Neutral Citation Number: [2020] EWHC 1108 (QB)

Case No: QB-2014-006316 & QB-2014-006315

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 06/05/2020

Before :

MR JUSTICE CHAMBERLAIN

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Between :

(1) Nursing & Midwifery Council **(2) North Bristol NHS Trust**	**Applicants**
- and -	
Alvida Harrold	**Respondent** **Respndent (1)**

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Mr Adam Solomon QC for the Applicants (instructed by **Fieldfisher LLP** for the 1st Applicant and by **DAC Beachcroft LLP** for the 2nd Applicant)

Mrs Alvida Harrold in person

Hearing dates: 30 April 2020

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Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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MR JUSTICE CHAMBERLAIN

Mr Justice Chamberlain:

Introduction

1. There are two applications before me. The first was made in an application notice dated 9 April 2020, filed jointly by the Nursing and Midwifery Council ("the NMC"), represented by Fieldfisher LLP, and the North Bristol NHS Trust ("the Trust"), represented by DAC Beachcroft LLP. The Respondent is Mrs Alvida Harrold, who was employed by the Trust until her dismissal in December 2005. Sometime after her dismissal, the Trust referred Mrs Harrold to the NMC, which in 2009 struck her off its register. She has been litigating or attempting to litigate about these matters ever since.

2. The object of the Trust's and NMC's joint application is to extend for a further two years a general civil restraint order ("GCRO"), made pursuant to CPR 3C PD and pursuant to the inherent jurisdiction, preventing Mrs Harrold from issuing any claim or making any application in the Employment Tribunal, the Employment Appeal Tribunal, any county court or the High Court without first obtaining the permission of a nominated High Court Judge; and to broaden its scope to prevent Mrs Harrold from making complaints to legal regulators against the legal teams from time to time instructed by the NMC and the Trust. The GCRO was first made on 9 May 2016 by Laing J for 2 years. It was extended for 6 months by Foskett J in May 2018 and extended again by Warby J in November 2018 until 6 May 2020.

3. The second application before me is Mrs Harrold's application, dated 20 April 2020, to discharge the GCRO currently in force.

Background

4. Because the background to the matters under consideration has been considered in detail on previous occasions, there is no need to set it out at any length. Mrs Harrold brought a series of claims against the Trust and the NMC, most but not all of which failed (one claim against the Trust succeeded but all claims against the NMC failed). An interim CRO was made by Blair J on 23 January 2015. The application for a GCRO came before Hamblen J at a hearing on 23 July 2015, at which Mrs Harrold was represented by counsel (Claire Darwin) and solicitors. Hamblen J considered as a preliminary issue whether there was jurisdiction to make an order restraining Mrs Harrold from bringing proceedings in the Employment Tribunal. In a judgment handed down on 31 July 2015, he noted that CPR 3C PD conferred no such jurisdiction, but held that an order restraining a person from bringing proceedings in the Employment Tribunal could in principle be made under the court's inherent jurisdiction, or alternatively under s. 37 of the Senior Courts Act 1981 ("the 1981 Act"): [2015] EWHC 2254 (QB); [2016] IRLR 30. At [37], he concluded his judgment by saying that "whether or not it is appropriate to do so in this case will involve a detailed consideration of the facts." Mrs Harrold was not present at the

handing down of the judgment. Her counsel was. An exchange took place between the judge and Mr Solomon (then and now, counsel for the NMC and the Trust). There is a transcript of what was said. Some of it was inaudible, but the transcript records the judge as saying:

> "…it seems to me that on the further hearing, the court is going to need to be addressed in more detail in relation to these hearings [sc. the proceedings brought by Mrs Harrold which were said to be TWM] than it has in the past… I mean whether it is an evidential matter or a submission matter. It is up to you… I think you are going to need to go into more detail than you are currently listing, as I see it."

5. Mrs Harrold has disclosed an email sent by Claire Darwin on the same day, reporting the result of the hearing to her instructing solicitors. It included the following:

> "[Hamblen J] said that since there has been no TWM finding, the court may need more evidence about the detail of the cases below. In particular, that the court would need a good understanding of what was before the courts below, and that the court would be helped by a more detailed analysis of the reason why each case was dismissed.
>
> He said that AH's witness statement went through each claim, and that this was much fuller. Whereas C's evidence merely recorded the results of each hearing, and this may not be enough."

