



Neutral Citation Number: [2026] EWCA Civ 391

Appeal Nos: CA-2025-000399 & CA-2025-000458

Case No: QB-2022-001002

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE KING'S BENCH DIVISION

Mr Justice Sweeting

[2025] EWHC 195 (KB)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 31/03/2026

Before:

SIR GEOFFREY VOS, MASTER OF THE ROLLS

LADY JUSTICE ASPLIN

and

LADY JUSTICE ELISABETH LAING

Between:

GIJSBERT LUCAS VAN BUUREN

**Claimant/
Respondent/
Appellant**

- 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

**Defendants/
Appellants/
Respondents**

The Claimant appeared **in person** (Mr van Buuren)

Gerry Boyle KC (instructed by Weightmans LLP) appeared for the 1st, 2nd and 3rd
Defendants

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

Hearing date: 25 March 2026

JUDGMENT

This judgment was handed down remotely at 10:00am on 31 March 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

SIR GEOFFREY VOS, MASTER OF THE ROLLS:

Introduction

1. This is a troubling case. The claimant fell off or was knocked off his bicycle in Glebe Way, Histon, near Cambridge on 28 August 2013. He has no recollection of the accident, but he was undoubtedly seriously injured. He lost consciousness for over 30 minutes. Later that day, his spleen had to be removed. Some minutes after the accident, two police officers (whom I shall call Constable A (a male officer) and Constable B (a female officer), both of the first defendant’s force (the Cambridgeshire Constabulary), attended the scene. The Cambridgeshire Constabulary’s report of the accident concluded that Mr van Buuren had simply fallen off his bicycle, and that nobody had actually witnessed the accident, though at least six persons had been present at the scene after the accident and before the police arrived.
2. I will use ciphers to anonymise the six persons who attended the scene (as I have for the police officers), partly because, even now, the defendants have not disclosed all their names, and partly because I do not wish, in a public judgment, to risk jeopardising any future evidence they may give. The six persons were Mrs C, Mrs C’s two children, Mr D, and Mr and Mrs E. Mr van Buuren eventually tracked down Mrs C in January 2017 and spoke to her and one of her children about the accident. He has produced a recording and a transcript of that interview. In essence, Mrs C told Mr van Buuren four things he did not know before he met her, namely that: (i) Mrs C and at least one of her children had seen the accident as it occurred, since she was driving behind a car that was involved, (ii) that car had “clipped” Mr van Buuren on his bicycle causing the accident, (iii) she had told the police present after the accident what she had seen (and had in fact returned after dropping off her children to the scene and had repeated that account to the police), and (iv) the police had not approached her after the accident to give a witness statement or for any other purpose.
3. Before Mr van Buuren met Mrs C:
 - i) Mr van Buuren was informed by a letter of 15 October 2013 from the Process and Collisions Unit of the Cambridgeshire Constabulary, the Hertfordshire Constabulary (for which the second defendant is responsible) and the Bedfordshire Constabulary (for which the third defendant is responsible), that the “collision” in which Mr van Buuren had been involved had been investigated and “[a]ll of the available evidence” had been reviewed and it had been decided (presumably by the three Constabularies) that no further police action would be taken.
 - ii) Mr van Buuren made a complaint about the Cambridgeshire Constabulary on 25 August 2014 under the Police Reform Act 2002. He complained that the Cambridgeshire Constabulary had “failed to investigate the circumstances” of the accident by “failing to interview witnesses”. On 24 December 2014, the IPCC (the predecessor of the IOPC) decided that the complaint should be investigated by the Cambridgeshire Constabulary. It rejected the complaint in a report dated 31 March 2015, saying that Mrs C had told the “police officers that she did not see the cyclist fall from his cycle”. On 26 April 2015, Mr van Buuren appealed to the IPCC. On 18 June 2015, the IPCC upheld the local findings and dismissed his appeal.

