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CLARIFYING CONTEMPT OF COURT: WHEN INTENTION IS IRRELEVANT

THIS note considers the Court of Appeal's decision in *Buzzard-Quashie v Chief Constable of Northamptonshire Police* [2025] EWCA Civ 1397 ("*Buzzard-Quashie*") and the subsequent judgment determining sanctions. *Buzzard-Quashie* concerned a deliberate failure by Northamptonshire Police to disclose footage relating to its officers' arrest of the appellant, Ms. Buzzard-Quashie, on 3 September 2021. Ms. Buzzard-Quashie alleged wrongful arrest and physically mistreatment. The appeal related to an application to find the Chief Constable in contempt, because of a failure to produce the police video footage of her arrest that had been recorded on the body-worn cameras. Giving judgment on behalf of the Court, Fraser L.J. remarked that the appellant's efforts "have been remarkable" (at [2]). The refusal of the police led to the appellant complaining to the Information Commissioner's Office, which ordered the police to produce the evidence. The police responded that the footage requested had not, or no longer, existed. The appellant commenced legal proceedings and obtained judgment in the form of a court order on 25 April 2023, which required the police to produce the footage within 28 days or to explain in a witness statement why it had been destroyed and to pay the appellant's costs. The respondent Chief Constable failed to comply with the order. The only material provided was a DVD (albeit within the time limit), "but in a format that meant she could not access it. It contained five more clips of video" (at [22]). These video clips were in addition to the previous isolated video clips that she had been provided (at [16]). The appellant made an application on 2 June 2023 to find the respondent in contempt. At this contempt hearing the respondent confirmed to Judge Freeland K.C. that all video footage available had been disclosed. The judge required the respondent to serve his statement of evidence by 15 January 2024, which he did not do. The respondent applied for relief from sanctions and provided a statement of evidence from a solicitor working for the police.

The Court of Appeal heard an appeal against the 15 March 2024 decision of H.H.J. Genn. At the hearing before Judge Genn, another application for contempt, the respondent had argued that all evidence had been served and a proper search had been undertaken. H.H.J. Genn accepted this, as the appellant could not prove an intention not to comply and the respondent could not be personally responsible for the intentions of his officers. The appellant successfully sought permission to appeal. Prior to the Court of Appeal hearing, the respondent admitted that "the position taken by the Chief Constable throughout the whole period [. . .] was factually wrong"

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(at [35]). The video evidence did exist. A new search revealed the possible existence of even more video evidence. In total there had been 10 statements made by the police to the County Court and Court of Appeal that contained "misleading and untrue" information about the existence of relevant video evidence (at [39]–[40]).

The judgment is highly critical of the police. The issue was whether the respondent could be held in contempt of court, which was the focus of the first four grounds of appeal. The alleged contempt related to the submission of false statements and the non-compliance with court orders. Fraser L.J. observed that the application was the only way to ensure compliance. In determining whether the respondent could be held in contempt Fraser L.J. stated that three issues needed to be addressed: "1. The nature of the breach; 2. The responsibility of the Chief Constable for acts or omissions of others; 3. The absence of a penal notice" (at [55]). Fraser L.J. rejected the submission that a contempt needed to be "wilful, deliberate or contumelious" (at [56]). As authority he referred to the judgment of Warby L.J. in *Cuciurean v Secretary of State for Transport* [2021] EWCA Civ 357. There was no requirement to prove the intention to commit contempt. The only intention relevant for a finding of contempt was that there was an intention to do the act or omission, namely here non-disclosure. The actual intention to interfere with the administration of justice was only relevant for determining sanction. Fraser L.J. referred to Popplewell L.J.'s judgment in *ADM International Sarl v Grain House International S.A.* [2024] EWCA Civ 33, [2024] 1 W.L.R. 3262, where Popplewell L.J. stated "that the defendant need not intend to breach the order; all that need be established is that the defendant intended to carry out the conduct in question and that such conduct amounts to a breach of the order, objectively construed" (at [74]).

Fraser L.J. then held, relying inter alia on the judgment of Rose L.J. in *Varma v Atkinson* [2020] EWCA Civ 1602, [2021] Ch. 180, that policy considerations justified this approach, as there was no need to establish "what the alleged contemnor had in their own separate mind in terms of intention at the time of their acts or omissions" (at [66]). Fraser L.J. was clear: "[s]ubjective understanding of the order by the alleged contemnor is not relevant either. The starting point is whether the order has been breached." (at [69]). In terms of policy considerations, Fraser L.J. stated that "[c]ontempt of court is that area of the law which protects the administration of justice" (at [43]).

