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<i>Judgment: approved by the court for handing down (subject to editorial corrections)*</i>	<b>ICOS No:</b>	<b>25/077551/01</b>
	<b>Delivered:</b>	<b>17/06/2026</b>

**IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND**

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**KING'S BENCH DIVISION  
(JUDICIAL REVIEW)**

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**IN THE MATTER OF AN APPLICATION BY HOLGER BERTHOLD  
FOR LEAVE TO APPLY FOR JUDICIAL REVIEW**

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**Mr H Berthold appeared as a Litigant in Person  
Ms S Tang (instructed by the Crown Solicitor's Office) for the Respondent, Chief  
Constable PSNI  
Mr M O'Hara (instructed by the Crown Solicitor's Office) for the Respondent, Secretary  
of State for the Home Office**

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**McLAUGHLIN J**

***Introduction***

[1] This is an application for leave to apply for judicial review of decisions which the applicant contends were made by both the Chief Constable of the PSNI and the Secretary of State for the Home Office. Mr Berthold is a German national who has lived in Northern Ireland for many years with his former wife, Ms Lysanne McKnight (sadly, now deceased) and their daughter who is now 14 years old. The applicant was granted EU Settled Status, entitling him to remain in the UK. However, he is currently in immigration detention, pending deportation to Germany on foot of a Deportation Order made on 4 June 2024, following his conviction for a series of criminal offences. These proceedings were initially commenced against the Chief Constable alone on 28 March 2025. After a number of case management review hearings and an amended order 53 statement dated 12 November 2025, a leave hearing was scheduled to proceed on 24 February 2026. At the time of listing the leave hearing, the applicant had the benefit of immigration bail. On 19 February 2026, the applicant was detained by immigration officials of the Secretary of State on the ground that he had left the UK and re-entered the same day through the common travel area. He has remained in immigration detention since that time. On 10 March 2026, he applied to amend the proceedings to join the

Secretary of State for the Home Office as an additional proposed respondent and filed a further amended order 53 statement.

[2] The decisions which the applicant seeks leave to challenge are:

- (i) **Chief Constable PSNI.** A restraining order dated 6 September 2023 and varied on 2 May 2024 by the magistrates' court, pursuant to Article 7 Protection from Harassment (Northern Ireland) Order 1997, following convictions for criminal offences. As set out below, the applicant's complaints (but not the challenge) extend to both the events and the legal proceedings which led to the restraining orders being made. His challenge also relates to events on 31 January 2025 when the applicant applied to the magistrates' court to discharge the restraining order.
- (ii) **Secretary of State for the Home Office.** The applicant describes the impugned decision as "*Home Office immigration enforcement decisions forming part of the same factual matrix already before the court in JR No: 25/77551/01.*" However, the central target of this challenge remains the restraining orders, as varied, insofar as the decision to make a deportation order and thereafter to detain the applicant were founded upon two sets of criminal proceedings, which ultimately resulted in criminal convictions and the restraining orders.

### *Challenge against the Chief Constable PSNI*

[3] In his original order 5statement, the applicant identified the target of the challenge to be a series of failures by the Chief Constable to comply with legal obligations, including:

- (i) Addressing procedural breaches outlined in PPS prosecution papers.
- (ii) Failing to act upon a statement filed by the applicant on 10 August 2023 in response to the prosecution.
- (iii) Failing to provide written confirmation from the magistrates' court, which obstructed the applicant's ability to appeal on 28 March 2025.

[4] In his amended order 53 statement, the list of the impugned omissions by the Chief Constable changed and are recorded as follows:

"The court hearing scheduled for 31 January 2025 to discharge the restraining order has no accessible record or file explaining the grounds on which the said order was upheld. As evidenced with email dated 3 February that the magistrates' court is not a court of record with the added exhibits from 29 August 2025.

As a result, the applicant has been denied the ability to appeal the decision to the Court of Appeal, since no record exists to form the basis of such an appeal, constituting a breach of procedural fairness and access to justice.”

