outcome. In the present case the Claimant is a litigant in person who had concluded that his claim was subject to a six year limitation period. On his own account he clearly fell into an increasingly severe disturbance of the mind in the years following his accident, which is consistent with the behaviour which the Defendants complain of. His case is that this was precipitated by the Defendants' actions. The exercise of the discretion is inextricably linked in this case to whether or not there was an attempt at active concealment.
96. The tort of misfeasance in public office is established when a public officer, acting in their official capacity, acts (or fails to act) in a way that constitutes a breach of their public duty and causes harm to the claimant. The leading case on misfeasance in public office is *Three Rivers District Council v Governor and Company of The Bank of England* [2023] 2 AC 1 (“*Three Rivers*”). In *Three Rivers*, the House of Lords held that the claimant must show that the public officer acted (i) in the exercise of a public power or duty, (ii) with malice, (iii) causing damage to the claimant. The malice element can be satisfied either through (i) targeted malice, where the defendant intends to harm the claimant specifically, or (ii) untargeted malice, where the defendant acts knowing that they have no power to do so and that they are likely to cause harm to a class of persons to which the claimant belongs. The constituent elements of the tort have to be addressed expressly in pleading a claim relying on misfeasance.
97. The Claimant asserts that the Defendants have acted in bad faith throughout, by conspiring against him. In *Carter v Chief Constable of Cumbria Police* [2008] EWHC 1072 (QB) the court emphasised the importance of properly particularising allegations of bad faith when asserting a claim for misfeasance in public office. Tugendhat J highlighted the gravity of

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misfeasance allegations, observing that they are among the most serious accusations that can be levelled against public officials, aside from claims of dishonesty (which are also made in this case). He noted that such allegations must be supported by specific and detailed facts. Vague or general assertions of bad faith, without sufficient factual backing, will be vulnerable to being struck out by the court.

98. CPR 3.4(2) provides that the court may strike out a statement of case if it appears to the court that: (a) the statement of case discloses no reasonable grounds for bringing or defending the claim; (b) the statement of case is an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings; or (c) there has been a failure to comply with a rule, practice direction or court order.
99. The Particulars of Claim are lengthy and in two parts (the first pleading being referred to as "provisional"). Part 6 of the second pleading is headed "ALLEGATIONS OF FAULT In the Tort of Misfeasance in Public Office". An example of the way in which the claim is advanced against individuals is as follows:

"6.1.5 The Tortfeasor and Unnamed Manager of the Collisions Investigation Unit ("MCIU") –

6.1.5.1 was a public officer at the time of his or her tort in 2013;

6.1.5.2 committed the tort in the course of exercising his or her public powers as an officer of D2 or as a civilian employee under D2's direction and control;

6.1.5.3 intended to cause me the losses particularised in 7.1.1 and 7.2.4.4 of this document; intended to cause me an unknown proportion of the losses particularised in 7.2.1 of this document.

6.1.6 Particulars of Allegations against MCIU

6.1.6.1 MCIU gave multiple orders to 2 other operatives of D2 in the course of committing the tort.

6.1.6.2 MCIU concealed a witness statement fabricated by KM.

6.1.6.3 MCIU knew that I had suffered actionable loss in advance of his or her tort.

6.1.6.4 MCIU conspired with operatives of D1 to cause the stated losses.

6.1.6.5 The losses caused by MCIU under 7.2.1 are unknown because *novi actus interveniebant*."

100. This might fairly be described as a series of assertions. No particulars are given of how the alleged knowledge on the part of this individual arose, why a particular intention is to be imputed to them, what steps or actions are relied upon in support of the allegation that there was concealment or a conspiracy and what instructions or orders were given to other participants. If paragraph 6.1.6.5 is meant to plead a break in the chain of causation

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then it is wholly unclear what is being referred to or relied upon. These deficiencies are not cured by the earlier factual narrative at Part 3 of the Particulars of Claim which allege that MCIU received and archived a “manifestly fabricated witness statement” and informed the Claimant when the investigation had been completed.