6. Hamblen J was not available for the adjourned hearing. That fell to Laing J. Mrs Harrold was represented by different counsel, this time directly instructed. Laing J's judgment ran to some 139 paragraphs: see [2016] EWHC 1078 (QB), [2016] IRLR 497. The essential facts as summarised by Laing J were as follows. Mrs Harrold had brought a series of 15 claims against the NMC, the Trust and others, mostly in the Employment Tribunal, including for discrimination, victimisation and unfair dismissal, the last two of which had been stayed pending determination of the application for a CRO. She also brought appeals and sought review of some decisions and the resulting costs orders. The proceedings had for the most part been determined against her. Although the Employment Tribunals did not have occasion to consider whether these claims were totally without merit ("TWM"), because there was no jurisdictional reason for them to do so, Laing J did have to consider that question. She found that many of Mrs Harrold's claims, both against the NMC and against the Trust, had been TWM. The fourteenth and fifteenth claims either sought to revive grievances in respect of which decisions had already been made or made claims

which were not remotely likely to succeed: they too were TWM. Laing J concluded that the test for the making of a GCRO was met. An application for permission to appeal to the Court of Appeal against Laing J's decision was itself refused as TWM by Sales LJ.

7. On the basis of Laing J's finding that the fourteenth and fifteenth claims were TWM, the Trust and the NMC applied to the Employment Tribunal to list those claims for dismissal. Mrs Harrold resisted that application. EJ Livesey granted the application, dismissed the claims and ordered Mrs Harrold to pay a contribution towards the Trust's and the NMC's costs. This prompted Mrs Harrold to seek permission under the GCRO (i) to appeal against EJ Livesey's decision, (ii) to reopen the GCRO claim on the basis of what she alleged was "new evidence" and (iii) to bring a new ET claim for unlawful direct racial discrimination, victimisation and racial harassment against the Trust and the NMC. Mrs Harrold made clear in a telephone conversation with a solicitor at DAC Beachcroft that she intended to pursue the third of these claims against both the NMC and the Trust and their representatives.

8. In the light of this, an application was made to extend the GCRO for a further two years. Foskett J granted an extension for an initial period of 6 months, whereafter it would continue for a further period of 18 months unless Mrs Harrold had by a particular date set out in writing why it was no longer required. Mrs Harrold filed written submissions, which were considered by Warby J on 6 November 2018 without a hearing. He ordered that the GCRO remain in place until 6 May 2020. He gave short reasons for that order, which included the following:

> "The thrust of the Respondent's submission is that the original GCRO of 2016 was obtained fraudulently. The arguments and evidence in support of that submission have all the flavour of the kind of vexatious conduct that must have been the foundation of the GCROs against this Respondent. But I do not need to determine whether those arguments have any merit. They are backward-looking arguments. As such they are not reasons why a GCRO should not be imposed or 'is not required' for the future."

9. Meanwhile, Mrs Harrold's appeal against her striking off by the NMC had been heard by Jay J after a very long delay. It was dismissed: [2016] EWHC 3027. An application for permission to appeal against that judgment was refused, also by Sales LJ.

10. An account of what has happened since Warby J's order is to be found in the third witness statement of Anna George. Ms George is an employed barrister working for

DAC Beachcroft. She has been involved with these proceedings since before the first application for a GCRO. On 16 November 2018, Mrs Harrold made representations to the court responding to Warby J's order and providing reasons why the GCRO should not have been extended. On 28 February 2019, Mrs Harrold made two sets of submissions. The burden of these submissions, which were addressed to Warby and Laing JJ, was to show that the decisions to make the GCRO and to extend it were wrong. On 10 March 2019, Mrs Harrold emailed the court indicating that these submissions had been intended to support an application to set aside or revoke the GCRO. The first submission was attached again, together with five other documents. A few seconds later, Mrs Harrold resent the email attaching nine documents in support. On 28 July 2019, Mrs Harrold notified the court that an application would be made to reopen the decision to refuse permission to appeal the GCRO made by Laing J.

11. Nothing further was heard until February 2020. On 22 February 2020, Mrs Harrold emailed Ms George. She attached a witness statement explaining why in her view the GCRO should be discharged and asking for a response within 7 days. DAC Beachcroft responded on behalf of the Trust that unless and until an application to discharge the GCRO was granted by the court, the Trust was not required to and would not respond. On 2 March 2020, Mrs Harrold emailed Ms George again, attaching a second copy of her witness statement with certain errors corrected.

12. On 5 March 2020, Mrs Harrold emailed Ms George again seeking a full response to her witness statement dated 2 March 2020 and indicating her belief that the GCRO had been made "as a direct result of the deliberately false, inaccurate and incorrect evidence and misrepresentation that was made to the court to mislead it during the hearing in April 2016". She went on to allege that "[f]alse evidence was further submitted to the court during the application to extend the GCRO in November 2018". She sought a full response by no later than 12 March 2020, failing which an application would be made to the High Court for an order that such a response be provided. On the same day, 5 March 2020, Mrs Harrold wrote to the court seeking permission to make an application to Laing J to discharge the GCRO. On 6 March 2020, Mrs Harrold sent a further letter to the court enclosing a further copy of her witness statement dated 2 March 2020. She was advised that any application to discharge the GCRO must be made by application notice. The application notice has now been issued. It is supported by a bundle running to some 500 pages.