- iii) Mr van Buuren had received, in February 2016, a redacted version of the Cambridgeshire Constabulary's Collision Report prepared by Constable A including an unsigned witness statement purporting to be made by Mr D (the driver of the car immediately behind Mr van Buuren before the accident). The statement appears (according to evidence produced by Mr van Buuren) to be written in similar handwriting to that of Constable A, who wrote the report. It says that Mr van Buuren had slipped on loose gravel and fallen off his bicycle. The report says that Mrs C "did not witness the accident" and that "extensive enquiries have been made regarding any witnesses to the incident, this is negative", and concluded that "the cyclist was going too fast for the conditions and lost control of his cycle causing himself injuries".
 - iv) Mr van Buuren had received another redacted computerised version of a collision report including Mrs C's address (although not stating or suggesting that that was what it was). Mr van Buuren went round to that address to see if it was, in fact, the address of a witness to the accident.
4. These facts caused Mr van Buuren to allege (as recorded by Sweeting J (the judge) at [18]-[19]) that the Cambridgeshire Constabulary "deliberately falsified the record/ investigation of the incident to conceal the existence of a collision between a motor car and the [Mr van Buuren's] bicycle which knocked him off his bicycle" and "[s]ubsequent actions by [all the defendants] have knowingly (and in bad faith) continued to conceal the truth of the initial collision and/or the falsified investigation".
5. It is obvious from Mr van Buuren's demeanour in court that he is, as he maintains, suffering from some mental health problems. He claims, without having obtained medical evidence, that his psychiatric disorder and PTSD was caused by the defendants' malicious failure properly to investigate his accident. The judge accepted at [104] that it was tolerably clear that Mr van Buuren's "mental health has been impacted by his initial suspicions, whether paranoid or well founded, that information was being withheld from him". Mr van Buuren says that he was a leading acoustician prior to the events of which he complains, having worked on high-profile engineering projects including the Business and Property Courts at the Rolls Building.
6. As the judge recorded at [98], a claimant alleging the tort of misfeasance in public office 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. (See [41]-[46] in the speech of Lord Hope in *Three Rivers District Council v Governor and Company of The Bank of England* [2003] 2 AC 1).
7. In the light of this essential background, the court asked the defendants' counsel to answer three questions.
8. The first question was as to why none of the defendants had contacted Mrs C to ascertain her evidence as to the circumstances of the accident either: (a) immediately after the accident (since it was now known that she had given her details to Constables A and B), (b) when Mr van Buuren complained that the Cambridgeshire Constabulary

had “failed to investigate the circumstances” of the accident by “failing to interview witnesses”, (c) when Mr van Buuren appealed the rejection of his complaint on the same grounds to the IOPC, or (d) when Mr van Buuren informed them that Mrs C had witnessed him being knocked off his bicycle by the car directly behind him (apparently driven by Mr D). It was clear on the face of the police record that only Mr D’s account had been considered, and that Mr D had not apparently provided a signed statement, yet his claim that Mr van Buuren had “fallen off” was accepted without question. Counsel for the defendants seemed unable to answer these questions, save to say that the collision report itself was the answer.

9. The second question that the court asked was as to the defendants’ substantive defences to the claim of misfeasance in public office. The three Constabularies’ defence explained in detail at [13] the process they had followed, but was otherwise at [14] a straight denial of the claim. It did not explain why no further witness statements had been sought even in the face of Mr van Buuren’s complaint and appeal. The IOPC has never filed a defence and did not explain why it had never sought to interview witnesses in the face of an appeal suggesting that that is what should have been done.
10. The third question related to the exiguous documentation that the defendants had produced. The redactions to the reports produced made it difficult to understand them. The three Constabularies said in response that there was much more documentation that they could provide, but they did not formally apply to admit it on these appeals.

The procedural position

11. Mr van Buuren’s appeal was against the judge’s decisions to: (i) strike out his entire claim against the Hertfordshire Constabulary, the Bedfordshire Constabulary and the IOPC, (ii) to strike out his claim against the Cambridgeshire Constabulary save for the “claim that the First Defendant is liable to the Claimant for misfeasance in public office, due to the alleged acts of [Constable A] in deliberately falsifying the record/ investigation of the road accident in which the Claimant was involved on 28th August 2013, so as to conceal the existence of a collision between a motor car and the Claimant’s bicycle”, (iii) to order the trial of that issue and the question of the extension of the limitation period under section 33 of the Limitation Act 1980 as a preliminary issue, (iv) to refuse to grant Mr van Buuren summary judgment against all four defendants and to strike out the defence filed by the three Constabularies, and (v) to order Mr van Buuren to pay the costs of the second, third and fourth defendants.
12. The Cambridgeshire Constabulary’s appeal was against the judge’s refusal to strike out the entire claim against the first defendant.

