



Neutral Citation Number: [2025] EWHC 332 (Admin)

Case No: AC-2024-MAN-000136

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

Manchester Civil Justice Centre
1 Bridge Street West
Manchester
M60 9DJ

Date: 17/02/2025

Before:

MRS JUSTICE HILL DBE

Between:

THE KING
(on the application of)

Claimant

LYNSAY WATSON)

- and -

Defendant

THE CHIEF CONSTABLE OF
GREATER MANCHESTER POLICE

The **Claimant** appeared in person
Beatrice Collier (instructed by **Greater Manchester Police Legal Services**) for the **Defendant**

Hearing date: 6 February 2025
Further submissions: 10 and 11 February 2025

Approved Judgment

This judgment was handed down remotely at 4.30pm on 17th February 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MRS JUSTICE HILL

Mrs Justice Hill:

Introduction

1. By a claim issued on 10 April 2024, the Claimant challenges the decision of the Defendant's Inspector Paul Mason dated 25 November 2023 to take no further action in response to a complaint she had made on or around 18 February 2023. The Claimant's complaint related to certain tweets from the then Twitter account @WingsScotland between 13 and 17 February 2023. Her case is that the author had committed a range of criminal offences via those tweets.
2. The parties' have a shared understanding about the identity of the account holder of the @WingsScotland account. Material in the public domain supports their understanding, although this has not been confirmed by police investigation.
3. The Defendant defends the claim.
4. On 14 August 2024 HHJ Bird, sitting as a Judge of the High Court, granted the Claimant permission to proceed with a claim for judicial review. The claim was argued at a hearing before me on 6 February 2025.
5. After the hearing, I invited the parties' submissions on the issue of whether a direction should be made to add the author of the tweets from the @WingsScotland account as an Interested Party to the claim ("**the Interested Party issue**").
6. In the course of those submissions, the Claimant sought permission from the court to redact her date of birth, addresses and telephone numbers from the case papers, in the event that the author was made an Interested Party such that disclosure of those papers would need to be made to that person ("**the Claimant's personal details issue**").
7. It was appropriate to determine the issues without a hearing, but to give reasons by way of a short judgment.

The legal framework

8. Under CPR 54.1(f) an "interested party" means "any person (other than the claimant and defendant) who is directly affected by the claim".
9. Interested Parties should be included in pre-action correspondence: see the Administrative Court Judicial Review Guide 2024 ("the Guide"), at paragraph 3.2.3. Interested Parties should then be identified in and served with the claim form; and identified in the acknowledgment of service: CPR 54.6(1)(a), 54.7(b) and 54.8(4)(iii). The court can direct that someone is added as an Interested Party: see the Guide at paragraph 3.3.5.
10. There is limited authority on the proper interpretation of "directly affected" for this purpose. The only case cited in the White Book and the Guide is *R v Liverpool City Council ex p Muldoon* [1996] 1 WLR 1103, where the House of Lords considered the identically worded provisions in the Rules of the Supreme Court Ord.53 r.5(3).

11. *Muldoon* involved two applications for judicial review arising out of the refusal or failure by the local authority to determine claims for housing benefit. The Secretary of State claimed to be a person “directly affected” within r.5(3). While the Secretary of State would not have to pay the housing benefit either directly to the applicants or through the agency of the local authority, if the applications succeeded, up to 95% of the amount paid by the local authority to the applicants would be added to the subsidy paid by the Secretary of State to the local authority at the end of the financial year.
12. Their Lordships dismissed the appeals against the refusal to join the Secretary of State. Lord Keith (with whom the other four Law Lords agreed) observed that the phrase “directly affected” connotes “affected without the intervention of any intermediate agency”. On the facts, the Secretary of State would certainly be affected by the decision, and may inevitably or necessarily be affected, but he would be only indirectly affected, by reason of his “collateral obligation to pay subsidy to the local authority”: 1105E-F.
13. Lord Keith drew an analogy with *In re Salmon; Priest v Uppleby* (1889) 42 Ch D 351, where third parties had agreed to indemnify the defendant. This was held to be insufficient to render them “directly affected” for the purposes of service of the appeal on them under Ord.58 r.2. Fry LJ observed that whether the defendant was liable to the plaintiff only affected the third parties through the intervention of the right of indemnity, such that the third parties were “only indirectly affected by the appeal by reason of the defendant’s rights against them”.
14. The White Book commentary at paragraph 54.1.12 summarises the ratio of *Muldoon* as being that a person is a directly affected if they are “affected simply by reason of the grant of a remedy”. The Guide focuses on the phrase “affected without the intervention of any intermediate agency” in *Muldoon*. Both texts give the example of a claimant challenging the decision of a defendant local authority to grant planning permission to a third party. In that example, the third party is directly affected by the claim because the relief sought would affect their legal rights, such that they should be named as an interested party.