13. I have set out the history of Mrs Harrold's attempts to litigate. As well as litigation, however, Mrs Harrold has made complaints, both to courts and tribunals and to legal regulators, about the legal representatives of the NMC and the Trust. Some of these were considered by Foskett J. Mrs Harrold applied to amend the eleventh and twelfth claims considered by Laing J. The purpose of the amendment was to include allegations of discrimination and harassment against the solicitor at Fieldfisher instructed on behalf of the NMC, Ms Casbolt. Before a preliminary hearing on 5 June 2014, Mrs Harrold made an application that Mr Solomon be prevented from taking

part in the hearing. The fourteenth claim before Laing J included allegations that Mr Solomon and Miss Casbolt had discriminated against her and, in Mr Solomon's case, victimised her. (As I have said, this claim along with many of the others considered by Laing J, was held to be TWM.) On 15 January 2018, Mrs Harrold sent an email to Ms George complaining that she and Mr Solomon were dishonest. On the same date, she complained to Mr Solomon's chambers, raising the same points as had been rejected by the Employment Tribunal. On 9 January 2018, she complained to the managing partner at Fieldfisher about a Mr Johnson, who then had conduct of the matter on behalf of the NMC. He too was accused of dishonesty. There were further complaints in February and March 2018 about the legal team instructed against her. These complaints were copied to the Bar Standards Board and Solicitors Regulatory Authority.

14. Foskett J declined to extend the GCRO to prevent Mrs Harrold from making complaints to legal regulators. He said this at [34]:

> "Whilst I cannot say that the inherent jurisdiction might not be extended to embrace the kind of order he suggests should be made, I would want to hear full argument on it, preferably with both sides of the argument being deployed, before reaching a conclusion. It would be apparent that I have not received such argument in the present case. The difficulty I see is that what is really being sought is some kind of court-imposed filter on the access that someone has to the complaints system for the relevant professionals. I do not consider that the inherent jurisdiction goes as far as to permit that. It is essentially there to protect the court's processes from being abused. I would add that most professional disciplinary systems have a sifting arrangement which ought to be capable of weeding out obviously unsustainable allegations."

15. Since Foskett J's judgment, there have been a number of further complaints. On 7 August 2018, Mrs Harrold submitted a complaint to the BSB about Ms George. The complaint was rejected. On 17 October 2018, Mrs Harrold made a further such complaint. On 22 October 2018, she sent a letter to DAC Beachcroft making a complaint to them about Ms George. DAC Beachcroft declined to investigate on the basis that the allegations were the same as those forming the basis of the complaint rejected by the BSB. Mrs Harrold was not content with this and wrote again to DAC Beachcroft, which again declined to investigate.

16. In addition, Mrs Harrold made a formal complaint to the BSB in January 2018 about Mr Solomon. This was rejected in May 2018. She made a further complaint in August 2018, which was treated as a request for a review of the decision to dismiss the first complaint. The review upheld the dismissal in October 2018.

17. Ms George summarises the position and comments as follows:

> "It is clear that since the avenues of litigation have been closed off to Mrs Harrold, she has sought to pursue grievances against the NMC and the Trust by way of complaints against their chosen legal representatives. This is entirely improper. It is a means of attempting to gain a litigation advantage and harass the NMC and the Trust through their legal representatives (and causing cost to the Trust and NMC, and upset the individual lawyers who are harassed) while not ostensibly acting in breach of Orders made by Mr Justice Foskett and Mr Justice Warby. It is also a waste of time and resources for the legal regulators. That is why the application also seeks an order preventing Mrs Harrold from making complaints to the relevant regulators against the legal teams instructed from time to time by the NMC or the Trust."

18. Richard Kenyon, the partner at Fieldfisher with conduct of this matter on behalf of the NMC, has given further details of a complaint made by Mrs Harrold to the NMC on 28 October 2018, copied to the Minister of State for Health, in which she sought to raise matters decided against her in the Employment Tribunal and by Jay J in the appeal against the decisions to strike her off the NMC's register. On 5 August 2019, Mrs Harrold emailed the NMC's Chief Executive to request a review of the order striking her off the NMC's register, complaining *inter alia* that the NMC's decision was vitiated by a failure to consider a letter dated 20 September 2004. This complaint had already been ventilated before and rejected by Jay J. The NMC declined to review the decision. This caused Mrs Harrold to respond, on 22 October 2019, that "application will be made to the High Court in due course to set out the false evidence and misrepresentations that were made by the NMC and [the Trust] to mislead the court during the High Court proceedings in 2016 and 2018". On 22 March 2020, Mrs Harrold sent a further letter to the NMC's Chief Executive indicating her view that the failure to review her striking off amounted to harassment contrary to the Protection from Harassment Act 1997.