Events at the hearing before the Court of Appeal

13. Mr van Buuren made his submissions first. He did so in a measured and respectful manner (which was not, I regret to say, what could be said about what appears from the transcript of the permission to appeal application before Lords Justice Phillips and Lewis). Mr van Buuren is prone to making sweeping allegations and statements as can be seen from his Particulars of Claim in this case. It is, however, the court’s task to seek, if it can, to understand the essential nature of a complaint in these circumstances. Here the essential nature of Mr van Buuren’s complaint is that, in the absence of any explanation as to why the Cambridgeshire Constabulary (and its Constabulary partners

in the Process and Collisions Unit) did not seek to speak to the available potential witnesses (even when told what they had to say), it can only be assumed that that persistent failure, the potentially falsified reporting of Mr D's statement, and the reliance on Mr D's evidence alone were motivated by, at least, untargeted malice. Mr van Buuren submitted it was now too late for a proper investigation and a fair trial to take place. The defendants had chosen, over 13 years, to offer no explanation for what had occurred and summary judgment for damages to be assessed should, therefore, have been granted.

14. When the court asked counsel for the Cambridgeshire Constabulary the questions that I have set out, he sought time to seek instructions. After a 35-minute break, he informed the court that he was withdrawing the Cambridgeshire Constabulary's appeal and would consent (on behalf of the first three defendants) to Mr van Buuren's appeal so as to reverse the strike out of most of Mr van Buuren's claims and to allow a trial of all the issues raised (rather than just the preliminary issues ordered by the judge) and to reverse the costs order the judge had made against Mr van Buuren. The Cambridgeshire Constabulary did not, however, concede Mr van Buuren's appeal on the question of summary judgment and a strike out of the defence of the first three defendants. The IOPC also agreed to the reinstatement of Mr van Buuren's claim against it.
15. Accordingly, the court then heard fuller argument on summary judgment and the claim to strike out the defence. This judgment needs only to deal with those questions.

Summary of the decision

16. I have decided that, taking the defendants' concessions into account, it is not appropriate to grant Mr van Buuren summary judgment or to strike out the defence of the first three defendants. In essence, it is perfectly possible that the defendants have a defence to the claim, even though they have not yet enunciated more than their technical points. To be clear, it is not a complete defence simply to point to the collision report's suggestion that Mrs C "did not witness the accident" when: (a) the only person Constable A seems to have relied upon was Mr D who was the driver directly behind Mr van Buuren when he fell from his bicycle, so that he must have been the prime suspect if there had been a collision, (b) Mrs C says she told the police her story at the time, namely that the car behind Mr van Buuren had clipped him causing the accident, and (c) Mr D's statement (apparently written in similar handwriting to that of Constable A, who wrote the report) is unsigned and potentially self-serving.
17. Mr van Buuren's submissions that there cannot now be a fair trial and that the defendants have had 13 years to put forward a substantive defence are strong points, but we do not know what Constable A's response has been or will be to Mrs C's evidence, and there has been no disclosure of documents or police evidence that may provide a reasonable explanation of why no further investigation or witness statements were sought at any stage. The judge thought at [104] and [106] that there was no properly pleaded claim against the second, third and fourth defendants, because they could not have known that Mrs C had seen the collision or told the police she had done so. In my judgment, that does not necessarily excuse any of the defendants for their respective failures (in relation to the collision report and the appeal as to the complaint), to seek witness evidence when the complaint made by Mr van Buuren was that the Cambridgeshire Constabulary had "failed to investigate the circumstances" of the accident by "failing to interview witnesses". Moreover, the circumstances of Mr D's

statement and the unquestioning acceptance of the only suspect's account was, at least, obviously suspicious.

18. I shall deal with Mr van Buuren's appeal as to his summary judgment and strike out applications first and then with the future conduct of this litigation.

Mr van Buuren's appeal against the refusal of summary judgment and the refusal to strike out the defence of the three Constabularies