101. The Particulars of Claim lack necessary specificity, particularly with regard to the powers exercised, the individuals involved, the dates of the alleged misconduct, the evidence of bad faith, and the factual basis for each element of the tort. The Claimant has failed to provide any evidence of any specific act of misfeasance carried out by D2 and D3 other than seeking to conceal the original, alleged, wrongdoing of D1’s officers. However, that case is entirely predicated on the assertion that D2 and D3 were aware that a statement had, on the Claimant’s case, been fabricated and a false account given in the collision report. There is no pleaded case as to why these Defendants had actual or imputed knowledge of any of these matters. It is implausible that a police officer who had falsely completed a collision report and manufactured evidence would disclose that fact to another police officer, let alone to other police forces. The Claimant appears to acknowledge the enormity of the allegations that he is making but does not balk at alleging that each individual who came into contact with his case or was involved in reviewing it within the D1, D2 and D3 police forces was party to the conspiracy and acted dishonestly. But a bare allegation is not sufficient.
102. The Particulars of Claim are also overly long and fail to comply with the Court’s order of 29th March 2022 to provide a concise statement of facts. The lack of medical evidence contributes to the difficulty in understanding what actions have led to what injury, particularly in the case of D2, D3 and D4. The requirement to serve a medical report is, however, not absolute and I think it is tolerably clear that the Claimant’s mental health has been impacted by his initial suspicions, whether paranoid or well founded, that information was being withheld from him.
103. As far as D1 is concerned, there is no realistic prospect in this case that any court would conclude that D1’s officers had made an attempt to kill the Claimant because they disliked cyclists. None of the pleaded facts give rise to any such inference and the motive suggested is absurd. The only rational conclusion is that the police and others were seeking to assist and obtain prompt medical treatment.
104. The involvement of D4, as an oversight body, was limited to referring the Claimant’s complaint to a local investigation by Cambridgeshire Police and then dismissing the Claimant’s appeal against that investigation. There is no pleaded basis on which it could be inferred that D4 knew that there had been any concealment of evidence or falsification of reports. There is nothing to suggest that D4 acted with the requisite malice to establish misfeasance in public office. Moreover, the Claimant’s Particulars of Claim do not adequately plead how D4’s actions (or inactions) caused him damage.
105. Whilst the Defendants acknowledge that the recording of the conversation with LC is evidence supporting the Claimant’s case that does not alter the complexion of the case as against D2, D3 and D4. No properly pleaded case is advanced by the Claimant that these Defendants knew that LC had witnessed a collision between the Claimant and a car or that

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they knew that she had told the police officers at the scene that she had done so. There is no reason why any review of the investigation conducted by D1 should have led them to that conclusion, not least because it is the Claimant's case that KM had sought to suppress the material facts from the outset. Whilst the Particulars of Claim assert that KM and FCRI made "confessions" no basis is given for this contention and there is no identification of what the Claimant relies on in advancing it.

106. I conclude in the circumstances that the statement of case discloses no reasonable grounds for bringing the claim against D2, D3 and D4 and that there has been a failure to comply with a court order. The claims against D2, D3, and D4 should be struck out. It follows that the Claimant's applications against these Defendants have not succeeded and are dismissed.

107. The position in relation to D1 is different. The covert recording of LC's interview and the comparison of handwriting raise a genuine issue regarding the potential fabrication of a witness statement and suppression of evidence by KM. That is at least part of the case pleaded against D1 and can be salvaged from the broader allegations involving the unsustainable contention that there was an attempt to kill the Claimant by delaying his treatment and a subsequent conspiracy with other Defendants. The Claimant has demonstrated that he is entitled to pursue his case to this limited extent. I conclude that this claim is contained within the present pleading. Notwithstanding the deficiencies in the pleading D1 has understood this to be the Claimant's case since it is essentially encapsulated in the second proposition to which D1 suggested the claim could be reduced, namely: "D1's officers deliberately falsified the record/ investigation of the incident to conceal the existence of a collision between a motor car and the Claimant's bicycle which knocked him off his bicycle". There is a clear public interest in ensuring that allegations of serious wrongdoing by police officers should be heard by the courts where there are reasonable grounds for bringing a claim.

108. I am however persuaded that the Particulars of Claim should be struck out other than in so far as they set out such a claim. It also follows that the Claimant's application as against D1 is dismissed. I do not think it appropriate or necessary to certify that the claim or any part of it is totally without merit.

109. Given the history of this matter and the Claimant's approach it may be ambitious to expect the Claimant to reformulate his claim without generating argument and costs. That may be avoided by identifying a preliminary issue. In the circumstances the appropriate case management orders are that the claim should proceed, at this stage, as to liability only and should be listed for the trial of an issue as to whether KM deliberately falsified the record/ investigation of the incident to conceal the existence of a collision between a motor car and the Claimant's bicycle and to determine whether the court should extend the limitation period pursuant to s.33 of the Limitation Act 1980.

110. The Defendants should prepare and lodge a draft order for approval giving effect to this judgment, agreed if possible, but otherwise accompanied by short written submissions on consequential matters that cannot be agreed.

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END