



Case No: T2024 0175 / T2024 7092

IN THE CROWN COURT AT WOOLWICH
Sitting at the Royal Courts of Justice

Date: 22 June 2026

Before :

MR JUSTICE JOHNSON

The King

-and-

- (1) Charlotte Head**
- (2) Samuel Corner**
- (3) Leona Kamio**
- (4) Fatema Zainab Rajwani**
- (5) Zoe Rogers**
- (6) Jordan Devlin**

**And in the matter of potential contempt proceedings
against Rajiv Menon KC**

Tom Little KC and Victoria Ailes for the Crown
Adrian Waterman KC and Anthony Hudson KC for Rajiv Menon KC

Hearing date: 19 June 2026

Approved Judgment

This judgment was handed down by email to the parties on 22 June 2026

Mr Justice Johnson:

1. This judgment addresses what steps, if any, should be taken in respect of the matters set out in the court's ruling of 12 January 2026. That ruling identifies the respects in which a closing speech to the jury, given by Rajiv Menon KC on 8 January 2026, breached the court's earlier rulings.
2. Mr Menon KC was leading counsel for Charlotte Head in *R v Head and others*. Ms Head was charged with offences which included criminal damage. She admitted damaging or destroying property belonging to another, intending that it be damaged or destroyed. She claimed she had a lawful excuse in that she was seeking to destroy weapons that would otherwise be unlawfully used in a genocide in Gaza. I ruled, pre-trial, that that did not amount to a defence in law. It followed that each of the factual issues for the jury to determine in the route to verdict had been admitted by Ms Head.
3. The further background is set out in detail in my ruling of 12 January 2026, and my earlier rulings of 3 July 2025, 14 November 2025, 2 December 2025 and 22 December 2025, and in my legal directions to the jury dated 6 January 2026. The effect of my rulings and directions was that:
 - (1) The jury were to determine the charge of criminal damage by deciding only if it was sure that Ms Head had (whether herself, or as a joint enterprise with others) damaged or destroyed property belonging to another, intending that it be damaged or destroyed.
 - (2) No question of lawful excuse arose. The jury were to put views of the Middle East and the war in Gaza (whether their own or those of anyone else), and emotion, to one side.
 - (3) Any evidence that would have been relevant only to support or negative Ms Head's claimed lawful excuse was inadmissible.
 - (4) In particular evidence as to the following matters was inadmissible:
 - (a) The history of the Middle East.
 - (b) The reasons why Ms Head believed that Elbit supplied weapons to Israel.
 - (c) The reasons why Ms Head believed that Israel was committing genocide in Gaza.
 - (5) Counsel were not permitted to question witnesses about the matters that the court had ruled to be inadmissible.
 - (6) Counsel were not permitted to rely on matters that the court had ruled to be inadmissible in their closing speeches to the jury.
 - (7) The jury were not to be informed that a judge may not direct the jury to convict.
 - (8) Counsel were not permitted to invite the jury to disregard the court's rulings of law.

- (9) Counsel were not permitted to invite the jury to disregard their juror oaths.
- (10) Counsel were not permitted to invite the jury to apply the principle of jury equity or to inform them of it – see paragraph 35 of the ruling of 22 December 2025:

“no counsel is permitted, in their closing speeches, to invite the jury to disregard the court’s rulings of law or to disregard their juror oaths or to apply what has been described as the principle of jury equity or to inform them of it.”

4. Mr Menon gave his closing speech on 8 January 2026. Extracts from the transcript are appended to this judgment, with line numbering added. The 12 January ruling explained that Mr Menon’s closing speech:

- (1) Informed the jury of the principle of jury equity – see lines 246 – 280, and paragraph 15 of the 12 January ruling:

“Mr Menon points out that he never used the phrase “jury equity”. He is right about that, but it is nothing to the point. He informed the jury, in detail, of the principle. Mr Menon also says that he never said anything about the jury being entitled “to acquit according to their conscience”. I do not agree. He expressly quoted the words from the plaque at the Old Bailey about the established “right of juries to give their verdict according to their convictions.” That is the same thing. Mr Menon says that defence counsel have referred to the Old Bailey plaque on tens of thousands of occasions. Leaving aside possible hyperbole, he is right about that. It is not necessary to decide whether such references are permissible where they are designed to impress upon the jury the importance of their task, rather than as an invitation to apply jury equity. In this case, however, the reference was for the latter purpose. I had, anyway, given a specific direction prohibiting such reference.”

- (2) Asked the jury to apply the principle of jury equity – see lines 281 – 289.
- (3) Told the jury on six occasions that the judge may not direct the jury to convict – see lines 213 - 214, 215, 221, 239 - 240, 244 - 245 and 308 - 309.
- (4) Invited the jury to disregard the court’s directions that they should put views of the Middle East and the war in Gaza (whether their views or those of anyone else), and emotion, to one side: lines 3 - 14 and 32 - 59.
- (5) Suggested that evidence as to the history of the Middle East and the role of Elbit Systems was critical to the jury reaching true verdicts, and that the prosecution had accepted the defence evidence on those points – see paragraph 19:

“I ruled that evidence as to the history of the Middle East and the role of Elbit systems in supplying weapons to Israel was not relevant. It follows that such evidence ought not to have been elicited, and it was not open to the prosecution to challenge it. It

was therefore wrong to suggest that the prosecution accepted that evidence, and that this (irrelevant) evidence was critical to the jury reaching true verdicts [lines 118 – 146].”

- (6) Gave an account of an answer the court had given to a jury question that was inaccurate and was incompatible with the court’s ruling – see paragraph 20 of the 12 January ruling:

“Mr Menon’s account to the jury of the answer I gave to their question [lines 166 – 172] is inaccurate and is incompatible with the ruling I gave as to how the question should be answered. It was also misleading to say that I had ruled as a matter of law before hearing from the defendants that they did not have a lawful excuse for damaging property belonging to Elbit Systems. The ruling was given after a two-day hearing at which I was addressed by Mr Menon on behalf of Charlotte Head (and by other counsel on behalf of the co-defendants). I did not rule that the defendants had no lawful excuse. My ruling was that the issues did not include any question of any defence under section 5(2)(b) of the Criminal Damage Act 1971 by reference to the conduct of Israeli military operations in Gaza. I accept the submission of Ms Heer that “Mr Menon introduced to the jury the suggestion that the judge had prevented the defendants from pursuing a defence of lawful excuse, which was in itself impermissible.””

- (7) Wrongly suggested to the jury that Elbit Systems was being improperly protected by the court: lines 68 – 108 and 148 – 152.

5. Following that speech, Deanna Heer KC, for the prosecution, submitted that Mr Menon KC had disregarded the court’s ruling and had arguably acted in breach of the Bar Code of Conduct and in contempt of court. I indicated that I first wished to deal with the impact on the case and that anything else could wait until after the trial. After hearing representations from counsel, I gave additional directions to the jury which included that they should disregard some of the submissions made by Mr Menon KC. In the event, the jury were unable to reach a verdict in respect of Ms Head on the charge of criminal damage. The case was listed on 18 February 2026 for the prosecution to indicate whether it would seek a re-trial, and for further directions. In a written note submitted in advance of that hearing, the prosecution submitted that the court might now wish to consider what steps should be taken to sanction Mr Menon’s conduct, and in particular whether it amounted to a contempt and, if so, whether further action should be initiated by the Court.
6. At that stage, the re-trial of Ms Head was outstanding. Mr Menon continued to represent Ms Head. It was possible that I would be the trial judge. I indicated that I would not make any substantive decision in relation to the matter. Instead, I sent the papers to the Administrative Court for that court to consider what, if any, further steps should be taken. The subsequent history is set out in the decision of the Court of Appeal: *In the matter of contempt proceedings against Rajiv Menon KC* [2026] EWCA Civ 573 at paragraphs 9 to 19. In summary, the Administrative Court considered that Mr Menon may have committed a contempt. It decided of its own motion to proceed against Mr

Menon in contempt proceedings. Directions were given for the determination of the contempt proceedings, to include the determination of any challenge to the court's jurisdiction to entertain contempt proceedings. Mr Menon successfully appealed against that order. The Court of Appeal found that there was no jurisdiction for the Administrative Court to initiate contempt proceedings against Mr Menon of its own motion. It said that left the matter back with me and that I may take any of the steps indicated at paragraph 62 of its judgment, subject to any further submissions from Mr Menon. The further steps that the court indicated at paragraph 62 were to refer the alleged contempt to another High Court judge sitting as a judge of the Crown Court, or to refer the alleged contempt to the Attorney General, or to the Bar Standards Board as an alleged breach of the Code of Conduct. It is also implicit that it would be open to me to take no further step.

7. I invited submissions as to what step, if any, the court should take.

Locus of the Crown

8. Adrian Waterman KC, for Mr Menon, submits that the allegation of contempt was made by the Crown, not the court, that it is not the proper role of the Crown to make an allegation of contempt, and that the Crown does not have standing or, alternatively, has a "limited role" which is analogous to that of an advocate to the court. He relies on section 3 of the Prosecution of Offences Act 1985. He says that limits the jurisdiction of the Director of Public Prosecutions, and Crown Prosecutors, to the specific types of proceedings that are listed in section 3(2). That list does not include contempt proceedings, except for an appeal under section 108 of the Magistrates' Courts Act 1980 in respect of action taken under section 12 of the Contempt of Court Act 1980. Mr Waterman contends that the only power for the court to secure the benefit of additional submissions, beyond those advanced on behalf of Mr Menon, is for the court to appoint an advocate to the court. He relies on the Civil Procedure Rules, Practice Direction 3F, as to the role of an advocate to the court which, he says, shows that it does not extend to making submissions on the facts or prosecuting an application for contempt of court. Although that Practice Direction only directly affects proceedings in the County Court, the High Court and the Civil Division of the Court of Appeal (see rule 2.1), Mr Waterman says that the content of the Practice Direction shows that it is also intended to be applied by the Crown Court. He submits that the written submissions advanced on behalf of the Crown are impermissibly partisan and that they should be disregarded or confined. He says that Ms Heer acted improperly in the way in which, as Mr Waterman puts it, she prosecuted an allegation of contempt, and that Mr Little and Ms Ailes are likely acting improperly in seeking to make submissions that Mr Menon's conduct amounted to a contempt and that the court should consider instituting summary contempt proceedings.
9. I do not accept this submission. The Crown is a party to the criminal proceedings. It has a proper interest in them being conducted fairly, and a proper interest in the defendants and their representatives complying with the court's instructions. Following Mr Menon's closing speech, I specifically asked Ms Heer, who was then representing the Crown, whether she had any submission to make about it. It was in no way improper for her to submit that there may have been a contempt. Rather, it was her duty, as a prosecutor acting fearlessly in the public interest, to raise the issue of contempt if she considered that was properly merited. It was evidently not a step that she took lightly: she first asked for time to consider the position and to remind herself of the terms of the

court's ruling. Only then did she raise the issue in the context of a response to the court's request for submissions as to whether Mr Menon's speech had complied with its ruling and, if not, what consequences should follow. Likewise, at the hearing on 18 February 2026 Ms Heer advanced written and oral submissions in response to the court's request for assistance as to the steps that should be taken to manage the trials in the light of the matters set out in the 12 January ruling. There was nothing improper in the submissions she made.