19. I have already summarised Mr van Buuren's main arguments at [4] and [13] above. I have also already indicated in outline why I do not think that the defendants have "no real prospect" of successfully defending the claim.
20. There are in fact several legal and factual issues that may be raised in defence to these claims. They can be summarised as: (i) whether Mr van Buuren is entitled to rely on section 33 of the Limitation Act 1980 (which allows the court to direct that the three-year personal injury claim time limit in section 11 shall not apply if it would be equitable to allow the action to proceed having regard to the degree to which the time limit would prejudice the claimant and the defendant), (ii) whether, once there has been disclosure and witness evidence, it is demonstrated that the motivation for the defendants' conduct in failing to seek or obtain witness evidence was an improper one, namely the deliberate falsification of the records of the accident to conceal the existence of a collision and a deliberate subsequent cover-up of the truth (amounting to untargeted malice), and (iii) whether Mr van Buuren's mental health problems were in fact caused by any misfeasance in public office actually proved.
21. The limitation issue requires careful consideration on evidence that is seemingly not yet available. Mr van Buuren will need to explain the periods of delay (at least between his interview with Mrs C in January 2017 and the issue of proceedings in March 2022, during which time he made several freedom of information and data protection requests). I also note that the judge accepted at [97] that he was a litigant in person and that he had concluded that his claim was subject to a six-year limitation period. The defendants may need to explain why they did nothing to investigate the evidential position after the complaint was made in August 2014. It is most unfortunate, but not determinative, that the judge took 21 months to deliver his judgment.
22. The malice issue is obviously critical. Mr van Buuren elegantly explains why, in his view, there is no possible explanation except conspiracy and cover-up. It will be necessary to identify who Mr D really is (the court has still not been told, such information being redacted from the reports) and what connections he may have had with others involved. At no stage have the Constabularies volunteered any first-hand evidence as to the events surrounding the accident, the preparation of the various collision reports, the handling of the complaint and the appeal.
23. Much time was devoted before the judge to the absence of medical evidence concerning the cause and extent of Mr van Buuren's mental health problems. I would not want to pre-judge the position should the only evidence at trial be that of Mr van Buuren himself. I can only repeat what I said above at [5]. Causation and timing will be crucial. Medical evidence would certainly assist the trial judge.

24. All I have said thus far, deliberately without going into much detail, is that the existing material clearly demonstrates that there are triable issues that have already emerged. It would, in these circumstances be inappropriate to grant summary judgment. I accept the submission that it is now a long time since the accident in 2013, but, depending on what evidence is ultimately sought and obtained, a fair trial may still be possible. The trial judge will be acutely aware of the risks posed by delays and fading memories. It is impossible to say now that a fair trial is not possible.
25. The same points apply to the application to strike out the defence. The three Constabularies' defence is exiguous but not improper. As I mention below, I would expect that all the pleadings will be amended before the trial.
26. Accordingly, I would dismiss the parts of Mr van Buuren's appeal that have not been allowed by consent. I would not allow the appeal so as to grant summary judgment or to strike out the defence.

The future conduct of the litigation

27. This case has been the subject of massive delays already. Whilst they are not entirely the fault of the parties, it is imperative that matters are now speedily progressed towards an early trial.
28. Let me say something first about the pleadings. The judge criticised Mr van Buuren's 45-page Particulars of Claim at [99]-[109]. Many of the criticisms concern a lack of particularity as to who is alleged to have known what, and when. I would be a little more sympathetic to Mr van Buuren than the judge. Mr van Buuren seems to have been unable to procure much information from the defendants. A process of disclosure should put that right. It seems to me that the thrust of the claim is clear enough (see [4] and [13] above, and also [15]-[43] of the judge's judgment). Amendments may well be required after disclosure to both the Particulars of Claim and the current defence. The IOPC will need to serve a defence.
29. Mr van Buuren has consistently alleged that the police were motivated by a desire to kill him and a hatred of cyclists. These allegations appear extravagant and may turn out to be quite wrong and inappropriate. That said, there are some concerning allegations about Mr van Buuren's physical treatment at the scene of the accident and in relation to how and when he was taken to hospital, which I would not discount as necessarily irrelevant at this stage.
30. It is always inappropriate for an appellate court to try to manage first instance litigation. I think, therefore, that we should order that the matter is brought before a High Court Judge for detailed and expedited directions within 28 days of this judgment. I would express the wish that the trial of this matter should, if at all possible, take place before the end of 2026.

Conclusions

31. I suggested in the course of the hearing that the defendants may not have been taking the allegations made against them sufficiently seriously. As I said above, this case is troubling. It is critical, if public confidence in the police and in the complaints processes

relating to them are to be maintained that cases of this kind are neither ignored nor swept under the carpet.

32. For the reasons I have given, I would accept the defendants' concessions: (i) withdrawing the three Constabularies' appeal, (ii) conceding that Mr van Buuren's appeal be allowed in part by consent, so that his claim is not struck out and all the issues raised can be tried (rather than just the preliminary issues suggested by the judge), and (iii) reversing the costs order the judge made against Mr van Buuren.
33. For the reasons I have also given, I would dismiss the remainder of Mr van Buuren's appeal as to his claims for summary judgment and to strike out the defence of the first three defendants.

Lady Justice Asplin:

34. I agree.

Lady Justice Laing:

35. I also agree.