

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Claim No. QB-2022-174

BEFORE THE HONOURABLE MR JUSTICE CHAMBERLAIN

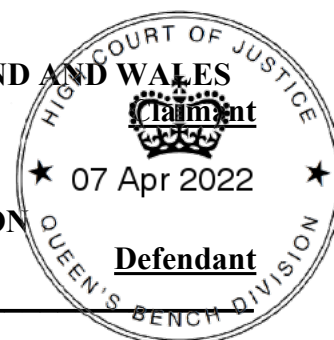
DATED 7 APRIL 2022

BETWEEN:-

HER MAJESTY'S ATTORNEY GENERAL FOR ENGLAND AND WALES

-and-

BRITISH BROADCASTING CORPORATION



INTERIM ORDER FOR AN INJUNCTION QB-2022-000174

IMPORTANT: NOTICE TO THE DEFENDANT

You should read this Order and Practice Guidance (Interim Non-disclosure Orders) (Sen Cts) [2012] 1 WLR 1003 very carefully. You are advised to consult a solicitor as soon as possible. This Order prohibits you the BRITISH BROADCASTING CORPORATION (“the Defendant”), from doing the acts set out in paragraphs (1) and (3) below and obliges you, the Defendant, to do the acts set out in paragraph (6) below. You have the right to ask the Court to vary or discharge this Order. If you disobey this Order you may be found guilty of contempt of court and you may be fined or your assets may be seized.

IMPORTANT: NOTICE TO ANYONE WHO KNOWS OF THIS ORDER

You should read this Order and Practice Guidance (Interim Non-disclosure Orders) (Sen Cts) [2012] 1 WLR 1003 very carefully. You are advised to consult a solicitor as soon as possible. This Order prohibits you from doing certain acts and obliges you to do certain other acts. You have the right to ask the Court to vary or discharge this Order. If you disobey this Order you may be found guilty of contempt of court and you may be sent to prison or fined or your assets may be seized.

INFORMATIVE

*Media organisations and other third parties are reminded that purporting to disclose or reveal or speculating publicly about or upon the identity of the individual referred to in paragraph (1) below would constitute an attempt to flout this Order and would be likely to constitute a contempt of Court at common law (see *In re Times Newspapers Ltd* [2007] EWCA Crim 1925, [2008] 1 WLR 234, [32]).*

PENAL NOTICE

IF YOU THE DEFENDANT DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED (IN THE CASE OF NATURAL PERSONS) OR FINED

OR HAVE YOUR ASSETS SEIZED.

ANY PERSON WHO KNOWS OF THIS ORDER AND DISOBEYS THIS ORDER OR DOES ANYTHING WHICH HELPS OR PERMITS ANY PERSON TO WHOM THIS ORDER APPLIES TO BREACH THE TERMS OF THIS ORDER OR WHO OTHERWISE UNDERMINES OR FRUSTRATES THE EFFECTIVENESS OF THOSE TERMS MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.

UPON an application to the Judge being heard on 1-2 March 2022 by Leading Counsel for the Claimant (“the Judge” and “the Application” respectively).

AND UPON the Judge hearing Leading Counsel for the Claimant, Leading Counsel for the Defendant and Special Advocates for the Defendant at an OPEN hearing on 1 March 2022.

AND UPON the Judge hearing Leading Counsel for the Claimant and Special Advocates for the Defendant at a CLOSED hearing on 2 March 2022.

AND UPON the Judge considering the provisions of Part 39.2 of the CPR and article 6(1) of the ECHR and deciding that it was strictly necessary pursuant to Part 39.2(4) of the CPR to withhold the identity of Witness A as referred to in Schedule B to this Order.

AND UPON the Judge reading the materials relied upon by the Claimant in support of the Application referred to in Schedule B to this Order (“the Supporting Materials”) and the written evidence in response on behalf of the Defendant.

AND UPON the Judge accepting the Claimant’s undertakings set out in Schedule C to this Order, considering the provisions of section 12 of the Human Rights Act 1998 and the *Practice Guidance (Interim Non-disclosure Orders) (Sen Cts)* [2012] 1 WLR 1003 and being satisfied that the Claimant has taken all practicable steps to notify the Defendant and persons affected of the Application.