10. This hearing takes place in the course of the criminal proceedings. The Crown is a party to those proceedings, and Mr Little and Ms Ailes are instructed on behalf of the Crown. The Crown has locus and standing in the proceedings, and Mr Little and Ms Ailes may make submissions on behalf of the Crown. Mr Waterman did not identify any authority or logical basis for his assertion that the Crown is not entitled to make an allegation of contempt, or to invite the court to take action in respect of an allegation of contempt. The Administrative Court invited, and received, the assistance of the Director of Public Prosecutions (see paragraphs 5 and 8 of the order of Edis LJ dated 13 March 2026). The Court of Appeal likewise entertained submissions from the Director of Public Prosecutions (see paragraphs 24 – 27 of the Court of Appeal's judgment). I see no reason why the Crown should not make submissions on this application, as it sees fit. It is of assistance to the court that it does so. Nothing in this judgment determines the role, if any, which counsel instructed by the Director of Public Prosecutions should play at any substantive contempt hearing. That would be a matter for the judge assigned to those proceedings.

Submissions

11. Tom Little KC, for the Crown, submits that conduct may amount to a contempt in the face of the court where it is a voluntary act that “denotes wilful defiance of, or disrespect towards, the court or that wilfully challenges or affronts the authority of the court or the supremacy of the law itself”: *Robertson v HM Advocate* [2007] HCJAC 63; [2007] SLT 1153 at [29]. He says that the conduct of a professional advocate in a closing speech, in breach of court directions that are designed to control conduct during the trial, can amount to a contempt in the face of a court. On the facts of the present case, he submits that Mr Menon's closing speech amounted to a clear, deliberate and sustained breach of the court's orders, and to a contempt of court. He submits that it would be contrary to the overall interests of justice if the court did not do anything about it. He says that the options are to institute contempt proceedings under Part 48 of the Criminal Procedure Rules, to refer the matter to the Attorney General, or to refer Mr Menon to his professional regulator. He says that a referral to the Attorney General or the regulator is unlikely to be expeditious, and the latter may not meet the gravamen of the conduct. He submits that there is power to initiate proceedings under Part 48 and that it is not “too late” to do so, given that it would not have been realistic to do so at any earlier stage. If proceedings are initiated under Part 48 then Mr Little says that they could be determined either by me or by another judge sitting in the Crown Court.
12. Mr Waterman submits that the court does not have power, at this stage, to institute summary contempt proceedings because the jurisdiction to do so is narrowly confined, exceptional in nature, and time-limited, and those conditions are not satisfied on the facts of the case. He says that the starting point is the well-established principle that a court's power to deal with contempt of its own motion is an exceptional jurisdiction, justified only where it is necessary to act immediately to protect the administration of

justice in proceedings before the court. The authorities emphasise that this power is to be exercised only where it is “urgent and imperative” such that it must be exercised “there and then.” Otherwise, it should not be invoked by the judge. That is because the jurisdiction exists to enable the judge to deal at once with conduct threatening proceedings. Where such urgency is absent, the proper course is not for the judge to act summarily, but for the matter to be pursued, if at all, by proceedings brought by the Attorney General. Here, the required urgency and immediacy are entirely absent. If the court were to have exercised the summary jurisdiction, it had to do so “there and then”, at the time of the alleged conduct or shortly thereafter. Mr Waterman relies on the fact that the court did not exercise a summary jurisdiction at that stage, or at any point thereafter. He acknowledges that previous statements by Ms Head’s representatives that the court had done that were erroneous, and were made before a transcript of the relevant court hearing was available. He says that transcript shows that it was only the Crown, not the court, that was advancing a positive allegation of contempt. It is now some five to six months after Mr Menon’s closing speech, and long after the relevant proceedings have concluded and a retrial has taken place. In those circumstances, the foundational condition for the exercise of the summary power (that is, the need to act immediately to preserve the integrity of ongoing proceedings) is not met. Further, Mr Waterman submits that the court has already decided not to invoke the summary jurisdiction. That decision is determinative: once the court chose not to act summarily, the jurisdiction cannot later be revived. It follows that the course proposed by the prosecution, an enquiry under Part 48 of the Criminal Procedure Rules, is legally impermissible. It would amount to the court acting of its own motion outside the strict temporal and jurisdictional limits identified in the authorities, and would therefore be an unlawful exercise of the power to institute summary proceedings for contempt.

13. Mr Waterman submits that there is no prospect of a court finding that Mr Menon is in contempt. He did not seek to argue that Mr Menon’s speech was compatible with the court’s rulings, although he reserved Mr Menon’s position on that point. Rather, he said that the *mens rea* for contempt requires a deliberate or wilful breach of the court’s order with the intention of impeding or prejudicing the administration of justice, and there is no prospect of a court making that finding. He points to the submissions of Mr Menon on 9 January 2026, the day after Ms Heer raised the question of contempt, when he said that he had not deliberately breached the court’s order and that he had spoken to Ms O’Raghallaigh and other defence counsel and senior practitioners in order to establish the proper parameters within which to address the jury. Mr Waterman says that no judge could find Mr Menon in contempt unless the judge found that this account was dishonest, and there is no prospect of a judge reaching that finding. Mr Waterman also says that contempt proceedings would be contrary to the public interest, having regard to the important role of defence counsel and the “chilling effect” that contempt proceedings would have on the defence Bar.

Is there a case to answer in contempt, and are contempt proceedings in the public interest?

14. I consider, first, whether there is a case to answer in contempt, and whether contempt proceedings would be in the public interest. Unless both of those conditions are satisfied, I would not consider it appropriate either to refer the matter to the Attorney General or to consider the institution of summary contempt proceedings. Those options could then be ruled out, and it would be necessary to choose between taking no further

action and referring the matter to Mr Menon's regulator. Alternatively, if there is a case to answer and if proceedings would be in the public interest, it would then be necessary to consider whether any lesser response could be justified, and to address the various jurisdictional and procedural issues that have been raised by Mr Waterman.

15. In the 12 January ruling, I explicitly did not address the question of whether Mr Menon had deliberately breached the court's rulings. The finding that Mr Menon (deliberately or otherwise) breached the court's rulings was a finding made in the underlying proceedings. Before making that finding, I heard from Mr Menon in his capacity as leading counsel for Ms Head, but Mr Menon was not himself represented at the time and I did not hear from him in his personal capacity. That being the case, the findings made in the 12 January ruling should not be considered as binding on any court for the purpose of consideration of contempt. That said, there is at the very least a case to answer as to whether the content of the speech breached the court's rulings, for the reasons given in the 12 January ruling.

Case to answer in contempt?

16. All professional advocates undergo extensive professional training, including as to professional ethics. Leading counsel have demonstrated a standard of excellence in respect of their integrity, including in respect of honouring professional rules of conduct. I would be exceptionally slow to find that leading counsel, or for that matter any professional advocate, had committed a contempt. In Mr Menon's case, I accept Mr Waterman's submission that Mr Menon is an experienced criminal defence advocate, who was called to the Bar in 1993 and who took silk in 2011, has practised from Garden Court Chambers since 1994 and was joint head of Garden Court Chambers from 2021 to 2025, that he has acted in many highly contentious and sensitive matters and that, in 33 years of practice, he has not had any disciplinary complaints or findings made against him. For all those reasons, I start from the position that it is highly unlikely that Mr Menon would deliberately disobey an instruction from the court or otherwise act in contempt of court or otherwise mislead the court. Accordingly, I would not find a case to answer in contempt unless there was cogent evidence of a contempt, recognising that a finding of contempt cannot be made unless the judge is satisfied to the criminal standard of proof (that is, so that they are sure) that a contempt is established.
17. Actus reus of contempt: Mr Waterman submitted that the actus reus of contempt is conduct that creates a real risk of impeding the proper administration of justice. I am content to adopt that formulation. Mr Little is correct to observe that one form of such contempt is "wilful defiance" of the court, or conduct that "wilfully challenges or affronts the authority of the court or the supremacy of the law": *Robertson* at [29]. Conduct of counsel, including by disregarding a judge's ruling when addressing the jury, can, in principle, amount to such a contempt. Mr Waterman did not suggest otherwise.
18. The findings in the 12 January ruling amount not just to an isolated or technical breach of an individual procedural direction, but serious and repeated non-compliance with the court's rulings throughout the case as to what was admissible, how the jury should be directed, and what counsel should not say to the jury. Mr Waterman does not identify any basis on which it could be concluded that Mr Menon's speech complied with the court's rulings beyond observing that jury equity is a topic of debate and controversy,

that Mr Menon did not explicitly refer, in terms, to “jury equity” and that he did not refer to the jury being permitted to acquit according to their conscience. Those points are addressed at paragraph 15 of the 12 January ruling (see paragraph 4(1) above).

19. There is also a case to answer as to whether the breaches of the court’s rulings created a real risk of impeding the proper administration of justice. That is because there is a case to answer that the speech subverted the jury’s role and the court’s rulings; that it encouraged the jury to determine the case on a basis other than the court’s route to verdict; that it gave rise to the potential for the jury to be discharged; and that it rendered it necessary for the jury to be given extensive further directions. It is impossible to know for certain whether the breaches of the court’s directions, and the need for further directions to the jury, were factors in the jury’s inability to reach a verdict. Whether or not they were factors, there is a case to answer that the speech created a real risk of impeding the proper administration of justice.
20. The aspect of Mr Menon’s speech identified at paragraph 4(7) above falls into a slightly different category. There is a case to answer that that part of the speech amounted to an improper suggestion of partiality on the part of the court. That is capable of amounting to a contempt: *R v Vidyasagara* [1963] AC 589.
21. Mens rea of contempt: Mr Waterman said that what is required is “a deliberate breach, with the intention of impeding or prejudicing the administration of justice.” He cited two authorities in support of the proposition. The first was the well-known *Spycatcher* case, *Attorney General v Newspaper Publishing* [1988] Ch 333. That concerned an altogether different form of contempt, namely a breach of a court injunction by a third party. It does not authoritatively address the *mens rea* requirement for a contempt in the face of the court by a failure to comply with the court’s instructions.
22. The second case that Mr Waterman relies on is *Solicitor General v Cox* [2016] EWHC 1241 (QB); [2016] 2 Cr App R 15 (Lord Thomas CJ and Ouseley J). That case, like the present, concerned an allegation that there had been a contempt in the face of the court. In that case the alleged contempt was the taking of photographs in breach of court signs prohibiting the taking of photographs. The court found that the respondent was aware of the prohibition. However, the court also found that it was not necessary to show that the photographer had intended to breach the prohibition. At [69] – [70] the court said:

“It is... necessary to decide whether a specific intent is required. In our view, it is not. It is sufficient *mens rea* that the acts must be deliberate and in breach of the criminal law or a court order of which the person knows.