[5] In support of his challenge, the applicant filed two affidavits, one at the outset of the challenge to the Chief Constable and the second at the time of the application to add the Secretary of State as a respondent. The affidavits contain a chronology of events and exhibit multiple documents, but do not contain a narrative history of relevant events. Rather, they contain lists of alleged legal violations and a summary of the relief requested, including a compensation claim for a sum between £2.9m-£4million (approximately). The affidavit does exhibit an “evidence pack”, comprising a series of documents relating to the underlying criminal proceedings and the impugned restraining orders. A “statement of truth” dated 4 July 2025 was also included which contains a brief summary of some events relating to the prosecution process. One of the documents included in the “evidence pack” was a personal statement dated 10 August 2023. The following chronology of events is apparent from a composite reading of these materials:

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|------------------|---|
| 11 January 2023  | The applicant was arrested and his devices seized on suspicion of possession of indecent images of children and child pornography. The applicant appears to have been granted police bail.  |
| 6 February 2023  | The applicant was advised that he was no longer under arrest and no longer subject to police bail conditions, as no indecent images were found on the devices.  |
| 20 February 2023 | Police attend the home of the applicant, Lysanne McKnight (his then wife) and daughter in response to a separate incident.  |
| 6 September 2023 | The applicant was convicted at Belfast Magistrates’ Court of common assault of Lysanne McKnight, aggravated by domestic abuse which occurred on 20 February 2023. He was sentenced to three months’ imprisonment. A restraining order was made pursuant to Article 7 of the Protection from Harassment (Northern Ireland) Order 1997, in the following terms: |

“The defendant is forbidden to intimidate, harass or pester Lysanne McKnight and must not instruct, encourage or, in any way, suggest that any other person should do so. This order takes effect forthwith and will last until 6 September 2025. You may apply to the court to have this order varied or discharged.”

- 7 August 2023 PSNI confirm no further action will be taken on foot of the investigation into possession of indecent images and extreme pornography.
- 23 September 2023 Lysanne McKnight reported to police that the applicant had posted unpleasant comments about her on Facebook.
- 24 September 2023 Lysanne McKnight reported to police that the applicant had posted a photograph of her in her underwear on Facebook.
- 7 October 2023 Lysanne McKnight reported to police that the applicant had made further unpleasant posts about her on Facebook.
- 2 November 2023 The applicant was arrested by police on suspicion of harassment, misuse of telecommunications and breach of the restraining order.
- 2 May 2024 The applicant was convicted at Londonderry Magistrates' Court of breach of the restraining order and stalking, both aggravated by domestic abuse. He was sentenced to nine months' imprisonment. The restraining order was varied to include the following additions:
- "1. The defendant must not post any photos, images, messages, comments or references about Lysanne McKnight online on or any forum whatsoever.
2. The defendant must have no contact whatsoever with Lysanne McKnight except through social services and/or solicitors re child issues only. This order will now expire on 6 September 2027."
- 2 May 2024 On the same date, the applicant was served, via the Governor HMP Maghaberry, with a notice of decision to make a deportation order, together with associated documents including a statement of reasons and notice that he may be detained under immigration powers.
- 27 November 2024 The applicant made an application pursuant to Article 7(4) of the Protection from Harassment (Northern Ireland) Order 1997, to discharge the restraining order, first made on 06 September 2023. The address given by the applicant, at the time of the application, was an Immigration Detention Centre at Heathrow IRC. The application was accompanied by a copy of the

restraining order and a statement of grounds. The applicant requested an oral hearing, stating *“as I was never really ever able to speak for myself, this put me in front of accomplished facts.”*

31 January 2025      The application to discharge the restraining order was dismissed by the magistrates’ court.

September 2025      Lysann McKnight died.

[6]      The applicant’s challenge against the PSNI related to the validity of the restraining order dated 6 September 2023, as varied on 2 May 2024. It also related to the dismissal of his application to discharge the order. In the course of oral submissions, it became apparent that the applicant’s complaints were broader in scope and included aspects of the entire prosecution process. However, it was confirmed that the challenge was limited to the validity of the restraining orders and the discharge application.