19. The witness statements of Ms George and Mr Kenyon also give details of numerous subject access requests made by Mrs Harrold under the Data Protection Act 2018 and requests for information under the Freedom of Information Act 2000. Mr Kenyon concludes as follows:

> "The NMC does not seek to prevent Mrs Harrold from exercising her statutory rights under the Data Protection Act 2018 or the Protection from Harassment Act 1997, however, it believes that Mrs Harrold's use of data subject access requests,

> alongside her continued efforts to use internal reviews and complaint procedures to pursue well-trodden arguments (in addition to the complaints she makes about lawyers instructed on the case for the NMC to the relevant legal regulators), are a clear indication that she intends to litigate against the NMC following the end of the GCRO, and to do so by making the same stale complaints that were considered by the courts when the previous CROs were made."

The law

20. CPR 3C PD provides as follows at §4.10:

> "The court may extend the duration of a general civil restraint order, if it considers it appropriate to do so, but it must not be extended for a period greater than two years on any given occasion."

21. In *Chief Constable of Avon and Somerset Constabulary v Gray* [2016] EWHC 2998 (QB), at [7], Warby J identified five relevant propositions of law:

> "(1) First, it is not a precondition for granting a GCRO that the person against whom it is made has brought claims which are TWM. A GCRO may be made against a person who persists in issuing claims which are TWM, or someone who persists in making applications which are TWM.
>
> (2) Secondly, the threshold requirements in PD3C 4.1 need to be satisfied before a GCRO is made. But the test for the grant of an extension is different: it is whether the court "considers it appropriate". This plainly makes sense, as a person who has already been subject to a GCRO will in principle have had no opportunity to issue any TWM claim or application, other than an application for permission to proceed, or to vary or discharge the GCRO.
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> (3) Thirdly, when a Judge has determined that a claim or application is TWM, the circumstances in which it will be legitimate to contest that determination in subsequent proceedings before a Court at the same level of jurisdiction are limited. The CPR provide that those against whom orders are

> made on the court's own initiative, or in their absence, may apply to vary or set aside the order: see, eg, CPR rr 3.3(5) and (6); 23.8-23.11 & PD23 11.2. Otherwise, if the proceedings are between the same parties, there will be issue estoppel; and in any case, the correct means of challenge will normally be by way of appeal.
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> (4) Fourthly, as Mr Gray has emphasised, a CRO interferes with the right of access to a court. That is a fundamental civil right. The court must be alive to that, and wary of too readily imposing restrictions upon the right of access. Restrictions should be imposed only if and to the extent that they are necessary in the pursuit of a legitimate aim. In the case of a CRO the legitimate aims in view include the protection of the rights of others, to be free from the waste of time and precious resources that flow from the bringing of unfounded claims and applications. The scarce publicly funded resources of the court also require protection against such waste. These are considerations which justify the existence of the CRO regime.
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> (5) In that context, the fifth point is important. A GCRO is not, as some of Mr Gray's submissions would suggest, a bar on the bringing of any proceedings. It imposes a permission filter. Permission filters are a well-established feature of civil and criminal procedure. They are most common as a way of controlling the use of appeal mechanisms. But permission is required to initiate a claim for judicial review. The court would not refuse permission to bring a claim of substance with arguable merit. What it might do, if presented with such a case, is to give directions to ensure that any untenable aspects of the claim were removed and to ensure that all remaining claims were conducted fairly and efficiently, did not consume disproportionate resources, and were otherwise dealt with in accordance with the overriding objective."

22. Warby J's list of five propositions was applied by Turner J in *Sheikh v Page* [2017] EWHC 1772 (QB). At [7], the judge said:

> "To this list I would add the observation that where an application to extend a GCRO is made the court would normally expect to see some evidence relating to matters relevant to the period which has elapsed since the GCRO was made or most recently extended as the case may be. Otherwise, the important safeguard of limiting the duration of the period of the making or extension of a GCRO to two years would be liable to be circumvented."