No specific intent is required beyond that. The substance of this part of the common law is to enable courts to prevent and punish interference with the administration of justice by acts done in the face of the court. The intent required cannot depend on the foresight, knowledge or understanding which the ignorant or foolish might have of the ways in which his acts risk or actually do interference with the administration of justice. The ignorant and foolish, who are unaware of the law or who read prohibitory notices but do not understand their purpose, and do not realise the risks which their acts may create for the trial or other court

process, and who may be right when they say that the risk or the actual harm was not what they ever intended, could not be dealt with at all for contempt in the face of the court. Yet they may cause the most serious harm. A defence that the contemnor is not guilty because he did not realise what could happen, and intended no interference, would put the court proceedings at greater risk the more ill informed the contemnor was prepared to say he was, or actually was. The power of the court to react swiftly to acts of this sort, which risk interference with the administration of justice, cannot be dependent on any further specific intent to interfere with the course of justice, without creating a serious risk of neutering the court in the exercise of its powers when it may need them the most.”

23. This runs contrary to Mr Waterman’s submission as to the requisite *mens rea*. The decision in *Cox* was applied by the Court of Appeal in *R v Smith* [2016] EWCA Crim 1562. The authors of Arlidge, Eady and Smith on Contempt (5th edition, paragraph 10-239) state that the law is “reasonably clear... that it is not necessary to establish a specific intent to interfere with the administration of justice.”
24. It is not necessary at this stage to decide the precise boundaries of the mental element required for contempt in the face of the court, nor to determine whether Mr Menon in fact had the necessary state of mind. Those matters will be for any judge hearing contempt proceedings. Mr Menon accepts that he knew of the court’s rulings, and his conduct was deliberate in the sense that he intended to say what he said. Even if it is necessary to show that the breach of the court’s rulings was deliberate and that Mr Menon intended to create a real risk of impeding the administration of justice, and notwithstanding my starting position that Mr Menon would be unlikely deliberately to disobey a court instruction, there is here a case to answer. Subject to any explanation, it is a natural inference from his knowledge of the rulings, his experience as an advocate, and the content of his speech, that he deliberately breached the rulings. It is not easy to see how he could have believed that his speech was consistent with the court’s rulings.
25. Mr Waterman says that it is clear from the transcript that Mr Menon was astonished at the suggestion of contempt, that he had taken care in the preparation of his closing speech and had sought to ensure that it did not breach the court’s rulings, and that other counsel said that they were confused at the suggestion that his speech had breached any order. No explanation has yet been identified which would require the court to conclude, at this threshold stage, that there is no case to answer. Mr Waterman has not offered any explanation as to how Mr Menon might rationally have concluded that his speech complied with the court’s directions. Moreover, the forensic advocacy of counsel, in the immediate aftermath of the allegation, is not of assistance in determining whether Mr Menon’s breach of the court’s directions was deliberate. I do not accept, on the material that has been put before the court, that a court could only find a contempt if the court first found that a number of different counsel have been dishonest.
26. I therefore find that there is a case to answer in contempt.

Are contempt proceedings in the public interest?

27. There are public interest factors that militate against the initiation of contempt proceedings.
28. First, Mr Menon was acting for a defendant who had admitted all the ingredients of the offence of criminal damage, and who (in the light of the court's ruling) did not have any available defence. Yet, his client had, as she was entitled to, pleaded not guilty. This placed Mr Menon in a difficult ethical position. He had an overarching duty to the court to comply with the court's rulings and with his professional obligations. But he also had a subsidiary duty to his client to represent her to the best of his ability, so far as was consistent with his duty to the court and his professional obligations.
29. In this context, there are public policy reasons to allow Mr Menon the maximum permissible latitude in the manner in which he chose to discharge his professional responsibilities. That public policy is reflected in the absolute privilege that protects advocates from civil proceedings in respect of what they say in court: *Munster v Lamb* (1883) 11 QBD 588 *per* Matthew J at 595. The court should be slow to resort to contempt proceedings against counsel who is acting in the course of their professional duties. It would be damaging to the public interest if (in the words of Matthew J) "advocates were embarrassed or enfeebled in endeavouring to perform their duty by the fear of [contempt proceedings]". This is an early articulation of what Mr Waterman referred to as the potential for a "chilling effect".
30. In *Lewis v Ogden* (1984) ALJR 342 at 344 the High Court of Australia (Mason, Murphy, Wilson, Brennan and Dawson JJ) said:

"The freedom and responsibility which counsel has to present his client's case are so important to the administration of justice, that a court should be slow to hold that remarks made during the course of counsel's address to the jury amount to a wilful insult to the judge, when the remarks may be seen to be relevant to the case which counsel is presenting to the jury on behalf of his client... Counsel... might yield to the temptation of seeking to divert the jury's attention away from the issues by promoting a dispute with the judge in the belief that this tactic would advantage his client. A deliberate manoeuvre of this kind, calculated to interfere with the due course of the trial, would amount to a contempt, even if it involves no insult to the judge."
31. Second, the imposition of a sanction for the way in which counsel has addressed a jury amounts to an interference with rights of free speech at common law, the right to freedom of expression under article 10 of the European Convention on Human Rights, and, potentially, the right to a fair trial under article 6 of the Convention. Strong justification is required before treating such conduct as contempt, although there is no principle that defence counsel's freedom of expression is unlimited: *Nikula v Finland* (2004) 38 EHRR 45 at paragraph 49.
32. Third, the potential for contempt was raised on 8 January 2026, 5 months ago. The delay is regrettable, but it was largely unavoidable. It is partly because I took the erroneous step (which was itself partly motivated by avoiding delay) of referring the

papers to the Administrative Court. But, in any event, the underlying cause for the delay is that it was not possible to deal with the matter while the trial was proceeding. Doing so would inevitably have derailed the case. At one point, it was contended on behalf of Ms Head (erroneously, as Mr Waterman accepts) that I had instituted contempt proceedings and that should lead to my recusal. That indicates what the consequences would have been if I had instituted contempt proceedings. The re-trial only came to an end at the conclusion of the sentencing hearing on 12 June 2026. This hearing is taking place a week later, on the first convenient date after sentencing. Mr Waterman had specifically asked that the hearing be listed after, rather than before, sentencing. I do not underestimate the strain that the jeopardy of contempt proceedings has caused Mr Menon. I note the details of the impact set out in Mr Waterman's written submissions, and the further detail he provided in the course of oral submissions. This is a factor that also weighs against the institution of contempt proceedings now.

33. On the other hand, the court must be able to enforce its own directions. If it fails to take appropriate steps where there is a case to answer that clear directions have been breached, that may itself be gravely injurious to the administration of justice. It may create a risk that directions will not be treated as binding, and it may be unfair to advocates who comply with them and to their clients. It would put counsel who represent clients who are in a position like Ms Head in an even more difficult position.
34. The court gave direct and clear instructions as to what counsel could not say to the jury. There was no suggestion, at the time, that there was any lack of clarity, and there was no request for any form of clarification. That was some two weeks before Mr Menon's closing speech. His speech was apparently scripted. There is a case to answer in contempt not just on the basis of an isolated remark in the speech, but in respect of much of the content, structure and effect of the speech. That being the case, and subject to the consideration of alternatives, there is a strong public interest in considering the initiation of contempt proceedings.
35. Although the matter could not be addressed before the sentencing of Ms Head, there is now a practical need for prompt resolution. Further trials in the same proceedings are due to take place, and the court must be able to give and enforce clear rulings as to the permissible scope of advocacy before the jury. The criminal trial process may not be used as a continuation of a form of protest, and counsel may not seek to persuade a jury to determine a case otherwise than in accordance with the court's legal directions and route to verdict. That has been repeatedly emphasised by the courts: *R v Jones* [2007] 1 AC 136 *per* Lord Hoffmann at [89] – [94], *Attorney General's Reference (No.1 of 2023)* [2024] EWCA Crim 243; [2024] 1 WLR 3205 *per* Lady Carr CJ at [48] – [49], *Solicitor General v Warner* [2024] EWHC 918 (KB); [2024] 2 Cr App R 19 *per* Saini J at [19] (and *cf* *R v King* (1973) 57 Cr App R 696 *per* Lawton LJ at 700). It is something that the court has repeatedly emphasised in these proceedings (see paragraph 31 of the ruling of 2 December 2025 and paragraph 36 of the ruling of 22 December 2025), but which, on the findings in the ruling of 12 January 2026, was not followed.
36. Ms Head was jointly charged with 25 other defendants. For practical reasons, only 5 other defendants were tried with Ms Head. A second trial has recently commenced, and further trials are due to start in September 2026 and February or March 2027. Mr Menon continues to maintain that it was permissible for him to address a jury in the way that he did. There is a practical risk that similar issues may arise in the current and subsequent trials unless the court's rulings are enforced.

What, if any, step should now be taken?

Take no further step?

37. Mr Waterman identified 6 reasons why the court should take no further action:
- (1) The court has not, so far, decided that there is an issue of contempt, and Part 48 of the Criminal Procedure Rules has not therefore been triggered.
 - (2) There is no rational basis on which it could reasonably be concluded that the breaches that the court found were deliberate.
 - (3) The evidence does not support the requisite level of risk to the administration of justice.
 - (4) Counsel has a difficult, important, delicate, and absolutely crucial role in the administration of justice.
 - (5) The consequences of the allegation of contempt have been very considerable indeed for Mr Menon.
 - (6) Taking any further steps would have a chilling effect on defence advocacy. Far from promoting the interests of justice, it would have a deleterious effect on it. The chairperson of the Bar Council has made a public statement expressing her hope that no further action would be taken.
38. The first point is relevant to a question of jurisdiction, which is addressed below. I reject the second and third points, for the reasons I have given. I accept that the fourth, fifth and sixth points are relevant to the public interest, and I have taken them into account. Notwithstanding those points, the balance of the public interest falls strongly in favour of the institution of contempt proceedings. It would not be in the public interest to take no further step. That would not adequately discharge the court's responsibility to ensure that its rulings are treated as binding and, where necessary, enforced.

Referral to regulator?

39. There are circumstances in which it is appropriate for a court to refer counsel to their professional regulator. That underpins the *Hamid* jurisdiction that is exercised by the Administrative Court as part of the court's inherent power to regulate its own procedures and to enforce duties that lawyers owe to the court: *R (Hamid) v Secretary of State for the Home Department* [2012] EWHC 3070 (Admin) [2013] CP Rep 6, *R (DVP) v Secretary of State for the Home Department* [2021] EWHC 606 (Admin) [2021] 4 WLR 75 at [2]. I do not, however, consider that it would adequately meet the public interest simply to refer the matter to Mr Menon's professional regulator. That would cause considerable and unnecessary further delay. It would also effectively delegate the court's responsibility for enforcing its own orders to an external regulator. Accordingly, I would not consider it appropriate simply to refer Mr Menon to his professional regulator, unless the court has no power to take any other step.

Referral to Attorney General, or institution of summary proceedings?