[7]      Each aspect of the applicant’s challenge against the PSNI is set out in more detail below. The two restraining orders were made following convictions for criminal offences and the order of 31 January 2025 was made on foot of an application to discharge the orders. The premise of the challenge appears to be that the Chief Constable was the complainant in the criminal proceedings and is named on both the originating complaint and the court orders. The applicant contends that, as complainant, the Chief Constable is responsible for service of Court orders and for formulating the final content of the orders, including the applicant’s address. However, since the Chief Constable of the PSNI did not make any of those orders, the entire application for judicial review against him is fatally flawed. In simple terms, they were not his decisions. He may have been the original complainant as a result of charging the applicant, however responsibility for the carriage of the prosecution thereafter transferred by operation of law to the Director of Public Prosecutions [S.31(1) Justice (NI) Act 2002]. Thereafter, the role of the Chief Constable was to gather the relevant evidence. The impugned decisions were made by a Court, not the police and the Chief Constable has no power to alter them. He is therefore not the proper Respondent in a challenge to those decisions. This point has been made repeatedly clear to the applicant over the course of a series of case management hearings. It was stated most clearly and expressly in a position paper filed on behalf of the Chief Constable on 5 February 2025 in response to an application for interim relief. For this simple reason, leave to apply for judicial review against the Chief Constable must be refused. However, in light of the detailed submissions and the connection between the applicant’s complaints about the proceedings and the challenge to the Home Secretary, I have also addressed below each of his complaints about the legality of the relevant orders. I also do so for the purposes of ensuring a clear public record of these proceedings, as I understand that other agencies or tribunals may have an interest in the outcome.

*Application to discharge restraining order - 31 January 2025*

[8] The applicant wishes to challenge the decision to dismiss his application to discharge the restraining order on the ground that there is no written record of the court's decision. The discharge application was made in writing and is dated 26 November 2024. I understand that it was filed in court at a time when the applicant was in immigration detention. In oral submissions, he confirmed that he presented the application to a judge of the magistrates' court via an audio link. The affidavit evidence contains no further details about events. The applicant informed me that the judge was a female, that the hearing was short and that at the conclusion of the hearing he was aware that the application had been refused. In support of his contention that there was no written record of the proceedings, the applicant relied upon an email exchange dated 3 February 2025 with an official from Belfast Magistrates' Court. The applicant made a request by email in the following terms:

“... would you perhaps have any information in writing from the court hearing on Friday, where the judge upheld the restraining order. As I understand it, and if there was anything else mentioned in terms of the indictment I sent as well?”

[9] In response, the official stated:

“The magistrates' court is not a court of record so there may not be a note from the judge. I will contact the judge for clarification and be in touch. As I have previously advised, the only matter before the court was the application to discharge the restraining order. If you are wishing to pursue the secondary case, you must follow the correct procedure, it should start with the police and Public Prosecution Service. The magistrates' court cannot commence proceedings.”

[10] There is no further evidence of any additional communication, other than the applicant's oral submission that he was simply told that the magistrates' court is not a “court of record.”

[11] Rule 19(1) of the Magistrates' Court Rules (Northern Ireland) 1984, requires that in every proceeding (other than civil and ejection proceedings) the “*Clerk of the Petty Sessions shall enter the particulars of the proceedings and the substance of the decision upon it in a book to be known as the Order Book ...*” Similarly, rule 20 provides that a “*certificate of the conviction or order,*” made in any proceedings may be issued at the request of any person with a bona fide interest in the proceedings.

[12] In advance of the leave hearing, I requested Northern Ireland Courts and Tribunals Service staff to conduct a search of the ICOS system for any record of the

proceedings on 31 January 2025. This identified a certificate of order, prepared pursuant to rule 20. It records that on 31 January 2025 the applicant made an application to discharge a restraining order dated 2 May 2024 on the grounds of *“incorrect address, miscarriage of justice and extension of restraining order”* and that the application was refused. The certificate contains an electronic signature of the Clerk of Petty Sessions.