23. In a subsequent iteration of the case heard by Warby J, the Court of Appeal approved the following statement of principle by Stuart-Smith J: [2019] EWCA Civ 1675, at [14] (Irwin LJ):

> "14. The test for imposing a GCRO is stated by [4.1] of PD 3C to be that 'the party against whom the order is made persists in issuing claims or making applications which are totally without merit, in circumstances where an extended civil restraint order would not be sufficient or appropriate.' In *R (Kumar) v Secretary of State for Constitutional Affairs* [2007] 1 WLR 536 at [60] the Court of Appeal said that this language:
>
> '… is apt to cover a situation in which one of these litigants adopts a scattergun approach to litigation on a number of different grievances without necessarily exhibiting such an obsessive approach to a single topic that an extended civil restraint order can appropriately be made against him/her.'
>
> 15. The test when the Court is asked to extend a GCRO pursuant to [4.10] of PD 3C is different and is that the Court 'considers it appropriate' to do so. That test must be read in the light of the criteria for imposing a GCRO in the first place, since the restriction upon the party's right to bring litigation is the same during the original term of a GCRO or during its extension. In briefest outline, the question either on an original application for a GCRO or on an application for an extension is whether an order (or its extension) is necessary in order (a) to protect litigants from vexatious proceedings against them and/or (b) to protect the finite resources of the Court from vexatious waste. This question is to be answered having full regard to the impact of any proposed order upon the party to be restrained. The main difference between an original application for a GCRO and an application for an extension is that, on an application for an extension, the respondent will have been restrained from bringing vexatious proceedings during the period of the existing GCRO."

Submissions for the Trust and the NMC

24. In his skeleton argument and concise oral submissions, Mr Solomon QC submitted that this test was amply met. It was not simply that the history since Warby J's order established a likelihood that Mrs Harrold would bring further vexatious claims; Mrs

Harrold has made clear in her application to discharge the GCRO currently in force that she plans to make further claims or applications designed to relitigate matters that have been finally decided against her. Mr Solomon therefore invited me to extend the GCRO in the terms granted by Foskett J and extended by Warby J, that is to cover not only claims in the county courts and High Court (pursuant to CPR 3C PD) but also claims in the Employment Tribunal and Employment Appeal Tribunal (under the inherent jurisdiction, pursuant to Hamblen J's ruling).

25. Mr Solomon also invited me to broaden the terms of the GCRO to prohibit the making of "complaints to the relevant regulators against the legal teams instructed from time to time by the claimants without first obtaining the permission of the applications judge in the Queen's Bench Division". He pointed out, fairly, that this was something Foskett J had been unwilling to do; and, in addition, that the BSB had indicated that it did not support the order. The BSB had indicated that, in its view, it would be inconsistent with the BSB's duty and contrary to its regulatory objectives to "outsource or delegate our initial assessment function to the courts". Furthermore, the BSB does not believe that the absence of such an external filter exposes it to unmanageable cost or practical challenge. It was, in the BSB's view, an inevitable aspect of any regulatory disciplinary process that "hopeless complaints" would be received. The costs and resources for this were allowed for and built into the BSB's budgets.

26. Nonetheless, Mr Solomon submitted that the BSB's view was not determinative. The persistent making of meritless complaints against legal professionals imposed a real burden on those professionals, particularly where, as here, the complaints alleged dishonesty. Given that the complaints were against legal professionals whose contact with Mrs Harrold was confined to their role in the legal teams representing the NMC and Trust, the complaints could be seen as litigation by other means. To put the point another way, Mrs Harrold had sought to use complaints against the legal teams of the NMC and the Trust as an alternative means of relitigating the matters which the GCRO prevented her from litigating in court. That being so, the complaints could be seen as an abuse of the process of the court, which the court had power to prevent, either under its inherent jurisdiction or under the broad power conferred by s. 37 of the Senior Courts Act 1981 to grant an injunction "in all cases in which it appears to the court to be just and convenient to do so".

27. Mr Solomon relied on the decision of Proudman J in *Law Society v Otobo* [2011] EWHC 2264 (Ch). He went on to draw an analogy with the court's inherent jurisdiction over solicitors, who are its officers (see e.g. *Fox v Bannister King & Rigbeys* [1987] 1 All ER 737, 740 (Nicholls LJ)), and with the inherent jurisdiction to grant anti-suit injunctions to restrain an individual over whom the court has jurisdiction from bringing proceedings in another forum over which it lacks jurisdiction. Finally, he referred to *Iqbal v Dean Manson Solicitors* [2011] EWCA Civ 123, [2011] IRLR 428, in which Rix LJ said at [42]:

> "A professional man's integrity is the lifeblood of his vocation. If it is deliberately and wrongly attacked, whether out of personal self-interest or malice, a potential claim lies under the [Protection from Harassment Act 1997]."