40. The issue then is whether to consider the institution of summary contempt proceedings, or whether instead to refer the matter to the Attorney General. Mr Waterman accepts that the court has power to refer the matter to the Attorney General. This is not, however, the type of case where the Law Officers have generally instituted contempt proceedings. The cases in which they have done so tend more often to be contempt by way of publication, or the wrongful recording of court proceedings, or cases involving juror misconduct, as opposed to this form of alleged contempt in the face of the court: *Attorney General v Dowie* [2022] EWCA Civ 1574, *Attorney General v Crosland* [2021] UKSC 15; [2021] 4 WLR 103, *Attorney General v Hartley* [2021] EWHC 1876 (Fam), *Attorney General v Yaxley-Lennon* [2019] EWHC 1791 (QB); [2020] 3 All ER 477, *Attorney General v Paterson* [2019] EWHC 1914 (QB), *Attorney General v Malone* [2019] EWHC 3726 (QB), *Attorney General v Condé Nast Publications Limited* [2016] EWHC 682 (Admin), *Attorney General v Potts* (Divisional Court, 15 July 2015), *Attorney General v Baines* [2013] EWHC 4326 (Admin), *Attorney General v Davey* [2013] EWHC 2317 (Admin), *Attorney General v Harkins* [2013] EWHC 1455 (Admin). The allegation in the present case is of contempt in the face of the court of a type where the court might reasonably be expected to take action of its own motion, so as to enforce its own rulings. There is a strong public interest in it doing so (see paragraphs 33 – 36 above).
41. Summary proceedings can be dealt with reasonably quickly without causing any unfairness. It may be possible to arrange a final hearing within a matter of a few weeks. Conversely, a referral to the Attorney General would likely result in significant further delay. Mr Little indicated that the matter might be expedited, but that there was still a process that would have to be applied which would likely include securing legal advice and providing Mr Menon with an opportunity to make representations. That would take several months, on top of the period of months that has already passed and the impact that has had on Mr Menon. It is in everyone's interests that the matter now proceeds without any further delay. Mr Little also indicated that the Attorney might, anyway, conclude that the matter is more appropriately dealt with summarily by the Crown Court.
42. One reason identified in the older authorities for the court not exercising a summary jurisdiction is the risk of unfairness. It remains critically important to ensure fairness, but that can be achieved by the modern approach to the contempt jurisdiction. Mr Menon's procedural and fair-trial rights can be entirely secured by the careful, measured and fair use of a summary procedure. Mr Menon has access to legal aid and to advice and representation provided by his professional indemnity insurer. He has the benefit of representation by solicitors and two leading counsel. Mr Menon has been aware of the allegation of contempt since 8 January 2026. He knows the detail of the allegations that are made. The precise allegations can be defined in a court order. He has had ample opportunity to consider the allegations, to take advice, and to decide whether to explain his conduct, admit any contempt, apologise, or contest the allegation. Further delay would be minimised by the institution of summary proceedings rather than a referral to the Attorney General. Mr Menon would have an automatic right of appeal to the Court of Appeal against any finding of contempt or any sanction imposed for contempt, without the need to first secure leave or permission to appeal: section 13 of the Administration of Justice Act 1960.

43. I therefore would not consider it appropriate to refer the matter to the Attorney General, unless there is no power for the court to institute contempt proceedings of its own motion. Rather, I consider the appropriate course is to institute summary proceedings, if there is power to do so. That is because:
- (1) Mr Menon has a case to answer in contempt: see paragraphs 16 – 26 above.
 - (2) It is in the public interest to institute contempt proceedings – see paragraphs 27 – 36 above.
 - (3) It would not be in the public interest to take no further action or merely to refer the matter to Mr Menon’s professional regulator, or merely to refer the matter to the Attorney General – see paragraphs 37 – 39 above.
 - (4) There is now a need for prompt resolution, not because the matter had to be dealt with there and then in January, but because further trials remain pending and the court must be able to enforce its rulings. Full procedural fairness can be ensured – see paragraphs 35 – 36 above.

Does the court have power to institute summary contempt proceedings?

44. There is a case to answer in contempt, and it is in the public interest to institute contempt proceedings. I do not consider it appropriate to take no further action. Nor do I consider it appropriate simply to refer Mr Menon to his regulator or to the Attorney General, unless there is no other option.
45. That leaves the question of whether the court has power to institute summary contempt proceedings of its own motion. The Court of Appeal identified referral of the alleged contempt to another High Court Judge sitting as a judge of the Crown Court as one of the available courses (see paragraphs 62 and 65 of its judgment). Mr Waterman submits that course is not available. He says that the Court of Appeal did not consider the facts of the present case, and that, on the facts, the power to institute summary proceedings is not available. Mr Little says that the Court of Appeal was well aware of the basic facts on which Mr Waterman relies, including that the court did not engage with the allegation of contempt at the time it was made. He points out that this was made clear in Mr Waterman’s written argument to the Court of Appeal. The clear statement of the Court of Appeal as to the available options seems to me to be a sufficiently authoritative basis on which to proceed.
46. In any event, I do not accept Mr Waterman’s underlying argument. Mr Waterman relies on dicta in some relatively old cases which refer to the permissibility of invoking the summary jurisdiction where there is an immediate need to act. He relies on three decisions of the Court of Appeal presided over by Lord Denning MR. They are *Morris v Crown Office* [1970] 2 QB 114, *Balogh v St Albans Crown Court* [1975] 1 QB 73 and *Rooney v Snaresbrook Crown Court* [1979] 68 Cr App R 78.
47. In *Morris*, a number of students interrupted a court hearing in the Royal Courts of Justice. The hearing was adjourned. Once order had been restored, the judge sentenced three of the students to three months’ imprisonment. They were not given any opportunity to secure legal representation. Nineteen other students were remanded in custody and, at the end of the court day, they were brought before the judge. Eight

apologised and were fined £50. The other eleven did not apologise and they too were sentenced to three months' imprisonment. The Court of Appeal held that the court had been entitled to proceed in this way. At 122C-D Lord Denning MR said:

“The phrase “contempt in the face of the court” has a quaint old-fashioned ring about it; but the importance of it is this: of all the places where law and order must be maintained, it is here in these courts. The course of justice must not be deflected or interfered with. Those who strike at it strike at the very foundations of our society. To maintain law and order, the judges have, and must have, power at once to deal with those who offend against it. It is a great power - a power instantly to imprison a person without trial - but it is a necessary power. So necessary, indeed, that until recently the judges exercised it without any appeal. There were previously no safeguards against a judge exercising his jurisdiction wrongly or unwisely...” [Underlining added]

48. *Morris* does not lay down any rule that summary proceedings for contempt must be instituted immediately after the contempt, or else not at all. Rather, the case recognised the (in those days) absence of fair-trial safeguards if summary proceedings are immediately instituted, but nonetheless held that such proceedings were, in some circumstances, permissible. It therefore recognised a power to deal with a contempt immediately, but nothing in the judgments says that there is never a power to institute summary proceedings unless that is done immediately.

49. In *Balogh*, a solicitor's clerk planned to release nitrous oxide into a courtroom through a ventilation duct. He was found in possession of the nitrous oxide before he put his plan into effect. Melford Stevenson J (who was the judge in another courtroom in the same building) remanded Mr Balogh in custody overnight and, the following day, committed him to six months' imprisonment for contempt of court. Mr Balogh did not have legal representation, and he protested that he did not feel competent to conduct his own case. An appeal was allowed on the basis that there was no contempt, since Mr Balogh had not put his plan into effect. The court also referred to the potential for injustice where the court acted immediately without any procedural safeguards. At 85E Lord Denning MR said:

“...a judge should act of his own motion only when it is urgent and imperative to act immediately. In all other cases he should not take it upon himself to move. He should leave it to the Attorney-General or to the party aggrieved to make a motion in accordance with the rules in RSC Ord 52. The reason is so that he should not appear to be both prosecutor and judge: for that is a role which does not become him well.” [Underlining added].

50. At 90D-H Stephenson LJ said:

“(2) I see no reason why one judge of the Crown Court or the High Court should not commit for contempt of another... It depends on all the circumstances whether more than one judge should come into these summary proceedings. It may be better for a presiding judge available in the same building to commit

for a contempt of a circuit judge's court. I do not accept the [appellant's submission] that Melford Stevenson J could not commit him for a contempt of court next door where he "intended to subvert the proceedings" (his own words) by discharging nitrous oxide.

(3) There may be contempts which require immediate action but not immediate imprisonment. There may be cases punishable summarily where it would be appropriate to fine, or discharge, the contemnor or to take sureties for his good behaviour.

(4) There may be cases where it is proper because necessary to commit a contemnor without giving him legal representation... but a judge can always ask counsel to represent a contemnor... and for my part I would hope that there would be few cases... where this course should not be taken if counsel is available. There is every reason not to cut means of justice, which are of necessity curt if not rough, even shorter than they need be. This appellant asked for legal representation and I am of opinion that the judge should have tried to find him counsel, although he was, as the judge said, "an articulate and highly intelligent person," who knew that he was being charged with a serious contempt, was given an opportunity to defend himself on that charge, and seems to have shown himself in no mood to listen to warnings or to offer apologies.

(5) The power which the judge exercised is both salutary and dangerous: salutary because it gives those who administer justice the protection necessary to secure justice for the public, dangerous because it deprives a citizen of the protection of safeguards considered generally necessary to secure justice for him. This appeal gives an opportunity to make clear that it is a power to be used reluctantly but fearlessly when, and only when, it is necessary to prevent justice being obstructed or undermined... It must be left to the common sense of judges of the High Court and the Crown Court to decide when they must resort to this power to deal with [contempt]..."

51. As with *Morris*, this does not lay down any blanket inflexible rule that summary proceedings must always be instituted immediately after the contempt, or else not at all. Rather, it drew attention (at a time when no real procedural safeguards were in place) to the need to ensure that the court does not appear to be both prosecutor and judge unless there is no other option because of an urgent and imperative need to act immediately. As later authorities show (see below), the observations of Lord Denning MR must be read in the factual context of the case.
52. In *Rooney*, a judge was told that a juror had been dismissed by his employer because he had undertaken his jury service. The judge summoned the employer, assumed the role of prosecutor and found the employer guilty of contempt. An appeal was allowed because, on the evidence, the juror had been dismissed for reasons unconnected with his jury service. At 81 Lord Denning MR said:

“it is one of those cases where it is unfortunate that the judge dealt with it himself. Even if the managing director was guilty of a contempt of court, it was not a contempt in the face of the court. ...It is very undesirable that the judge should be both prosecutor and judge. One can sympathise with the judge in view of the way the matter was reported to him, but it was not appropriate for the judge himself to deal with it as he did.”