AND UPON the Defendant giving an undertaking to the Court that, until such time as the issues as to the Identifying Information referred to in paragraphs (7)-(8) below are resolved, it will not broadcast or publish by any means any programme or news report of the kind referred to in its letter to the Home Office dated 6 December 2021 and headed “To whom it may concern” or any copy or part thereof or any information or extract contained therein or derived therefrom in any medium including written, audio or audio-visual (save that the Defendant may broadcast or publish a report of these proceedings in so far as they were conducted in open court (and not made the subject of a reporting restriction) and/or a report disclosing information contained in or derived from the First Judgment or the Second Judgment or any of the non-confidential documents referred to in Schedule D to this Order).

AND UPON the Defendant and any person served with or notified of this Order having the right to apply to the Court on notice to vary or discharge this Order or so much of it as affects them.

AND FOR THE REASONS set out in the OPEN and CLOSED Judgments of the Court dated 7 April 2022.

IT IS ORDERED THAT:

Injunction

- (1) Subject to the proviso to this paragraph and to paragraphs (2) and (4) below and pending the making of a further Order in accordance with paragraphs (7)-(8) below, the Defendant shall be restrained until trial or further Order from doing or instructing or encouraging or causing or permitting any other person to do the following acts or any of them (whether by itself, its directors, officers, employees, servants or agents or otherwise howsoever), namely, publishing or disclosing or causing or permitting to be published or disclosed any information which directly or indirectly identifies the individual referred to as “X” in the OPEN Judgments of the Court in these proceedings dated 16 February 2022 ([2022] EWHC 380 (QB)) and 7 April 2022 ([2022] EWHC 826 (QB)) (“the First Judgment” and “the Second Judgment” respectively).

Proviso

Provided that nothing in this paragraph applies to any information contained in or derived from the First Judgment or the Second Judgment or any of the non-confidential documents referred to in Schedule D to this Order.

- (2) For the purposes of paragraph (1) above, subject to the proviso thereto and pending the making of a further Order in accordance with paragraphs (7)-(8) below, any information which is about, discloses or otherwise relates to any of the following is to be treated as information which directly or indirectly identifies X: his name or any pseudonyms or alias names he may have used; his actual or approximate age; his image, appearance, voice or accent; the contents of the video footage referred to in the Second Judgment and/or disclosed in these proceedings; his mental or physical health, sex life or sexual orientation; his race or nationality; his political, religious, philosophical or ideological associations, beliefs, interests or opinions; his recreational interests; his family background, makeup or membership; any other biographical information including as to his relationship history or relationship partners, education or employment history or past or present residential, educational or employment addresses or locations; the same or any similar such information about the women referred to in the Second Judgment as “Ruth” and “Beth”; any

allegations made by Ruth or Beth about X; or the identity of the senior journalist referred to in the Second Judgment.

- (3) Subject to paragraph (4) below, the Defendant shall be restrained until trial or further Order from doing or instructing or encouraging or causing or permitting any other person to do the following acts or any of them (whether by itself, its directors, officers, employees, servants or agents or otherwise howsoever) without the express prior written agreement of the Claimant, namely, publishing or disclosing or causing or permitting to be published or disclosed any document filed or served on or provided to the Defendant or its Solicitors or Counsel by or on behalf of the Claimant or the Special Advocates in connection with these proceedings (save for any OPEN Orders or Judgments of the Court given or made in public or any of the other non-confidential documents referred to in Schedule D to this Order) or any copy or part thereof or any information or extract contained therein or derived therefrom (save for any information or extracts contained in or derived from any such Orders or Judgments or other non-confidential documents).

Handling of documents and information

- (4) Notwithstanding paragraphs (1) and (3) above, but subject to paragraphs (5)-(6) below:
 - (a) the Defendant has permission to disclose any document or information or make any statement falling within paragraphs (1) or (3) above to its external Solicitors or Counsel;
 - (b) the Defendant has permission to make documents in or in connection with or for the purposes of these proceedings which contain information or statements falling within paragraphs (1) or (3) above (“Confidential Defence Documents”) and each such document shall be subject to the provisions of paragraph (3) above;
 - (c) the Defendant has permission to deliver to its external Solicitors or Counsel any document or written statement falling within paragraphs (1)

or (3) above or any Confidential Defence Document or any copy or part thereof or any information or extract contained therein or derived therefrom; and