[13] It is unfortunate that the applicant had not previously seen this certificate and he expressed surprise when it was presented to him. No evidence is available about whether the applicant followed up his original email request and if so, what response he received. However, for present purposes, this application has proceeded on the basis that neither an order nor a certificate of order was ever drawn up or provided to him. Whatever may have occurred and whatever the reasons for the applicant not obtaining a record of the court’s order, it is clear that the court did make an order refusing the discharge application and did maintain a record of that order. The premise of the applicant’s challenge to the decision of 31 January 2025 is therefore unfounded.

[14] The applicant also maintains that the absence of an order prevented him from appealing to the Court of Appeal. An appeal to the Court of Appeal from the magistrates’ court may be made by way of case stated, on a point of law only. It must be preceded by an application to the Clerk of the Petty Sessions within 14 days requesting that a case is stated for the opinion of the Court of Appeal. The court may refuse to do so, if it considers the application to be *“frivolous”* [Article 146(1)-(4), Magistrates’ Court (Northern Ireland) Order 1981]. The procedural requirements for such an application are contained in rule 158 of the Magistrates’ Court Rules 1984. The case stated appeal process therefore requires a written request (or requisition) to the Magistrate which specifies the relevant point of law involved, a copy of the relevant court order is not required to accompany the request. While it is of course desirable for the applicant to have the formal order of the Court to progress an appeal, it is not a procedural barrier to making a request. In any event, even at this stage, the applicant has been unable to identify any arguable error of law on the part of the judge which could have formed the basis of an application to state a case.

[15] It is clear from the exchange of correspondence dated 3 February 2025, that the applicant was aware, within the relevant time period for appeal, that the discharge application had been considered and refused. No evidence is available of any further efforts by the applicant, either to seek a copy of the order or to attempt to appeal by way of case stated to the Court of Appeal. In particular, there is no evidence of the applicant making an effort to appeal which was hindered on account of the absence of an order.

[16] Pursuant to Article 140(1) of the Magistrates’ Court (Northern Ireland) Order 1981, a person may also appeal to the county court against either or both of a conviction and sentence imposed by the magistrates’ court. For this purpose a *“sentence”* includes *“any order passed on the person for the offence, whether on conviction*

*or in subsequent proceedings*” [Article 140(2), 1981 Order]. This restraining order was made pursuant to Article 7(1) of the Protection from Harassment (NI) Order 1997, following two separate criminal convictions. It is therefore an order passed on the person on conviction for the relevant offences and plainly falls within the definition of a “*sentence*.”

[17] The result of all of the above is that the applicant clearly had two possible rights of appeal. He could have appealed to the county court against both sentences of imprisonment and/or the restraining orders. He could also have appealed to the county court against the decision of 31 January 2025 on foot of the discharge application. He could also have made an application to state a case to the Court of Appeal if he had identified a point of law. Neither procedure required a physical copy of the relevant court order. It is clear from the evidence that the applicant was aware, within the time limit for either form of appeal, that the court had refused his discharge application. He does not appear to have taken any step to file either form of appeal. There is simply no evidence before the court as to how or why the applicant felt constrained from attempting to appeal.

[18] For present purposes, the relevant point is that his application to discharge the restraining order was determined by the magistrates’ court. A decision on that application has been made and a record of that decision was made and is available, in accordance with the Magistrates’ Court Rules. A certificate recording the order was available on the ICOS system. Accordingly, there are simply no available grounds for the applicant to challenge that decision on the basis that no record of it was kept.

### ***Incorrect address***

[19] The applicant contends that both restraining orders are invalid because they identify him by reference to an incorrect address.

[20] The orders of 6 September 2023 and 2 May 2024, both identify the Chief Constable PSNI as the complainant and the applicant as the defendant. His address is cited as “46 Duncraggan Road, Londonderry, BT44 0AA.” The applicant contends that this address is not only incorrect, but that it does not exist. The applicant also relies upon a letter from the Department of Work and Pensions dated 22 December 2023 relating to his Universal Credit housing costs. The letter states that it will pay his housing costs from 7 December 2023 and identifies his residence at a different address, namely 13 Abercorn Road, Londonderry, BT48 6SA. He contends that this letter makes clear that he was not living at the address stated on the May 2024 restraining order, at the relevant time.