Referring to *Cuadrilla Bowman Ltd. v Persons Unknown* [2020] EWCA Civ 9, [2020] 4 W.L.R. 29 ("*Cuadrilla*"), where the Court of Appeal had required intention on behalf of protestors to find contempt, Fraser L.J. distinguished *Buzzard-Quashie* from *Cuadrilla.* This was because in *Cuadrilla* the contempt related to a prohibited act ("the intention of causing inconvenience or delay") which made the intention of the

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protestors relevant. The reference to intention was particular to the wording of the court order in *Cuadrilla.* There was no such wording in *Buzzard-Quashie*. Fraser L.J. posited that Judge Genn's "erroneous conclusion that intention to breach the order was required as an element of contempt itself", may have been due to "an incorrect reading" by the judge of *Cuadrilla* (at [68]).

The fact that there could be a finding of contempt without any sanction "is still a powerful finding" especially where the person is not an individual but is a public body (at [58]). Fraser L.J. cited Lord Woolf in *M v Home Office* [1994] 1 A.C. 377 (H.L.) as to the beneficial nature of being able to hold a government department in contempt in these circumstances. This rationale also applied here, in relation to a Chief Constable, to "vindicate the requirements of justice" (at [60]).

Examining the Chief Constable's status as a corporation sole under the Police Reform and Social Responsibility Act 2011, Fraser L.J. held that there was no distinction between the respondent and his officers. Fraser L.J. criticised H.H.J. Genn for focusing on the respondent's personal conduct. Fraser L.J. relied on Lord Woolf's judgment in *M v Home Office* holding it "analogous" to *Buzzard-Quashie*. As in *M v Home Office*, holding a minster in contempt on behalf their department was not to "punish an individual" but "to vindicate the rule of law by a finding of contempt" (at [79]–[82]; citing *M v Home Office*, 426). Turning to the absence of a penal notice (which if attached to the court order would have warned about the risk of imprisonment or a fine for non-compliance), Fraser L.J. held that court orders with and without penal notices could not be treated differently. If so, it would render the latter a "'nice but not essential' type" of court order (at [84]). This approach brought clarity. First, a finding of contempt for non-compliance does not require the applicant to prove an intention to commit contempt and, second, only when determining sanction does the existence of a penal notice become relevant. Each stage is distinct. Therefore, the Court held that H.H.J. Genn was wrong to require a penal notice for a finding of contempt.

Fraser L.J.'s judgment brings clarity to the law and provides guidance on the requirements for a finding of contempt. By leaving the intention and the existence of a penal notice to the subsequent determination of an appropriate sanction, applications for contempt can succeed even if there would be no sanction. This approach would not apply in a case such as *Cuadrilla*, where the intention to cause "inconvenience or delay" was integral to the court order. In *Cuadrilla*, it was not enough to intend to do an act; this act needed to be done with the intention of "causing inconvenience or delay". In *Buzzard-Quashie*, the finding of contempt on these facts was significant and helped to ensure the observance of the rule of law. The decision has wider implications, as by clarifying the common law it extends the approach in *M v Home Office* to other public figures who are

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responsible for organisations. To have upheld the original decision would have disincentivised scrutiny of police conduct and engagement with court orders.

In a subsequent decision in *Buzzard-Quashie (Sanctions) v Chief Constable of Northamptonshire Police* [2025] EWCA Civ 1502, [2026] 4 W.L.R. 16, the Court of Appeal determined the sanction for the respondent's contempt. Fraser L.J. held that it would not be appropriate to imprison the respondent because the respondent was a defendant in an official capacity. Fraser L.J. was clear that "[w]ere a private individual to have breached court orders in the way that has occurred in this case, I would undoubtedly consider that to justify a term of imprisonment upon the contemnor" (at [22]). However, due to "all the circumstances of this troubling case" a fine was imposed on the respondent of £50,000 (at [24]). The fine was imposed due to the severity of the conduct, even after Fraser L.J. had noted that the money would "inevitably take funds away from front line policing activities" (at [23]).

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