The remedy sought by the Claimant in this case

15. If the Claimant succeeds in this claim, the likely order is that the Defendant’s decision to take no further action on her complaint will be quashed, and the case remitted to the Defendant for further investigation in light of any observations in the judgment. The Claimant seeks a mandatory order to this effect in section 8 of the claim form, among several other forms of relief. She does not seek an order compelling the Defendant to charge the author, nor could any order realistically be made by the court.
16. The Defendant’s submissions make clear that the consequence of the judgment is not, necessarily, that the author would be charged. Rather, the Defendant would need to (i) locate and interview the author; and (ii) investigate the author’s intent and purpose in posting the tweets (which could in turn, involving analysing any relevant prior conduct, reviewing any relevant online interactions, and obtaining an account from the complainant as to the effect of the tweets).
17. Further, if any potential criminal offences were classified as hate crime under Crown Prosecution Service (“CPS”) policies or involved harassment, the Defendant would

not be able to charge the author but would have to submit a file to the CPS for a decision on charge, in accordance with the relevant guidance on charging responsibilities.

Submissions and analysis

The parties' positions in outline

18. The issue of the potential Interested Party status of the author did not arise until after the hearing: it had not been raised in either party's statement of case and did not arise at the oral permission hearing.
19. My provisional view as expressed to the parties was that the author of the tweets was a person directly affected by the claim and thus should be afforded Interested Party status.
20. The Claimant agreed with that position and apologised for not having served the claim form on the author, explaining that she is a litigant in person.
21. The Defendant argued that the Interested Party test was not met which is why the author was not identified as an Interested Party in the Acknowledgment of Service.

The application of the Muldoon test

22. The Defendant submitted, applying *Muldoon*, that the author of the tweets would not be directly affected by the remedy sought in the claim. Rather, there would necessarily be further investigation by the Defendant before any decision to charge him was made, such that he would only be indirectly affected by it, and there may well be "intervention" by an "intermediate agency" in the form of the CPS.
23. It is right that the remedy sought in this claim would not lead, automatically, to the author being charged with any criminal offences. However, in my judgment he would still be directly affected by it. The author would be the immediate subject of, and integral to, any further investigation by the Defendant. His legal rights would be in issue as he would be at risk of being charged with criminal offences. Further, he could well be charged with criminal offences by the Defendant without any involvement of the CPS. On that basis, I consider that he would be "affected simply by reason of the grant of [the] remedy".
24. I observe that this scenario is quite different to those involving questions of who, ultimately, might meet the costs of local housing benefit decisions through central government subsidies as in *Muldoon* or who might indemnify one party to litigation as in *re Salmon*.

F, Monica and other comparable cases

25. I am reassured in my conclusion above by the fact that there have been a series of cases since *Muldoon*, in scenarios much more factually similar to that in issue here, where people at risk of prosecution from the consequences of the remedy in a judicial review claim have been recognised as Interested Parties.

26. I drew the parties' attention to two of these cases, namely *R (F) v Director of Public Prosecutions* [2013] EWHC 945 (Admin); [2014] QB 581 and *R (Monica) v Director of Public Prosecutions* [2018] EWHC 3508 (Admin); [2019] QB 1019. Both cases involved the question of whether, on the basis of agreed facts, the criminal offence of rape was made out. In both cases the suspect of the alleged rape was recognised as an Interested Party.
27. The Defendant argued that *F* and *Monica* could be distinguished from this case, as the nature of the decision in issue was different: *F* and *Monica* concerned decisions not to prosecute, as distinct from the decision here, to take no further action and stop investigating. I do not consider that this is a persuasive distinction: both these scenarios, in effect, involve a decision to bring potential or actual criminal proceedings against an individual to an end, albeit in this case at an earlier stage in the criminal justice process.
28. The Defendant also argued that *F* and *Monica* could be distinguished from this case because the outcome of both judicial review claims was that the Interested Party would "inevitably have been charged". With respect, that submission seems to overstate the position. While the claim failed in *Monica* such that there was no consideration of the issue of relief, in *F*, the Divisional Court allowed the claim for judicial review, holding that the next steps were as follows:

"The entire body of evidence, both in relation to the nature and history of the relationship between these two people, and as it applies to each of the individual, specific occasions of complaint, requires re-examination in the light of these observations. This decision should be reviewed in the light of the legal principles explained in this judgment": [27].
29. The same approach was taken in *R (Torpey) v Director of Public Prosecutions* [2019] EWHC 1804 (Admin). That involved a challenge to a decision not to prosecute a police officer, who was recognised as an Interested Party. The Divisional Court quashed the decision and remitted the matter to the CPS in order for another review decision by a different lawyer to be made in accordance with the judgment of the Court: [63].
30. Neither of these processes appear fundamentally different to the mandatory order sought by the Claimant, or the steps that would be taken to put it into effect, summarised at [15]-[17] above.
31. Moreover, *F* and *Monica* reflect a wider, consistent pattern in the case-law: see, for example, *R (Smith) v Director of Public Prosecutions*, [2024] EWHC 2032 (Admin) (a challenge to a decision not to prosecute); *R (Deripaska) v Director of Public Prosecutions* [2020] EWHC 2918 (Admin) (a challenge to a decision to take over and discontinue a private criminal prosecution); and *R (Francis) v Director of Public Prosecutions* [2024] EWHC 688 (Admin) (challenge to a decision by the CPS to offer no evidence in the Crown Court). In all these cases the potential or actual defendant was recognised as an Interested Party.
32. The Defendant alluded to perhaps understandable concerns of principle about the reality of a direction of this kind, which is that it would permit a person who is the subject of a complaint that they have committed criminal offences to make

representations as to whether that complaint should be investigated by the police or not. I do not consider that a persuasive argument against making the direction in question: in *F* and *Monica*, the person who had not been prosecuted was permitted to make representations on the central issue of the legality of that decision; and the same is effectively true of all those cases in the preceding paragraph. It is correct to note, as the Defendant highlighted in response to the draft version of this judgment, that unlike the prosecution cases, the suspect here has not yet given an account to the police. I am not sure that that is such a fundamental distinction as to make him no longer “directly affected” by the remedy.

33. It is also right to observe that none of these cases reflect there being argument about the Interested Party issue: rather the Claimant or Defendant simply appears to have accepted at an early stage that recognition of the person in question as an Interested Party was appropriate. However, in none of these cases can I discern any resistance from the court, including the Divisional Court in *F* and *Monica*, to the presence of the potential or actual Defendant as Interested Party. On the contrary, while in some cases the person has chosen to play no part, in some they have made meaningful submissions which the court took into account: see, for example, the summary of the arguments advanced by counsel for the Interested Party in *Monica* at p.1033-1035 and 1046B-C.
34. I consider that cases of this kind are distinguishable from the facts of cases such as *Muldoon* because the person is directly affected by the remedy, because that remedy will lead to an enhanced risk that they will face criminal proceedings. That is sufficient to justify their right to participate. They are in a much more comparable position to the third party recipient of planning permission at [14] above: their legal rights are similarly affected.
35. For all these reasons I direct that the author of the tweets from the account @WingsScotland is added as an Interested Party to the claim.

The Claimant’s personal details issue

36. The Claimant has not hitherto sought any anonymity-related orders in this claim. She does not seek to withhold her name but is concerned about the person she believes to be the author of the tweets having access to her date of birth, addresses and telephone numbers.
37. Such redaction amounts to a departure from open justice. The law in this area is complex, as is apparent from the recent judgment of Nicklin J in *PMC v A Local Health Board* [2024] EWHC 2969 (KB). However, I am satisfied that these limited redactions are a necessary intrusion into that right, at least at this stage. On the Claimant’s case, the author has committed criminal offences, including of harassment, of which she is one of the victims. There is no obvious public interest in the author, or indeed anyone else, having access to these limited personal details about the Claimant. The case can be fully reported without these details.
38. I therefore propose to order that the documentation held by the Court is replaced as soon as possible with redacted documentation to reflect the above. This means that if any person applies to the court under CPR 5.4C(1) and (3) for a copy of a statement of case or any other document containing these details they will be provided with

redacted versions. No court papers will be provided on any applications under CPR 5.4C(1) and (3) until such time as the redactions have been made. Any party will have liberty to apply to have the redactions removed and considerations can be given at that point to whether that should occur.

Conclusion

39. For all these reasons the author of the tweets in question will be recognised as an Interested Party. The modest redactions to the Claimant's personal details referred to above will also be applied to the case papers.
40. Arrangements will be made for the author to be served with the claim and the relevant documents and permitted to make representations as appropriate. That process will inevitably lead to some delay in the judgment on the substantive claim being handed down, not least because a transcript of the 6 February 2025 hearing will be required.
41. I am grateful to both the Claimant and the Defendant's legal representatives for addressing the Interested Party issue once it was raised very promptly and for their helpful submissions.