[21] Proceedings on a criminal charge may be commenced in the magistrates’ court by either of two procedures. First, a person may lay a complaint before a District Judge (Magistrates’ Court) charging a criminal offence [Article 16, 1981 Order]. Alternatively, a complaint may be made to a lay magistrate that a person

has or is suspected of having committed a summary offence. Thereafter, the lay magistrate may issue a summons either for the arrest of that person or directing that they appear before the magistrates' court to answer the complaint [Article 20, 1981 Order]. In this case, it is not clear which procedure was followed for the respective prosecutions. However, the applicant's evidence includes a bundle of materials which he stated that he received from the PPS on 22 August 2023 (ie six months after his first arrest). The materials relate to the first prosecution, arising out of the incident on 20 February 2023 at the applicant's home at 25 Woodvale Road, Belfast. The papers record that he was charged by police for the offence of common assault. They also include a witness statement from a Constable Mark Williamson which states that the applicant was arrested on 20 February 2023, was interviewed later that day in the presence of his solicitor and was charged that day to appear at Belfast Magistrates' Court on 21 February 2023 by PSNI. The PPS materials record the applicant's address to be 46 Duncraggan Road, Londonderry, BT44 0AA, which is the same address as later appeared on the restraining order.

[22] The evidence therefore suggests that the first set of criminal proceedings was commenced by way of a complaint by the Chief Constable following a decision to charge the applicant. He seems to have been detained overnight to appear in court the following morning. In those circumstances, the applicant would have been provided with a charge sheet in person, while in custody and a copy provided to any legal representative. The original charge sheet is not contained in the applicant's evidence and it is not clear how his address is recorded. At that time, he appears to have been living in Belfast. Subsequent email correspondence with the magistrates' court official (which is referred to below) suggests that the applicant spent a period of time in custody on foot of this charge, pending perfection of his bail. He later appears to have taken up residence in Londonderry and therefore changed address. If the proceedings were commenced by way of a complaint by the Chief Constable, responsibility for their conduct will have passed by operation of law to the PPS from the date of the first remand hearing [per section 31(1) of the Justice (NI) Act 2002]. It is not clear when or how the prosecuting authorities obtained details of the applicant's new address. It may have occurred through his solicitors. However, what is clear from the evidence is that the proceedings did come to his notice, notwithstanding that the address is incorrect. He confirmed in oral submissions that he appeared in court on 6 September 2023 and that he pleaded guilty to the charge of common assault.

[23] The procedural requirements for an originating criminal complaint are prescribed by rule 6(1) of the 1984 Rules. It provides:

"6.-(1) Every complaint, summons, warrant or other document made or issued for the purpose of, or in connection with, any proceedings before a magistrates' court for an offence shall be sufficient if it describes the specific offence with which the accused is charged, or of which he is convicted, in ordinary language avoiding as

far as possible the use of technical terms, and gives such particulars as may be necessary for giving reasonable information as to the nature of the charge.”

[24] Rule 6(4) provides that the forms set out in Schedule 1 “*or forms to the like effect shall, where appropriate, be used in connection with proceedings to which the Rules relate.*” Rule 7 regulates the form of a complaint and states that it may be made “*by the complainant in person or by his solicitor or by any other person authorised in that behalf.*” Where it is made in writing, rule 7(3) provides that it “*shall be signed by the person making it and by the justice receiving it.*” Where proceedings are commenced by way of a summons (as distinct from a complaint charging an offence), rule 8(6) requires that the name and address of the complainant is included and “*... where possible, the usual or last known address of the person summoned shall be stated in the summons.*”

[25] Neither party made detailed submissions on the formal requirements of a complaint charging a criminal offence or the requirements for service. However, the above provisions do not appear to require the inclusion of a correct address at the date of the hearing, as a pre-condition to the validity of the original complaint which charged the offence. In this case, it is clear that the applicant’s home address changed during the course of the first set of proceedings. The relevant papers provided by the PPS appear to contain the incorrect address and may explain how that address later became included within the relevant order. However, the key requirements for those proceedings are that they were conducted fairly and that the applicant was given appropriate notice of his obligation to appear to answer the charges. There is no evidence that the proceedings were not brought to his attention. Indeed, the evidence is the precise opposite, namely that he did appear and that he pleaded guilty to the offence, following which the court exercised its power to make a restraining order under Article 7 of the 1997 Order. The important issue is that the orders were duly made by the Magistrate. It is important to distinguish between the decision of the court and the administrative record of the decision. The order will be valid if it is made by the magistrates’ court following proceedings conducted regularly and fairly. There is no evidence to suggest that that did not occur in this case. The mere fact that the document which records the order includes an earlier or incorrect address for the defendant does not undermine the validity of the order itself.