Mrs Harrold's submissions

28. Mrs Harrold filed a skeleton argument in support of her application to discharge the GCRO and a full written response to Mr Solomon's skeleton argument. She also made oral submissions for about one hour before lunch and about 30 minutes afterwards. I am satisfied that she had every opportunity to say all that she wished to say and that I have understood her submissions.

29. In her response to the application to extend the GCRO, Mrs Harrold's main point, to which she returned frequently, was that Hamblen J's remarks when handing down judgment amounted to a case management direction. The direction required the NMC and the Trust to file detailed evidence about what was before the courts and tribunals in the fifteen claims relied upon by them to justify the making of the GCRO. Although Ms Darwin had referred to Hamblen J's comments in her email to her instructing solicitors, this had not been passed to Mrs Harrold until September 2018, so she could not refer to it before Laing J, or when applying for permission to appeal her order to the Court of Appeal, or before Foskett J. If she had known about Hamblen J's direction, Laing J would have realised that she did not have enough information before her to conclude that many of the 15 claims were TWM. Mrs Harrold said that Mr Solomon was at fault in this regard, since it was his duty to assist Laing J and Foskett J by drawing the direction to their attention. Mrs Harrold explained to me that, in her view, Mr Solomon had acted dishonestly. As a result, it followed that the NMC could not rely on the judgments of Laing J or Foskett J as binding on her.

30. As to her application to discharge the GCRO, Mrs Harrold submitted that, in the three sets of proceedings issued in 2004 and 2005 and relating to her dismissal, the Trust misled the Employment Tribunal, so that the claims were dismissed when they should not have been. These three claims were not among those relied upon before Laing J in support of the GCRO. Mrs Harrold wishes to invite the High Court to refer these claims back to the Employment Tribunal in the light of what she claims was the suppression of relevant evidence, with a view to establishing that the dismissal was unfair. Alternatively, she invites the High Court to make a determination to this effect itself in the exercise of its inherent jurisdiction over inferior courts.

31. Mrs Harrold submits, further, that the High Court should consider whether the Trust was guilty of a "malicious abuse of the civil restraint process" in bringing the claim for a GCRO. It is said that the Trust should have been aware of the suppression of vital evidence in the first three claims and continued with a deceptive approach in others of the claims considered by Laing J. So far as proposed proceedings are concerned, Mrs Harrold indicates her desire to bring proceedings under the Protection from Harassment Act 1997 against the NMC for failing to review her striking off and for misleading her about the procedure applicable to that. Mrs Harrold indicates her intention to seek reinstatement of the fourteenth and fifteenth Employment Tribunal claims and to seek criminal investigations of the conduct of the NMC and its legal team. She concludes as follows:

> "The full payment of the injury to feelings compensation including interest of 8% per year is sought. All legal costs to date in defending the GCRO and the full amount of the charging order obtained by [the Trust] and loss of income will also be sought. These figures will be provided to the court at a later date."

32. In the course of her submissions, Mrs Harrold made reference to a number of other issues which she wished to re-open. These included her allegation that it was discriminatory for the Trust to have referred her to the NMC, when they chose not to refer another nurse found by the Employment Tribunal to have falsified a document.

Discussion

Should the GRCO be extended or discharged?

33. I begin with the main point made by Mrs Harrold in her submissions, which I have set out as accurately as I can at [29] above. This point has no merit. First, its underlying premise is that Hamblen J made a case management direction requiring the submission of further evidence. This premise is false: Hamblen J made no relevant case management direction. He simply made a comment that he would expect to see greater detail from the NMC and the Trust about the claims said by them to be TWM, leaving it to them to decide how that detail was provided. Second, even if Hamblen J had made a case management direction, the exercise for Laing J would have been the same: to consider the evidence before her and decide whether that evidence satisfied the test for making a GCRO. No case management direction could have affected the test that Laing J had to apply. As her judgment shows, she gave detailed consideration to the facts of the individual cases, found that many (though not all) were TWM and concluded that the test for making a GCRO was satisfied. Permission to appeal that conclusion was refused by the Court of Appeal as TWM. It follows that, even if Hamblen J had made a case management direction (which he did not), Laing J's findings and conclusion bind Mrs Harrold in subsequent proceedings against the NMC and the Trust. Third, there is no evidence that Mr Solomon, Ms George, Mr

Johnson or any other member of the Trust's and NMC's legal teams failed in their duty to bring relevant matters to the attention of Laing J or Foskett J or Warby J or me. The allegations that they have (or any of them has) acted dishonestly are baseless and should not have been made. In the proceedings before me, Mr Solomon, Ms George and the other members of the Trust's and NMC's legal teams have faithfully discharged their obligations to the court, including by properly drawing attention to matters that may assist Mrs Harrold. Indeed, they have shown exemplary restraint and forbearance in the face of repeated and unwarranted attacks on their professional integrity.