- (d) the Defendant has permission permanently to destroy or delete any draft or final Confidential Defence Document in accordance with arrangements agreed between the parties.
- (5) The Defendant has permission to do the acts referred to in paragraph (4) above only if and to the extent that:
 - (a) each such act is reasonably necessary for the purposes of taking legal advice upon or of conducting the defence of these proceedings or of carrying this Order or any other Order of the Court into effect; and
 - (b) the Defendant first instructs its Solicitors and Counsel not to publish or disclose to any other person any information, statement or document disclosed, made or delivered thereunder (except where such publication or disclosure is reasonably necessary in anticipation of a hearing in Court).
- (6) Any copy of any document or written statement falling within paragraphs (1) or (3) above or any Confidential Defence Document shall be accessed, preserved, processed, saved and stored in a secure place and in secure conditions by the Defendant or by its Solicitors or Counsel on its behalf in order to ensure that the Defendant shall be in a position to comply with any Order the Court may subsequently make in relation to each such document or statement.

Resolution of what constitutes “Identifying Information”

- (7) The Court will make a further Order specifying with greater particularity the information that is and is not to be treated as information which directly or indirectly identifies X for the purposes of paragraph (1) above which Order shall supersede paragraph (2) above (“the Identifying Information”).

- (8) By 1pm on 7 April 2022, each party shall file and serve a proposed draft directions timetable with a written explanation for the proposed timetable in support for a hearing before the Honourable Mr Justice Chamberlain at which any outstanding matters in dispute as to the following will be resolved:
- (a) the specification of the Identifying Information pursuant to paragraph (7) above;
 - (b) a timetable for the amendment, filing and service of OPEN and CLOSED statements of case (time shall not run for the taking of any related steps in the meantime, including the service of the Defence);
 - (c) the future application of Part 5.4C of the CPR in respect of the records of the Court in these proceedings; and
 - (d) any application for permission to appeal or any application for an extension of time for such application.

Miscellaneous

- (9) The Claimant shall serve a copy of this Order on the Defendant's Solicitors by email, but this Order is deemed to have been served on the Defendant today and personal service is dispensed with.
- (10) Subject to paragraph (11) below, paragraphs (4) and (11) of the Order of the Honourable Mr Justice Nicklin made in these proceedings on and dated 21 January 2022 and paragraphs (2)-(4) of the Order of the Honourable Mr Justice Chamberlain made in these proceedings on and dated 26 January 2022 shall remain in force and are hereby continued pending the making of any further Order pursuant to paragraph (8)(c) above.
- (11) Paragraph (10) of the said Order of Mr Justice Nicklin is superseded and hereby discharged and nothing in paragraph (11) of that Order or paragraph (2) of the said Order of Mr Justice Chamberlain shall apply to any of the non-confidential documents referred to in Schedule D to this Order and copies of the same are

hereby unsealed and may be supplied or made available to any person who is not a party to the proceedings by the Court or by either party.

- (12) Subject to paragraph (13) below, any person served with, notified of or otherwise affected by this Order has permission to apply to vary or discharge this Order or so much of it as affects them.
- (13) Any application under paragraph (12) above may be made only by way of an Application Notice served on both parties at least three clear working days before the Court is to deal with the application.
- (14) Permission to apply.
- (15) Costs reserved.

SCHEDULE A: NOTICE TO THE DEFENDANT

The Claimant's Solicitor gave notice of the Application to the Defendant by serving the following on the Defendant on 25 January 2022: Application Notice in support dated 25 January 2022 plus draft Order attached thereto; and the Supporting Materials.

SCHEDULE B: THE SUPPORTING MATERIALS

The Supporting Materials comprised: Claim Form issued and dated 19 January 2022; Application Notice and draft Order referred to in Schedule A; witness statement of Alexandra Laskowski dated 25 January 2022 and Exhibit AL1; and witness statement of Witness A dated 26 January 2022 (unsigned version served on 25 January 2022).

In addition, the Claimant relied on: Particulars of Claim dated 10 February 2022; Confidential Schedule to Particulars of Claim dated 25 February 2022; Supplementary Witness Statement of Witness A dated 25 February 2022; other disclosure documents, correspondence and written submissions filed and served on the Defendant subsequent to 25 January 2022; and CLOSED materials not served on the Defendant.