53. Properly understood, *Morris*, *Balogh* and *Rooney* draw attention to the dangers in acting immediately, particularly if the trial judge is also the judge that is dealing with the contempt, such that this should only be done in cases of real need. The cases do not impose a blanket rule that the court must act immediately if it is to deal summarily with a contempt. This is put beyond doubt by subsequent more modern authorities which recognise the need for a court to take time to ensure proper procedural safeguards are in place before invoking the court’s summary jurisdiction, and the permissibility of waiting until after the trial.
54. In *R v Moran* [1985] 91 Cr App R 51, the appellant had been called as a prosecution witness but had refused to take the oath. The judge said that he was in contempt and that he ought to “go back and think about it” because if he did not take the oath the judge would add to the term of imprisonment that the appellant was already serving. The appellant responded that the judge could “add to that if you like.” The judge replied “I will give you another six months. Take him down. That is consecutive to the present sentence, of course.” Later, the witness intimated that he had changed his mind and was willing to give evidence. He then gave an account which, contrary to his witness statement, did not implicate the defendant. The judge said: “Take him away and charge him with perjury. We will have him back, indicted for perjury, on the strength of the statement he made. Take him down and serve him with a charge of perjury... he will be facing something far worse than a sentence of six months for contempt of court.” An appeal was allowed. At 52, Lawton LJ said:

“The judge’s first reaction to the situation which confronted him was a sensible one. It is one which judges should always follow, namely give the man who is refusing to take the oath or to answer a question time to think over what he has decided to do. If he still persists in refusing to give evidence, then the judge has to decide what further action to take. We have no hesitation at all in saying that the action he should not take is that which [the judge took], namely at once to say: “I will give you another six months.”

...

The following principles should be borne in mind. First, a decision to imprison the man for contempt of court should never be taken too quickly. The judge should give himself time for reflection as to what is the best course to take. Secondly, he should consider whether that time for reflection should not extend to a different day because overnight thoughts are sometimes better than thoughts on the spur of the moment. Thirdly, the judge should consider whether the seeming contemnor should have some advice. We do not accept the proposition which was tentatively put forward on this appeal that

this contemnor had a right to legal advice. Sometimes situations arise in court when the judge has to act quickly and to pass such sentence as he thinks appropriate at once; so there cannot be any right to legal advice. Justice does not require a contemnor in the face of the court to have a right to legal advice. But if the circumstances are such that it is possible for the contemnor to have advice he should be given an opportunity of having it.”

55. In *R v Griffin* (1989) 88 Cr App R 63, two prosecution witnesses said that the defendant had sought to dissuade them from giving evidence. The trial judge summarily found him guilty of contempt and said that he would sentence him at the end of his trial in the underlying criminal proceedings. The defendant was acquitted by the jury for the underlying criminal charges. The judge then sentenced him to 9 months’ imprisonment for contempt. An appeal was allowed. The Court of Appeal found that the judge “had acted too quickly” and should have postponed the summary proceedings until after the trial. Mustill LJ made some general comments about the nature of the contempt jurisdiction, including that the “summary procedure, which by its nature is to be used quickly if it is used at all, omits many of the safeguards to which an accused is ordinarily entitled, and for this reason it has been repeatedly stated that the judge should choose to adopt it only in cases of real need.” He then drew attention to the unusual feature that the appellant had been both the defendant in the underlying criminal proceedings, and the subject of a contempt allegation. In that context, Mustill LJ said at 68 – 69:

“we think it preferable to seek for general principles which can be applied to this individual case, rather than seize upon short passages from judgments delivered in very different contexts.

...

...certain dicta (for example in *Balogh*) may be read as suggesting that the court has no jurisdiction to adopt the summary process unless the matter is urgent. We doubt whether this is strictly accurate. In our view the question of urgency or no is material not to the exercise of the jurisdiction but as to whether the jurisdiction should be exercised in preference to some more measured form of process.”

56. Mustill LJ said that the “impromptu and informal summary procedure” which had been adopted by the judge was “not well-suited to a case of this kind.” He said that the judge ought to have postponed the summary process until after the trial.
57. In *Wilkinson v S* [2003] EWCA Civ 95; [2003] 1 WLR 1254 a litigant caused a serious disturbance in court whilst the judge was giving judgment. The judge ordered that he be arrested and remanded in custody to be dealt with for contempt. A solicitor was assigned to represent the litigant but was unable to take instructions. The judge ordered that the litigant be remanded to prison “for a period yet to be determined for contempt of court.” After 4 days he returned to court and admitted the contempt. He was committed to prison for six months. The Court of Appeal dismissed an appeal. The remand in custody for 4 days before dealing with the allegation of contempt was at the very limit of what would be lawful or acceptable and it would have been wise to refer the summary trial to another judge, but the process adopted had not been unlawful. Hale LJ, at paragraphs 19 - 21, said that the summary contempt jurisdiction may be exercised after a hearing is over:

“19. ...Although the summary procedure is a draconian step which should never be embarked upon lightly, it is not limited to cases where it is necessary to preserve the integrity of a trial which is in progress or about to begin... In a serious case such as this, particularly where there are ongoing proceedings between the same parties, it may be entirely proper to invoke the summary procedure even though the immediate hearing is over.

20. Once a judge has decided that it is proper to invoke the summary procedure, she has to secure that the process is as fair as possible for the alleged contemnor, consistent with its being a summary procedure...

21. In many cases, it need take no longer than the remainder of the court day... or overnight. But where the delay is no longer than necessary in order to make arrangements for a summary trial in which the rights of the alleged contemnor can be properly protected, it cannot be unlawful. It would be illogical to hold that a judge can impose up to two years' imprisonment virtually on the spot but not wait a short time in order to achieve a fairer procedure...” [underlining added].

58. In the light of these authorities, I reject the submission that the court is prevented from invoking the contempt jurisdiction because there has been delay since the original allegation of contempt, or because the trial of Ms Head is over. On the contrary, as was the case in *Griffin*, there are unusual features of the present case such that it is particularly important to apply the general principles that emerge from the authorities rather than “seize upon short passages from judgments delivered in very different contexts.” The particular and unusual feature of the present case is that the alleged contemnor is counsel who was acting in ongoing proceedings. It would have derailed these proceedings if the court had invoked the summary contempt jurisdiction at the time the original allegation was made, or at any subsequent stage before sentencing. The first point at which the issue can be addressed without risking unfairness to either Ms Head or to Mr Menon, and without risking the derailment of the underlying proceedings, is now. *Wilkinson* recognises that it is right, in such a case, to delay invoking the summary jurisdiction until after the end of the trial. There is therefore no jurisdictional bar to the institution of summary proceedings for contempt of court now.

Should any contempt proceedings be heard by me, or by another judge?

59. The next question is whether I should try the allegation of contempt myself, or whether another judge should be assigned to try the allegation. I agree with Mr Little that there is no legal impediment in trying the allegation myself. There is also an advantage in determining the allegation myself in that I have been conducting the underlying proceedings for over a year and I am very well aware of the background (and see *Re West (Ian Stuart) (a barrister)* [2014] EWCA Crim 1480; [2014] 2 Cr App R 28, where the Court of Appeal held that a judge had been entitled to deal himself with contempt proceedings in relation to a barrister who had allegedly committed a contempt in proceedings before him – *per* Sir Brian Leveson PQBD at [27] – [28]).

60. That said, there is no impediment to another judge determining the proceedings. The material that is relevant to the determination of the proceedings is limited, comprising the rulings I have given (particularly the rulings of 22 December 2025 and 12 January 2026), and the transcript of Mr Menon’s closing speech. A contempt hearing is unlikely to take more than 2 days. The alleged contempt concerns a breach of instructions that I had given. I am therefore, to an extent, involved in the underlying events that result in these proceedings. It is more appropriate to arrange for another judge to be assigned. That is in part because of my involvement in the underlying events; in part because it may make it easier for any argument about the scope, meaning or relevance of the court’s underlying rulings to be addressed without concern that the judge determining the contempt allegation was personally involved in making those rulings; in part because it avoids the judge being seen as being both a witness and the judge; in part because it is unlikely to cause any substantial further delay; and in part because any benefit in me retaining the proceedings is limited.
61. Accordingly, subject to the remaining procedural issues, I consider that there is a strong case for the initiation of summary contempt proceedings to be listed before another High Court Judge. This is one of the explicit options identified by the Court of Appeal at paragraphs 62 and 65 of its judgment.

The correct procedure for instituting summary contempt proceedings

62. Rule 48 of the Criminal Procedure Rules states:

“Initial procedure on obstruction, disruption, etc.

- (1) This rule applies where the court observes, or someone reports to the court—
- (a) in... the Crown Court, obstructive, disruptive, insulting or intimidating conduct, in the courtroom or in its vicinity, or otherwise immediately affecting the proceedings;
- ...
- (f) any other conduct with which the court can deal as, or as if it were, a criminal contempt of court, except failure to surrender to bail under section 6 of the Bail Act 1976(6).
- (2) If it is necessary in the interests of justice to deal there and then with conduct to which this rule applies, the court must—
- (a) unless the respondent’s behaviour makes it impracticable to do so, explain, in terms the respondent can understand (with help, if necessary)—
- (i) the conduct that is in question,

- (ii) that the court can impose imprisonment, or a fine, or both, for such conduct,
 - (iii) (where relevant) that the court has power to order the respondent's immediate temporary detention, if in the court's opinion that is required,
 - (iv) that the respondent may explain the conduct,
 - (v) that the respondent may apologise, if the respondent so wishes, which may persuade the court to take no further action, and
 - (vi) that the respondent may take legal advice; and
- (b) allow the respondent a reasonable opportunity to reflect, take advice, explain and, if the respondent so wishes, apologise.
- (3) After allowing that opportunity—
- (a) the court may enquire into the conduct at once;
 - (b) the court may postpone the enquiry—
 - ...
 - (ii) if... the Crown Court, until a date and time fixed by the court for the respondent to surrender to the court's custody;
 - ...
 - (d) the court may take no further action in respect of the conduct.
- (4) In the Crown Court, if it is not necessary in the interests of justice to deal there and then with the conduct the court must instead—
- (a) direct the court officer to report the incident to a Presiding Judge; and
 - (b) unless the respondent's behaviour makes it impracticable to do so, explain in terms the respondent can understand (with help, if necessary), that—
 - (i) the incident will be considered by a Presiding Judge,
 - (ii) the outcome may be prosecution or proceedings for contempt of court, which

may lead to imprisonment, or to a fine, or both,

- (iii) the respondent may explain the conduct and may apologise, if the respondent so wishes, which may affect the outcome, and
- (iv) the respondent may take legal advice.

...”