34. It follows that, on this application, I must treat Laing J's findings and conclusions as correct. They are the starting point for my consideration whether an extension of the GCRO is necessary. In considering that question, however, I must concentrate on what has happened since Warby J's order in November 2018, taking the prior history as relevant background. It would be possible to draw inferences as to Mrs Harrold's present intention from the matters deposed to by Ms George in her Third Witness Statement, but this is not necessary, because Mrs Harrold has made her intentions plain in her application to discharge the GCRO. This makes it clear that she intends, if permitted to do so, to attempt to relitigate matters which have been finally determined against her.

35. Nothing in Mrs Harrold's application discloses any arguable basis for re-opening the three Employment Tribunal claims issued in 2004 and 2005 that were not before Laing J. The High Court has no jurisdiction to reach a determination on the fairness of a dismissal in 2004 when that dismissal has been the subject of concluded proceedings in the Employment Tribunal. Given the age of these claims, the prospect that an appeal to the Employment Appeal Tribunal would be allowed out of time is negligible. Any attempt to relitigate those claims would be TWM. So too would any proceedings designed to show that the Trust had engaged in "malicious abuse" by bringing proceedings for a GCRO. The appropriateness of the GCRO in 2016 is now *res judicata* in the light of Laing J's judgment and the refusal of permission to appeal by Sales LJ.

36. Any attempt to relitigate the fourteenth and fifteenth of the claims before Laing J would run into the same problem: Laing J's finding that those claims are TWM binds Mrs Harrold. There is, as I have indicated, no evidence to support the contention that Laing J's judgment was procured by fraud or that there was any attempt to mislead her or Sales LJ. The proposed proceedings under the Protection from Harassment Act 1997 are, on Mrs Harrold's own case, based entirely on the things done in the conduct of proceedings, including in relation to the GCRO. Having listened carefully to the points Mrs Harrold has made about this, I am satisfied that any such proceedings would be TWM, as would any attempt otherwise to recover damages for injury to feelings or loss of income on the basis of things said or done in the context of these proceedings.

37. Mrs Harrold's complaint about the fact that she was referred to the NMC when another nurse was not have been specifically addressed by the Employment Tribunal, which held that the other nurse was not a proper comparator: see Laing J's judgment at [38]. Subsequent attempts to relitigate the matter before the Employment Tribunal were rejected because the issue was *res judicata*: see Laing J's judgment at [82]. A further attempt to traverse the same ground would be impermissible, and TMW, for the same reason.

38. The contents of Mrs Harrold's application to discharge the GCRO are sufficient on their own to establish that she intends to abuse the process of the court by bringing further proceedings to relitigate matters that have been conclusively determined against her; and that she intends to do so in part by making allegations of fraud and dishonesty against members of the NMC's and the Trust's legal teams, for which there is no discernible basis in fact. This means both that Mrs Harrold's application for discharge of the GCRO must fail, and also that, applying the test in CPR 3C PD §4.10, it is "appropriate" in principle to extend the GCRO. No suggestion was made by Mrs Harrold that I should make any order other than a GCRO or that I should make an order for any less than 2 years. Given the number of *fora* in which Mrs Harrold has sought to litigate, a GCRO (as opposed to a different form of order) is as necessary now as it was when made by Laing J and extended by Foskett J. Given the length of time for which Mrs Harrold has been litigating and her undimmed enthusiasm for litigating the points already decided against her, an order for the maximum duration of 2 years is plainly warranted. Since the bulk of her claims have been brought in the Employment Tribunal, it is also necessary to make an order pursuant to the inherent jurisdiction, preventing her from litigating in that forum or in the Employment Appeal Tribunal without the permission of the High Court. That is, of course, in addition to the usual order pursuant to CPR 3C PD, which requires the permission of the High Court for any claim in a county court or the High Court.

Should the GCRO be extended to restrain Mrs Harrold from complaining to legal regulators without the permission of the court?

39. I understand why the Trust and NMC have sought, in addition to an extension of the orders granted by Laing and Foskett JJ, an order restraining Mrs Harrold from making complaints to relevant legal regulators without the permission of the court. Complaints to legal regulators are serious matters for any legal professional. Even where they are baseless, establishing that may require considerable knowledge of the background circumstances, which may not be fully or accurately described in the complaint. It cannot be guaranteed that a legal regulator will have that background knowledge, or be able to obtain it, at least without undertaking enquiries of the professional concerned. Dealing with such enquiries from a legal regulator represents a significant burden both in terms of time and psychologically. Legal professionals should not have to litigate in the knowledge that their conduct is likely to be the subject of baseless complaints.