SCHEDULE C: THE CLAIMANT'S UNDERTAKINGS

The Claimant gave the following undertakings to the Court:

- (1) If this Order is varied or discharged, the Claimant will immediately take all reasonable steps to inform in writing any person notified of this Order, or whom it has reasonable grounds for supposing may act upon this Order, that it has ceased to have effect in this form.

(2) If the Court later finds that this Order has caused loss to the Defendant, and decides that the Defendant should be compensated for that loss, the Claimant will comply with any order the Court may make.

SCHEDULE D: NON-CONFIDENTIAL DOCUMENTS

Unredacted version of Claim Form referred to in Schedule A; this Order and other OPEN Orders of the Court made in public and dated 21, 24 and 26 January and 8, 16 and 24 February 2022; Application Notice and draft Order referred to in Schedule A; Claimant's Application Notice dated 7 February 2022 plus draft Order attached thereto; redacted OPEN skeleton arguments used at OPEN hearing on 1 March 2022 (Claimant's dated 22 February 2022, Defendant's dated 24 February 2022 and Special Advocates' dated 25 February 2022).

DATED 7 APRIL 2022

NAME AND ADDRESS OF THE CLAIMANT’S SOLICITOR

The Claimant’s Solicitor is THE TREASURY SOLICITOR, Government Legal Department, 102 Petty France, London, SW1H 9GL, DX: 123243 Westminster 12, Ref. Z2114918/LDW/DS4

T: 020 7210 3000 (out of office hours), 020 7210 3190 (direct dial)

F: 020 7210 3152

E: louise.wallace@governmentlegal.gov.uk

and all references in this Order to “the Claimant’s Solicitor” shall be construed accordingly.

INTERPRETATION OF THIS ORDER

- A. In this Order the words “he”, “him” or “his” include “she”, “her” or “hers” and “it” or “its”.
- B. Where there are two or more Defendants then (unless the contrary appears): reference to “the Defendant” means both or all of them; and an Order requiring “the Defendant” to do or not do so anything requires each Defendant to do or not to do it.
- C. A requirement relating to service of this Order or any legal proceedings on “the Defendant” means (unless the contrary appears) each of them.
- D. A Defendant who is an individual who is ordered by or undertakes to the Court not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.
- E. A Defendant which is not an individual which is ordered by or undertakes to the Court not to do something must not do it itself or by its directors, officers, partners, employees or agents or in any other way.

THE EFFECT OF THIS ORDER

- I. A Defendant who is an individual who is ordered by or undertakes to the Court not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.
- II. A Defendant which is a corporation and which is ordered by or undertakes to the Court not to do something must not do it itself or by its directors, officers, employees, or agents or in any other way.
- III. It is a contempt of Court for any person notified of this Order knowingly to assist in or permit a breach of this Order and/or any undertakings to the Court set out in this Order. Any person doing so may be sent to prison or fined or his assets may be seized.

COMMUNICATIONS WITH THE COURT

All communications with the Court about this Order should be sent to Room WG08, the Royal Courts of Justice, Strand, London, WC2A 2LL quoting the Claim Number. The telephone number is 0203 936 8957. The offices are open between 10am and 4.30pm on Monday to Friday.

Claim No. QB-2022-174

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST
BEFORE THE HONOURABLE MR
JUSTICE CHAMBERLAIN

DATED 7 APRIL 2022

BETWEEN:-

HER MAJESTY'S ATTORNEY
GENERAL FOR ENGLAND AND
WALES

Claimant

-and-

BRITISH BROADCASTING
CORPORATION

Defendant

INTERIM ORDER FOR AN
INJUNCTION

THE TREASURY SOLICITOR
Government Legal Department
102 Petty France
London, SW1H 9GL

DX: 123243 Westminster 12
Ref: Z2114918/LDW/DS4
T: 020 7210 3000 (out of office hours)
T: 020 7210 3190 (direct dial)
F: 020 7210 3152
E: [louise.wallace@
governmentlegal.gov.uk](mailto:louise.wallace@governmentlegal.gov.uk)

Solicitor for the Claimant