63. Mr Waterman says that the effect of these rules is that it is now too late to institute contempt proceedings. I disagree. The rules are intended to prescribe a procedure that gives effect to the court’s common law power to institute contempt proceedings. They do not, and cannot, prescribe the circumstances in which the court has jurisdiction to institute contempt proceedings: *Cox* at [71] (“procedural provisions do not provide or change the substantive law of contempt”). The ambit of the court’s jurisdiction is prescribed by the common law, including cases such as *Griffin* and *Wilkinson* which recognise that it is sometimes permissible and appropriate to institute contempt proceedings after the completion of a trial. The rules thus set out the procedure to be adopted, rather than the circumstances in which the jurisdiction arises. The court must interpret the rules in a manner that furthers the overriding objective: rule 1.3(c) of the Criminal Procedure Rules. That means that the rules must be interpreted in a manner that is consistent with dealing with criminal cases justly: rule 1.1(1) of the Criminal Procedure Rules. That includes acquitting the innocent and convicting the guilty (rule 1.1(2)(a)), dealing with the defence fairly (rule 1.1(2)(c)), recognising the defendant’s rights, including her rights under Article 6 of the Convention (rule 1.1(2)(d)) and dealing with the case efficiently and expeditiously (rule 1.1(3)(f)). It would have been contrary to the overriding objective to deal with the allegation of contempt at any point before the sentencing hearing.
64. The Rules do not, anyway, curtail the court’s underlying jurisdiction to initiate contempt proceedings following a trial, in respect of conduct during the trial, where, as here, it is appropriate to do so.
65. The rules contemplate two alternative procedures which depend on whether the court considers it necessary immediately to institute contempt proceedings at the time of the contempt. In the present case, it was not possible to consider instituting contempt proceedings at any point before the sentencing hearing. It was contrary to the interests of justice to take any substantive steps to deal with the matter while Mr Menon continued to act for Ms Head in the Crown Court. The position now has moved on because the sentencing hearing has taken place, and Mr Menon is no longer appearing as counsel. In terms of the structure of the rules, the case is now regulated by rule 48.5(4) rather than rule 48.5(2). It follows that the rules require that the court must direct the court officer to report the incident to a Presiding Judge. No time limit is given for when that must be done, and there is no reason why it should not be done now. The rule is engaged at the point that the court decides not to deal, there and then, with the allegation of contempt, but nothing in the text of the rule required the referral to be made immediately, particularly where fairness and the overriding objective require the court to wait until after the jury’s verdict and any sentencing hearing. It is necessary to comply with the rules, but it is also necessary to interpret and apply them in a manner

that complies with the overriding objective. If, in doing so, there is a breach of an implicit time requirement or a breach of some other procedural provision in the rules, then that does not invalidate the proceedings: in this sense, the rules are directory, not mandatory (see *Morris* at 123B, *Nicholls v Nicholls* [1997] 1 WLR 314 *per* Lord Woolf MR at 327, *Re Yaxley-Lennon aka Tommy Robinson* [2018] EWCA Crim 1856; [2018] 2 Cr App R 30 *per* Lord Burnett CJ at [44] – [49]).

66. Mr Little submits that because I am a Presiding Judge there is no need to direct the court officer to report the incident to a Presiding Judge, because I am already dealing with the matter and I can do so as a Presiding Judge. Mr Waterman, however, submits that I ought to direct the court officer to refer the matter to another Presiding Judge.
67. Although there is force in Mr Little’s submission, the authorities are consistent in emphasising the importance of compliance with the procedural rules. The Court of Appeal stressed that when ruling that it was not permissible for the proceedings to be dealt with by a High Court Judge sitting in the Administrative Court, even though the judge could have sat as a judge of the Crown Court - see at paragraph 61: “We accept that the distinction between a reference to the Administrative Court of the King’s Bench Division of the High Court, and a fellow High Court judge sitting as a judge of the Crown Court may be technical and narrow, but the procedure adopted to deal with a person alleged to have committed a contempt in the face of the court must comply with the law.”
68. To avoid any doubt, and to ensure strict compliance with the terms of rule 48.5(4), I will direct that the court officer report the incident to a Presiding Judge other than me. That can take place within a matter of days. I will secure compliance with rule 48.5(4)(b) by way of the form of order made following this judgment.
69. Mr Waterman then submits that the Presiding Judge does not have any power to initiate contempt proceedings. That submission is partly based on his underlying argument that there is no jurisdiction to invoke the contempt jurisdiction unless it is done “there and then”. I have rejected that argument. It is also partly based on the text of the rule which does not explicitly say that the Presiding Judge may institute contempt proceedings. Although rule 48.5(4) does not itself confer the substantive jurisdiction, it necessarily contemplates that once an incident is referred to the Presiding Judge, that judge may initiate contempt proceedings. It is sufficiently clear that the purpose of the rule is to facilitate the appointment of a judge other than the trial judge to determine contempt proceedings. It reflects the judgment of Stephenson LJ in *Balogh* at 90D (“It may be better for a presiding judge available in the same building to commit for a contempt of a circuit judge’s court.”). It also reflects the role of the Presiding Judge which includes administrative functions in relation to the allocation and deployment of judges and court resources. It is not uncommon for Presiding Judges to have to decide on the appropriate response to misconduct in a court, including whether it is appropriate to take no further action, or refer the matter to the police, or refer the matter to the Law Officers, or institute contempt proceedings. Allocating these decisions to a Presiding Judge helps ensure a degree of consistency in practice. Where contempt proceedings are initiated, it ensures that there is a judge who can have overall responsibility for the initiation of the proceedings, the collation of any evidence, arranging for the assignment of a judge to the case, and ensuring the appropriate listing of the matter. Examples of cases where contempt proceedings have been initiated by a Presiding Judge include *Daniel Hesketh* [2025] EWHC 2067 (Fam), *General Dental Council v KK* [2024] EWHC 3053 (Fam)

per Knowles J at [22] – [24], *Hood v Department of Transport* [2024] EWCA Civ 760 *per* Elisabeth Laing LJ and William Davis LJ at [14]. The practice is reflected in a note from the Judicial Office which is referenced in the Criminal Practice Direction (2025) – see *R v Szobollodi* [2025] EWCA Crim 1204 at [18], and *Menon* at [53]. The Court of Appeal, at paragraph 61, explained that the reference in the note to a Presiding Judge transferring a contempt issue to a High Court Judge sitting in the relevant Division of the High Court did not reflect the law, but it confirmed that the referring judge could refer a contempt in the face of the court to a High Court judge sitting as a judge of the Crown Court.

70. Accordingly, this matter will now be referred to another Presiding Judge. Mr Waterman suggested that, to ensure consistency, it should be a Presiding Judge on the South East Circuit who has responsibility for criminal matters. I do not consider that is essential. What is more important is that it is a Presiding Judge who is available and has capacity to deal with the matter expeditiously. I will ask the Office of the Senior Presiding Judge to identify a Presiding Judge, and I will direct the court officer to refer the matter to that Presiding Judge. That Presiding Judge can then decide, after considering this judgment and the existing papers, whether they consider it appropriate to institute contempt proceedings. If so, they may do so either by way of an order in the form appended to this judgment, or in such other form as they consider appropriate. They can then arrange for the hearing to be assigned to a High Court Judge sitting in the Crown Court.
71. I stress that nothing in this judgment decides that Mr Menon has acted in contempt of court. That can only be decided if contempt proceedings have been instituted and then only if a judge finds that a contempt has been established to the criminal standard of proof. Nor have I decided to institute contempt proceedings. I have, instead, decided that the papers should be referred to a Presiding Judge in order to determine whether contempt proceedings should be instituted. In reaching that conclusion I have necessarily considered whether certain threshold conditions are met: that there is a case to answer in contempt, that contempt proceedings are in the public interest, and that it is more appropriate for the court to institute contempt proceedings than to refer the matter to the Attorney General. This will, however, all be for the Presiding Judge to decide: my findings do not bind the Presiding Judge. The Presiding Judge will only institute contempt proceedings if they consider that is the appropriate and justified step.

Outcome

72. I direct the court officer, pursuant to rule 48.5(4)(a) of the Criminal Procedure Rules, to report the incident to a Presiding Judge identified by the Office of the Senior Presiding Judge. The order made following this judgment will provide the explanation required by rule 48.5(4)(b). It will then be for the Presiding Judge to decide whether contempt proceedings should be instituted and, if so, to assign the matter to a High Court Judge sitting as a judge of the Crown Court.

APPENDIX 1: Extracts from closing defence speech for Charlotte Head

...

Now, after you were sworn, which seems a very long time ago, ladies and gentlemen, and before the prosecution opened its case, His Lordship gave you some initial oral directions which included some directions on what he called the war in Gaza. His Lordship told you that whilst you were entitled to your views about the war in Gaza, whatever those views might be they were irrelevant to your consideration of the case. And that was a perfectly fair point to make at that stage of the trial. You knew virtually nothing about the case, and so, prejudging matters based on your pre-existing views, when you were yet to hear any evidence, would have been quite wrong and contrary to the affirmations that each of you had just made. But, the position now is very different.

You have heard evidence about Israel's attack on Gaza, and about Palestine more generally from those defendants who have given evidence. And none of that evidence, by the defendants, has been challenged or contradicted by the prosecution. None of it. For example, you have heard evidence that there's a genocide taking place in Gaza, that Israel was founded on top of Palestinian land and that Britain played a key role in this. That there have been wars in Israel in Palestine for years; that there was a settler-colonial occupation of Palestinian land; that by the summer of 2024, some 40,000 Palestinians had been killed in Gaza by the Israeli military in less than a year, and a third of them were children; that more children had been killed in Gaza than in the Ukraine war; that there had been many videos, photos and news reports circulating on social media of atrocities being committed in Gaza, including people being buried under the rubble and hospitals being bombed. This is the gist of the evidence you have heard about Palestine and Israel's attack on Gaza.

Now, all that evidence is evidence in the case. You are entitled to take it into account and give it what weight you think it justifies. Indeed, you may think it would be wrong, even perverse to ignore that evidence you have heard about the killing and destruction that has been taking place in Gaza now for over two years. Look, how are you to assess the evidence as a whole in this case? How are you to assess the character of the defendants, the credibility of their accounts, their conduct during the action in Filton, their state of mind at critical times during the chronology of actions that culminated in the action; how are you able to assess any of that if you ignore the wider context of what has been happening in Gaza, and the impact that those events have had on these defendants? Additionally, are you supposed to forget your pasts, your knowledge of the world? Your experiences of life, your principles, your values, your wisdom, your common sense, your sense of what is right and wrong and fair and reasonable when you consider the evidence in this case? Of course not. That would be ridiculous. You don't come into this courtroom as blank slates who know nothing about anything. You don't have to pretend you know nothing about what has been happening in Israel and Palestine.

Given you are randomly selected members of the public, it is probably fair to assume that there is a broad range of views amongst you and that some of you know more and some of you know less. That's to be expected. But none of you, I anticipate, know nothing about what has been happening in Israel and Palestine, because it has been live-streamed onto our televisions, our computers and our mobile phones on a nearly daily basis now for over two years. You all know, so let's not pretend about this. You all know about the horrific events of 7 October 2023, when Hamas launched a surprise attack on Israel from Gaza, killing some 12,000 people and taking some further 250 people as hostages. You all know that Israel has been retaliating ever since, killing tens of thousands of Palestinians in Gaza, injuring hundreds of thousands more,

destroying the majority of Gaza's building and infrastructure, and creating one of the worst humanitarian crises of the 21st century. I mean, this is all common knowledge.

50 Now, of course I agree entirely that you need to take care not to allow undue emotion and your particular views about what has been happening to distort your assessment of the evidence. There were many objectives obviously important. However, you are not emotionless robots, either. And you cannot unknow what you already know, and nobody should ask you to do so. The reason we celebrate trial by jury in this country, although sadly who knows for how much longer, is that there is no better system of criminal justice anywhere in the world than 12
55 randomly selected members of the public, like you, bringing their individual voices, their wide range of knowledge and experience or the table, when considering the evidence in deciding whether they are sure that the prosecution has proved its case against the defendant in their charge, and the evidence in this case includes evidence about Palestine and Israel's attack on Gaza, and it is critically important, you may think, that you do not lose sight of that fact.