40. There is force in Mr Solomon's observation that Mrs Harrold uses complaints to legal regulators as a means to do what the GCRO prevents her from doing in court – viz. to reargue the points conclusively determined against her in legal proceedings. All the complaints have concerned the conduct of litigation by members of her opponents' legal teams. However, I do not consider that the court is empowered to make an order in the terms sought either in the exercise of its inherent jurisdiction or under s. 37 of the Senior Courts Act 1981.

41. First, Mr Solomon was unable to point to any case in which the inherent jurisdiction or s. 37 of the 1981 Act was held to empower the making of such an order.

42. Second, the fact that the inherent jurisdiction is said to be "unlimited" does not mean that the court can do whatever it considers appropriate or desirable in the circumstances of the case. By the same token, the power conferred by s. 37 of the 1981 Act is not a power to do whatever seems "just and convenient". In both cases, it remains necessary for the applicant to show that the order sought falls within an established head of jurisdiction or an incremental development of one. The juridical basis and justification for any such development must be compellingly established.

43. Third, the inherent jurisdiction of the High Court derives from "coercion, that is to say punishment for contempt of court and of its processes, and regulation, that is to say regulating the practice of the court and preventing abuse of its process". It has long been accepted that this extends to a power "(1) to prevent with the due course of justice in [inferior courts] and (2) to assist them so that they may administer justice fully and effectively": Sir Jack Jacobs, 'The Inherent Jurisdiction of the High Court', [1970] CLP 23, cited with approval in *Otobo*, [45]-[46] (Proudman J) and by Hamblen J in his judgment at an earlier stage of this application: [2015] EWHC 2254 (QB), [16]; [2016] IRLR 30. The order sought here, however, is not directly concerned with preventing an abuse of the process of the High Court or any inferior court.

44. Fourth, the analogy with anti-suit injunctions is not an exact one. In the case of an anti-suit injunction, the institution of proceedings in another jurisdiction is restrained because it is capable of constituting an interference with the due course of justice in this jurisdiction: see e.g. *Turner v Grovit* [2002] 1 WLR 107, [24]-[29] (Lord Hobhouse). Complaints or proceedings before professional regulators, though undoubtedly burdensome for those against whom they are directed, are not capable of binding courts and so do not involve an interference with the due course of justice within their jurisdiction.

45. Fifth, there is no evidence that the processes of the relevant legal regulators are, as a matter of practice, unable to deal with vexatious complaints. Where it is obvious that a complaint lacks merit, it may be possible for it to be rejected as unfounded without referring it to the legal professional concerned. In other cases, it may be possible to reject the complaint after considering a brief response from the professional. Although a number of complaints were made in this case against Mr Solomon and Ms George, each was rejected relatively quickly. It is of some relevance that the BSB considers itself well able to handle such complaints within its existing processes and budget.

46. Sixth, the making of repeated, meritless complaints against a legal professional could justify action under the Protection from Harassment Act 1997: see by analogy *Iqbal v Dean Manson Solicitors*. That seems to me to undermine Mr Solomon's case rather than to support it, because it points to the existence of a statutory remedy which would cover the circumstances of this case. Where such a remedy exists, it is difficult to identify a compelling need to expand the scope of the inherent jurisdiction, as hitherto recognised.

Conclusion

47. For the reasons, I will extend for a further two years the existing GCRO, which restrains Mrs Harrold from bringing further claims or making further applications in any County Court, the High Court, the Employment Tribunal or the Employment Appeal Tribunal, save with the permission of the applications judge in the Queen's Bench Division. I refuse the application to extend the scope of that order to prevent Mrs Harrold from making complaints to the relevant legal regulators.

48. Having heard Mrs Harrold's submissions, I have no doubt that she honestly believes herself to be the victim of a campaign of persecution by the NMC, the Trust and their legal teams. There is no foundation to this belief, but it has nonetheless hardened into an obsession, which has been fuelled rather than dampened by the application for a GCRO. Mrs Harrold has been undeterred by the GCRO from seeking to find ways of relitigating matters that have been conclusively determined against her. The history of this litigation suggests that her vexatious tendencies become manifest particularly, though by no means exclusively, when it is necessary to consider renewal of the GCRO. On each occasion, the NMC and the Trust have to devote substantial resources to the application, as does the court. Costs orders have been made against Mrs Harrold on many occasions, but she has never satisfied any of them; and they have not deterred her from further vexatious litigation. I will therefore direct that a copy of this judgment be sent to the Attorney General, so that she can consider whether it is appropriate to apply to the court under s. 42 of the Senior Courts Act 1981 for an "all proceedings" order without limit of time.