

TJM v Chief Constable of West Yorkshire Police

Statement in Open Court

Mark Henderson, Counsel for the Claimant

1. My Lord, in this action I appear for the Claimant. My learned friend Mr Cohen appears for the Defendant, the Chief Constable of West Yorkshire Police.
2. The Claimant is a serviceman in His Majesty's Armed Forces. At the outset, it should be noted that he is anonymised as TJM, pursuant to the [Anonymity order](#) dated 10 June 2022 made by Master Eastman, on an application supported by both parties. It prohibits disclosure of the identity of the Claimant or his child or any reporting of the child's family members or any other immediate family members and details that could lead to the identification of the Claimant and/or the Child.
3. On 25 August 2020, the Defendant published to the Claimant's employer, the Royal Navy, an email (to which I will refer as the Statement) signed by a Police Constable, with a PDF file attached to the email (the Attachment) into which were placed extracts of correspondence between the Claimant and the mother of the Child about arrangements for the care of their child, which was at the time being actively managed by the Family Court (the Information).
4. Only following that publication to the Claimant's employer did the Defendant arrest the Claimant for questioning. He was then released on police bail. The Defendant then kept the Claimant on police bail for 16.5 months during which WYP gave inconsistent accounts of the reason for the prolonged police bail.
5. The Claimant brought a claim for libel based on the Statement being defamatory of him and for breach of privacy and data protection legislation for disclosure of the Information in the Statement and the Attachment about the Claimant being the subject of a criminal investigation, interactions between the Claimant and the other parent concerning arrangements for the Child, and the various extracts of private correspondence, in which the Child was identified numerous times, which were said to breach the Claimant's Article 8 rights, and for which there was no public interest justification.
6. A Preliminary Trial of the Libel claim was heard by Johnson J on 25 July 2022. In his judgment, *TJM v CC of West Yorkshire Police* [2022] EWHC 2658 (KB), Johnson J said:

The features of the email which struck me as informing the meaning are that it is written in an official capacity by a police officer; it uses the sender's and the recipient's official work email address; it is written in formal language; the correspondents do not apparently know each other; the recipient is a warrant officer, and therefore holds a rank of some seniority, the highest non-commissioned rank; there is a clear purpose in sending the email, which is to persuade the recipient to initiate an investigation into the claimant; the nature of the email and the context is such that it was very likely that there would be re-publication by the recipient to his colleagues. (para 15)

7. Johnson J ruled that the Statement meant that:

“The claimant has threatened and told blatant lies to his former partner, sending her emails which make threats, drawing on his military background to control her, and causing her to be scared that she is under constant surveillance and affecting her mental health. He has thereby committed an offence of controlling and coercive behaviour against his former partner and an offence against her of harassment. His behaviour is not compatible with service in the armed forces.”
8. He ruled that it was defamatory of the Claimant at common law; and that the Statement was factual, except for the last sentence which was a statement of opinion.
9. On 8 September 2022, the Defendant filed a Defence, in which he:
 - a. admitted that the Statement caused serious harm to the Claimant’s reputation, but he defended the defamatory factual allegations as True, and the opinion with the defence of Honest Opinion;
 - b. claimed that the disclosure of the Claimant’s private Information was justified, and that the processing of his personal data was lawful, albeit accepting that the processing of personal data was not done for law enforcement purposes.
10. On 28 October 2022, the Claimant filed a Reply to the Defence in which he contended that the factual meaning of the Statement was false and denied that the opinion was supportable as Honest Opinion. He relied upon the Defendant’s conduct in keeping him on police bail for 16.5 months before releasing him without charge as inconsistent with the imputation that he was guilty of criminal offences, and said that the Truth defence aggravated the distress and damage caused to him by the defamatory Statement.
11. On 22 December 2022, the Defendant openly “*confirm[ed] that liability is conceded in these proceedings*” without limitation.
12. The publication of the Statement and the disclosure of the Claimant’s private correspondence about the care of his child has caused the Claimant severe distress and damage.
13. The defamatory Statement was foreseeably republished, as Johnson J had concluded was intended, within His Majesty’s Armed Forces. The Claimant does not know how widely it has been disseminated, and may never know for sure, something which has greatly aggravated his distress. He has been particularly worried that publication of the false defamatory Statement could affect his relationship with his child.
14. The factual allegations set out in the defamatory Statement are false. The Defendant unreservedly retracts them and withdraws his defamatory opinion as to the Claimant’s fitness to serve in His Majesty’s Armed Forces, accepting that he had no basis for it. He is profoundly sorry for the distress caused by their publication and republication.
15. The Defendant is here today to set the record straight and to apologise unreservedly to the Claimant for the distress and embarrassment that the publication of the false allegations has caused him and for the continuing damage and distress. The Defendant has agreed to pay substantial damages to the Claimant. He is also here to confirm to the Claimant and the

Court how lessons will be learnt from the unfair and unacceptable way in which the Claimant has been treated.

Counsel for the Defendant:

16. My Lord, on behalf of the Defendant, I accept all that counsel for the Claimant has said.
17. The Defendant acknowledges that the factual allegations about the Claimant are untrue, and that the opinion expressed about him is insupportable. He retracts and withdraws these allegations and that opinion, and he undertakes not to further publish or repeat them. He also accepts that the disclosure of the private correspondence to the Claimant's employer was completely wrong, and he apologises for the invasion of privacy caused to the Claimant and his Child.
18. As counsel for the Claimant has said, the Defendant further reiterates to the Claimant and to the Court that West Yorkshire Police are learning lessons from what occurred in this case in order to avoid any repetition of these or similar circumstances. Revised procedures and safeguards have been implemented as a result of this case.
19. The Defendant finally reiterates that West Yorkshire Police is committed to policing fairly and objectively, on behalf of all the communities it serves, and in that respect too, the way in which this particular situation was handled is sincerely regretted.
20. The Defendant is accordingly here today to publicly set the record straight, and to apologise to the Claimant for all the distress and embarrassment that he accepts that the false and insupportable defamatory Statement, together with the breach of his privacy, has caused to him.

Counsel for the Claimant:

21. In these circumstances, the Claimant is prepared to let the matter rest against the Defendant. My Lord, it remains only for me to ask for leave that the record be withdrawn.

Ends