60 So, that's my first general topic....

I move on now to my third general topic, Elbit Systems. Now, as you know, the factory in Filton targeted on 6 August 2024 belonged to Elbit Systems. When opening the prosecution case, Ms Heer described Elbit Systems as an Israeli-linked defence company. Now, I'm not going to labour this point, but it's a matter for you if that is a fair and accurate description of
65 Elbit Systems or somewhat of a mischaracterisation. In any event, it could not have escaped your notice that on several occasions during the trial, when a question was asked about Elbit Systems, or what the witness knew about Elbit Systems, His Lordship intervened and stopped such questions being asked.

The first time His Lordship intervened was when I was cross-examining Nigel Shaw, the security guard. I asked him what I thought was a pretty innocuous, uncontroversial question, a yes-or-no question. I asked Mr Shaw whether he knew, on August 2024, that Elbit Systems was Israel's largest weapons manufacturer. Before he could answer my question, His Lordship interrupted and said something like, 'If you're going to ask a question on this line, we need to have a discussion about it'. I responded, in your presence, that it was just one question, but the
75 judge asked me to move on. And, I did. His Lordship also intervened during Charlotte's evidence when I was asking her questions. Charlotte was telling you about the Palestine Action training event she had attended in north London, which I've already addressed you on, and a subject matter of various talks given during the training event. She told you there was specific mention of Elbit which she described as Israel's largest weapons manufacturer. I asked her an open-ended question: 'Was there anything else said about Elbit during the training event that you can recall?' And it was that question that triggered another judicial interruption. His Lordship said something like, 'If we're going to get into this territory, we're going to need to have a discussion'. I responded in your presence that I was asking Charlotte about the company that had been targeted in this case, which was directly relevant to her statement of mind and
85 that this was a proper area for me to ask her about. You were then asked to leave court for a few minutes. Nothing unusual about that, members of the jury; when there's a dispute between the parties at a criminal trial, or between one party and the trial judge, juries are often asked to leave court for those matters to be discussed in their absence. When you returned to court, I moved onto a different topic. In other words, Charlotte was not allowed to give any further
90 evidence about what was said about Elbit Systems at the Palestine Action training event, or about what she knew about Elbit more generally.

95 His Lordship also intervened during the evidence of Zoe Rogers, when Ms Mogan was asking her questions. Zoe was giving evidence about how she had read about Palestine Action on their website and on Instagram, and how this had led her to Elbit's website. Before Ms Mogan could ask Zoe about what she had read on that website, His Lordship stopped her and said something like, 'This is an area that is outside what I have ruled is relevant. If you want to pursue this, you will have to argue this. What Ms Rogers knew about Elbit has been adequately covered'. In your presence, Ms Mogan tried to reason with His Lordship. She said that Zoe should be allowed to give her account about what she had learned about Elbit from Elbit's website. His Lordship said that Ms Rogers had already given a sufficient account, and so Ms Mogan had no choice but to move on, which she did. So, that, in summary, is the position: His Lordship has restricted what the defendants have been allowed to tell you about what they knew about Elbit, and what they knew about Elbit's role in the Israeli attack on Gaza. The consequence of that is that you don't know everything that the defendants knew about Elbit before each of them individually decided to take that major step of getting involved in the action against the factory in Filton.

110 Now, for the avoidance of any doubt, and before I am criticised, our system allows trial judges to make rulings like this, as to what evidence is relevant and what evidence is not. If a judge decides that certain evidence should not be given on the grounds that it is not relevant to any issue in the case, then that judge is entitled to exclude such evidence, however strange it might seem, however much the defendants or their lawyers might object. But the consequence of such a judicial approach to the evidence in this case is that we have only heard very limited evidence about Elbit Systems and how what the defendants knew about Elbit Systems influenced their decision-making, because you have been prevented from hearing any more.

115 Now, having said all of that, and I have summarised the position, I hope, fairly, the little you have been permitted to hear from several of the defendants about Elbit Systems is nevertheless instructive. You have heard that Elbit Systems is Israel's largest weapons manufacture. You've heard that Elbit Systems produced 85% of the weapons used by the Israeli military. You've heard that Elbit Systems produces drones, munitions and battle-simulators. You have heard that the weapons Elbit Systems were making were being sent to Israel. You have heard that Elbit Systems tests those weapons on Palestinians. That Elbit Systems was proud of producing 85% of Israel's combat drones. That Elbit Systems' CEO gave a talk during which he boasted that war was good for business. That Elbit Systems' employees have stated publicly that they are proud to be the backbone of the Israeli military. And finally, that the Filton factory was Elbit's newest facility in the UK and was opened by the Israeli ambassador. So, this is all important evidence in the case.

130 And what the defendants told you about Elbit are not just their beliefs, they are facts. And perhaps as important as those facts is that none of them were disputed by the prosecution. Not one of them. If any of the evidence that any of the defendants gave you about Elbit was false or exaggerated or misleading, you can be sure that the prosecution would have challenged that evidence. But they did not. So, you can be sure that what the defendants told you about this company is all true. There is no evidence to contradict any of it.

135 Now, ultimately, the unchallenged, uncontradicted evidence you have heard about Elbit is a matter for you because the facts are solely for you. It is for you and only you to decide what evidence is accurate, what evidence is significant, what evidence is reliable, what evidence is relevant, what evidence assists you in reaching your verdicts. Consequently, it is for you and only you to decide what weight to give the evidence you have heard about Elbit, or any other evidence for that matter. Now, you may think that it is incredibly important evidence that you

140 have heard when assessing the character of the defendants, the credibility of their accounts,
their conduct during the action in Filton and their state of mind at critical times during the
chronology of events that culminated in that action, to take into account, indeed to remember
at all times that the target of this action was a massive weapons company that has played a
critical role in the killing of tens of thousands of Palestinians, as opposed to, for example, a
145 company that makes fluffy toys for children. How can you reach true verdicts according to the
evidence if you ignore the unchallenged, uncontradicted evidence that you have heard about
this dreadful company?

...

150 ...But no Elbit witness has been called. The security guards, you will remember, were not
employed by Elbit directly; they were employed by another company, not Elbit itself. So, Elbit
remains in the shadows, hidden and protected. But not, ladies and gentlemen, in the corridors
of power, where no doubt they are welcomed, wined and dined, whilst Charlotte and all the
other co-accused in this case have been denied bail and have been locked up for 17 months.

155 ...And with that I turn now to criminal damage, and if we could start again by looking at the
indictment on count two. So, the particulars of the offence are at the top of the second page,
the defendants are named there together with all the other named individuals and others, on 6
August 2024 without lawful excuse destroyed or damaged property belonging to Elbit Systems
UK Ltd, intending to destroy or damage such property or being reckless as to whether such
property would be destroyed or damaged.

160 Now, during the evidence, I believe it was of Sam Corner, one of you sent a note to
His Lordship asking the following question, ‘If we decide that they genuinely believed that
they were performing life-saving action and were morally compelled to destroy weapons they
believed were going to be used to kill civilians in what they believed to be the legal genocide,
would that amount to an unlawful, sorry, to a lawful excuse?’

165 It was an excellent question and the next day His Lordship gave you an answer, it was along
the following lines and I haven’t got this word-for-word accurate, my apologies, but this is how
I noted it down. ‘If a defendant genuinely believed that they were performing life-saving action
and was morally compelled to destroy weapons they believed were going to be used to kill
civilians in what they believed to be a legal genocide, then I have ruled that would not count
as a lawful excuse. I will give full directions on this issue at the end of the case.’

170 In other words, the answer to the question was that the Judge had already ruled as a matter of
law, before hearing from the defendants, that they did not have a lawful excuse for damaging
property belonging to Elbit Systems. And then if you turn to the legal directions, I’m sorry to
jump back and forth, I hope it’s not a problem, and if you look at paragraph 3.8 of the legal
directions, this is the judge, His Lordship returning to that very point.

175 Three-point-eight, top of page four of the legal directions, ‘As I told you when you asked a
question about this, if a defendant believed that they were morally justified in doing what they
did to prevent what they thought was a genocide, then that would not amount to a lawful excuse.
There is no evidence in this case of anything that is capable in law of amounting to a lawful
excuse, so that is not something that you need to consider’.

180 So, the position is, putting that altogether, the answer to the question that one of you asked, the
direction at paragraph 3.8, it boils down to this. However strange it might seem, given the facts

185 of the case are solely for you, judges are entitled as a matter of law in our system to withdraw defences from the consideration of the jury if they conclude that there is no evidence to support the defence and that is what His Lordship had decided to do in this case and that's why, when you turn to the route of verdict on criminal damage, second page, in relation to count two the words, 'Lawful excuse' do not appear in either of the questions.

190 So, the first question is, are you sure that property, the premises was intentionally destroyed or damaged by one or more of the defendants, and are you sure that the defendant either personally destroyed or damaged property or encouraged or assisted another person to do so intending that the property be destroyed or damaged? So, no reasonable, I'm sorry, lawful excuse there because His Lordship as a matter of law has withdrawn that defence from your consideration.

195 Now, when His Lordship on Tuesday read out the legal directions and the route to verdict, he added, and it's not in writing, but he added orally that questions 2.1 and 2.2 in relation to criminal damage were unlikely to cause you difficulty given there is no dispute that the defendants, when giving evidence at least, intentionally damaged property in Elbit's premises.

Now, arguably, I'm not getting embroiled in this, but arguably Jordan Devlin is in a different position as he didn't give evidence, so I'm not going to say anything more about him, my focus will be, as far as criminal damage is concerned, on Charlotte and the other four who gave evidence.

200 So, that's what His Lordship said to you, and Ms Heer in her closing speech, pretty much on the same theme, told you that the defendants who were giving evidence had not raised any real challenge to the charge of criminal damage.

205 I'm sorry, but it is not right to say that the defendants who gave evidence did not raise any challenge; they did raise a challenge. They maintained that they had a lawful excuse, so that was their challenge. Now, what's happened is His Lordship has withdrawn that defence as a matter of law and that is the true position that we find ourselves in; so, their challenge was lawful excuse, the Court has withdrawn the defence from your consideration, that is the position.

210 So, where does that leave you, members of the jury? Well, you could be forgiven for thinking that His Lordship is in fact directing you as a matter of law in his legal directions and in his route to verdict to convict Charlotte, who I'm going to focus on now again, of criminal damage. However, you would be wrong to think that, His Lordship is not directing you to convict, in fact, not only is he not directing you to convict, but he's also absolutely forbidden from doing so as a matter of law.

215 The law is crystal clear on this point, no judge in any criminal case is allowed to direct a jury to convict any defendant of any criminal charge whatever the evidence might be; that is the law. Please remember that fundamental principle at all times when you retire, please do not misinterpret anything in His Lordship's legal directions or in his summing-up, which will follow defence speeches, as amounting to a legal direction to convict; that would be a terrible mistake to make. I repeat, His Lordship is absolutely not directing you to convict because he's barred as a matter of law from doing so.

220 Now, you've got every right to be confused about this because it is confusing, you have every right to think that the distinction between withdrawing the only available defence to a criminal charge on the facts and a direction to convict is at best a distinction without a difference. You've

225 every right to think that the two effectively amount to the same thing, in other words, withdrawing the only available defence to the charge and a direction to convict.

230 However, the fact of the matter is they're absolutely not the same thing; they are fundamentally different. Let me try and explain it and apologies if I fail to do so, but let me try to explain it. If you take up your legal directions again and look at the very first section, which is headed, 'Functions of judge and jury', it's quite a lengthy section, you'll see, it's all of the first page and it's more than half of the second page.

235 Now, I'm not going to go through it point-by-point, but I would ask you to read that section, well, all of it, but in particular this section very carefully when you retire. All the directions in this document are important, but I would suggest that these directions in the function of judge and jury are particularly important in this case and it's not a coincidence, I suggest, that they are the first legal directions in the document.

240 Now, the key point to summarise, rather than just read the whole thing out, is that the facts and the verdicts you return, having considered the facts, are solely for you. In short, nobody, not even His Lordship, can direct you what factual conclusions to reach; nobody, not even His Lordship, can direct you to convict. It's as simple as that, that's the law.

245 So, for the avoidance of any doubt about this, I am absolutely not asking you to disregard His Lordship's legal directions. On the contrary, I'm asking you to follow them, in particular, in particular this section on the functions of judge and jury, and remind you that nobody, not even His Lordship, can dictate to you what factual conclusions to reach in this case or direct to convict the defendants of any of the charges they face.

250 Indeed, it was as long ago as 1670 that the independence of the jury was definitively established beyond question. William Penn and William Mead were Quakers; they were prosecuted for preaching to an unlawful assembly. It was a crime in 1670, this is about 20, 30 years after the end of the English Civil War, to have a religious assembly of more than five people outside the auspices of the Church of England.

And what William Penn and William Mead had done was they had preached to a group of more than five people on the streets of London; they stood trial at the Old Bailey before a judge and jury. At the end of the evidence the judge directed the jury to convict, the jury refused to convict.

255 The judge was furious, he ordered the jury to convict again and stated that they would not be dismissed until they did so; the jury again refused to convict. The judge remanded the entire jury in custody for two days and ordered that they be denied all food and water. As the jurors were being taken from court to prison, William Penn, it is said, shouted out, 'You are Englishmen, mind your privilege, give not away your right', to which one member of the jury, Edward Bushell, it is said, replied, 'Nor shall we ever do'.

260 When the jury returned to court two days later, having not had any food or water for that period, the judge again ordered them to convict; the jury continued to refuse and returned a verdict of not guilty. The judge was determined not to let the matter lie; he fined the jury for contempt of court and remanded them in custody until the fines were paid. Eight jurors paid their fines, four jurors refused to pay and one of those jurors was Edward Bushell.

Edward Bushell then petitioned a Higher Court in what is called a writ of [*habeas*] *corpus*,

270 which if issued by the court would result in his immediate release from custody. The Higher Court issued that writ and Edward Bushell and the three other jurors were released, thereby establishing the right of a jury to return a verdict without fear of punishment from the trial judge.

275 Now, this legal challenge by Edward Bushell has come to be known as Bushell's Case and is one of the most celebrated cases in British legal history. There is a marble plaque inside the Old Bailey in Central London, which reads as follows: 'Near this site, William Penn and William Mead were tried in 1670 for preaching to an unlawful assembly in Grace Church Street. This tablet commemorates the courage and endurance of the jury, Thomas Vere, Edward Bushell and 10 others, who refused to give a verdict against them, although locked up without food for two nights and were fined for their final verdict of not guilty. The case of these jury men was reviewed under a writ of [*habeas*] *corpus* and Chief Justice Vaughan delivered the opinion of the Court, which established the right of juries to give their verdict according to their convictions'.

285 So, bringing that all together, members of the jury, you can find Charlotte and her co-defendants not guilty of criminal damage; it is a perfectly fair and proper verdict for you to return in this case. Please do not for one second think that you are somehow barred as a matter of law from doing so, indeed, you should find Charlotte and her co-defendants not guilty of criminal damage.

290 It will undoubtedly take great courage and independence I accept to do so, but the facts ultimately are solely for you, please never forget that. And don't worry, the good news is that we've moved on since 1670, there is no prospect of you being imprisoned or fined for the factual conclusions you reach or for the verdicts you return. And that brings me, as far as criminal damage is concerned, to His Lordship's summing-up of the evidence, which will follow defence speeches.

295 Now, I have no idea how His Lordship is going to pitch this, how His Lordship is going to approach his summary of the evidence. He might do what many, if not most judges, do these days, namely sum-up the evidence without making any comment, without expressing any opinion, without any edge, without any spin, without any innuendo; in other words, 100% neutrality.

300 You may think that would be the fairest approach to take, given a trial judge is like a referee, an umpire. However, our system does allow judges to make comment and express opinion, even strongly in certain circumstances, as long as the summing-up remains balanced and impartial, as long as the fundamental of any defendant to a fair trial is not undermined, as long as the jury is directed that you are entitled to reject any judicial opinion on the facts if you wish, as His Lordship has already directed you, and as long as any judicial opinion or comment is not wrongly expressed as a legal direction that you must follow.

305 So, if His Lordship does decide to express an opinion on the evidence, please do not under any circumstances misinterpret that opinion as a legal direction because it is not. Obviously, if you agree with the Judge's opinion you may adopt it, but the opposite is equally true. If you don't agree with the Judge's opinion, you may reject it; that is your right, that is your privilege as jurors because I repeat, you are the sole judges of the facts, nobody, not even His Lordship, can direct you to convict in this case.

310 ...

APPENDIX 2: Draft order

Case No: T2024 0175 / T2024 7092

IN THE CROWN COURT AT WOOLWICH
Sitting at the Royal Courts of Justice
[Name of Presiding Judge]

**In the matter of contempt proceedings against
Rajiv Menon KC (“the respondent”)**

Draft/ ORDER

NOTICE TO RAJIV MENON KC (“the respondent”)

The court has instituted contempt proceedings alleging that you are in contempt of court. You should read this document carefully. Note particularly – “YOUR RIGHTS” – set out in full at the end of this order.

The court has ordered that the application will be determined at a hearing on [date] at [time] at the Crown Court at Woolwich sitting at [2 Belmarsh Road, London SE28 0EY] [the Royal Courts of Justice, Strand, London WC2A 2LL] (“the hearing”).

YOU MUST ATTEND THIS HEARING. If you do not attend the court may proceed in your absence, and you may be unrepresented, and a warrant for your arrest may be issued. You are advised to seek legal advice without any further delay. Legal aid is available for advice and representation in respect of the contempt application.

DO NOT IGNORE THESE PROCEEDINGS

You are summonsed to attend the hearing at which the court will decide whether your conduct amounts to a contempt of court and, if so, what, if any, sanction to impose.

The particulars of the alleged contempt are that you created a real risk of impeding the proper administration of justice in that, on 8 January 2026, in the knowledge of rulings given by the court on 3 July 2025, 15 November 2025, 2 December 2025, 9 December 2025 (as reflected at paragraphs 9-10 of the court’s written ruling of 12 January 2026) and 22 December 2025, you, in a speech to the jury in *R v Head and others*, contrary to those rulings:

1. Informed the jury of the principle of jury equity.
2. Asked the jury to apply the principle of jury equity.
3. Told the jury that the judge may not direct the jury to convict.
4. Invited the jury to disregard the court’s directions that they should put views of the Middle East and the war in Gaza, and emotion, to one side.
5. Suggested that the prosecution accepted evidence as to the history of the Middle East and the role of Elbit Systems in supplying weapons to Israel and that this evidence was critical to the jury reaching true verdicts.

6. Informed the jury that the court had ruled as a matter of law before hearing from the defendants that they did not have a lawful excuse for damaging property belonging to Elbit Systems.

And you did so in deliberate breach of the court's rulings knowing that would create a real risk of impeding the administration of justice, alternatively you did so deliberately in the knowledge of the court's rulings.

And that you, in the same speech, suggested to the jury that the court was not impartial in that you:

7. Referred to the defendants being prevented from giving evidence about Elbit, later referring to Elbit being "protected" and "wined and dined in the corridors of power". The reference was capable of creating the impression that the defendants have been treated unfairly and that Elbit has been improperly "protected" in these proceedings.

The Court orders that:

1. The attached bundle of documents shall be served on Mr Menon.
2. No further evidence shall be served on Mr Menon, since the matters in issue solely concern the rulings made by the judge and the speech made to the jury by Mr Menon, which are contained in the attached bundle.
3. The issues will be determined by a High Court Judge sitting in the Crown Court at Woolwich.
4. Mr Menon shall file and serve his grounds of defence, skeleton argument and written evidence on which he relies, if so advised, by 4pm on 3 July 2026. Mr Menon is entitled but not obliged to give evidence orally or in writing. If he chooses to lodge a witness statement he should do so by this date. The statements of any other witnesses he seeks to rely on must be served by this date.
5. The Director of Public Prosecutions may respond in writing by 4pm on 10 July 2026 if so advised, and must indicate by then whether he wishes to dispute any witness evidence which has been served.
6. The substantive hearing, at which Mr Menon will be entitled to give evidence, if so advised, and to call witnesses will be fixed for [Insert date] ("the hearing") with a time estimate of two days. The court will determine the substantive questions raised in these proceedings at the hearing.
7. At the hearing, the court will have read the documents in the attached bundle, and will not receive any further evidence in support of the allegations identified above. The bundle is available to the Press on request.
8. The court invites counsel instructed by the Director of Public Prosecutions to attend the hearing and, if necessary (and subject to any ruling as to standing), to ask questions of any witnesses and to make submissions.

9. In the event that there is any objection to the participation of counsel instructed by the Director of Public Prosecutions then that shall be dealt with as a preliminary issue at the hearing.

Dated:

NOTICE TO RAJIV MENON KC: YOUR RIGHTS

You have the right to be legally represented in any contempt proceedings.

You are entitled to a reasonable opportunity to obtain legal representation and to apply for legal aid which may be available without any means test.

You are entitled to a reasonable time to prepare for the hearing of the contempt application against you.

You are entitled but not obliged to give written and oral evidence in your defence.

You have the right to remain silent and may not be compelled to answer any question the answer to which may incriminate you.

If contempt proceedings are instituted, and if you do not attend any contempt hearing, the court may proceed in your absence. Whether or not you attend, the court will only find you in contempt if satisfied beyond reasonable doubt of the facts constituting contempt and that they do constitute contempt.

If the court is satisfied that you have committed a contempt, the court may punish you by a fine, imprisonment, confiscation of assets or other punishment permitted under the law.

If you admit the contempt and wish to apologise to the court, that is likely to reduce the seriousness of any punishment by the court.

The court will sit in public, unless and to the extent that the court orders otherwise. Its findings will be made public.

You will have a right of appeal against any finding of contempt, or any sanction, to the Court of Appeal.