### *Service of the restraining order*

[26] The applicant also challenges the restraining order of 6 September 2023 on the ground that it was never served upon him, but upon his solicitor instead. The applicant highlighted an exchange with an official from Belfast Magistrates’ Court dated 12 September 2024. His email was in the following terms:

“I was held in HMP Maghaberry between 20 April 2023 and 6 June 2023 on the charge of theft. This charge was dropped by the Belfast Magistrates’ Court on 23 August

2023, therefore resulting in a false imprisonment for 42 days. Further to add is the fact that my evidence was never used in the court as I have provided to solicitors and the PSNI in a timely manner before the final decision made on 6 September 2023. The issued “restraining order” further contains no stamp of the court, nor wet signature either in any form. The address used on the order under my name is also not valid and I never received the court ordered imprisonment in writing as required by law at any point in time.”

[27] The court official responded to the applicant in the following terms:

“... the theft matter was withdrawn on 21.08.24, however, the common assault matter was a conviction after a guilty plea was entered. You were granted bail subject to a suitable address, if an address is not proffered or deemed suitable by police, the bail cannot be perfected, hence your period of time spent in custody. The court had not refused bail at any stage, the onus on perfecting lies with the defendant providing an address that police are agreeable to.

The common assault was pleaded to, the time spent in custody has been deducted from the overall sentence, time served is not split between charges.

You would not receive the imprisonment documentation; this is for NI Prison Service only.

The restraining order is electronically marked with a signature, there is no wet signature or stamp.

The restraining order in this case was served on your solicitor, Bethelaine Pitman via secure email. The duty would then lie with the solicitor to serve the order on you.”

[28] The available evidence does not include details of whether or how the September 2023 restraining order was brought to the attention of the applicant. However, it is clear that he was later convicted on 9 May 2024 of a breach of the restraining order arising out of conduct on 7 October 2023. The offence of breaching a restraining order is provided for in Article 7(5) of the 1997 Order, in the following terms:

“(5) If, without reasonable excuse, the defendant does anything which he is prohibited from doing by an order under this article, he shall be guilty of an offence.”

[29] If the applicant had never been made aware of the content of the order or it had not been brought to this attention in any manner, a defence to the charge may have been open to him. He may have been able to argue that he was unaware of the acts he was prohibited from taking or even unaware of the existence of the order and hence that he had a “reasonable excuse” for his behaviour. No evidence has been presented by the applicant to that effect. Indeed, the evidence tends to point in the opposite direction, insofar as the order appears to have been served upon his solicitor. The applicant’s evidence is silent as to whether his solicitor sent the order to him or it otherwise came to his attention. However, what is clear is that he was later convicted of the offence of breaching the order without reasonable excuse. Since the applicant was convicted and the conviction was not challenged on appeal (or in these proceedings), the only course which is open to this court is to proceed on the basis that he was lawfully and properly convicted of breaching the order without reasonable excuse and that the opportunity of contesting the issue of service or notice of the order was available to him. Unlike the first set of proceedings, the applicant has not included the evidence used to support the second prosecution. Hence, it is unknown whether police adduced evidence of service of the original order as part of the prosecution case.

[30] The applicant was unable to identify any further legal requirement for personal service of a restraining order as a pre-condition to its validity. For the reasons set out above, the fact of service (or a failure to serve) a restraining order may be relevant in the event of a later allegation that the order has been breached and consideration is given to a prosecution, but the applicant has identified no legal basis for the proposition that a restraining order made following conviction which is accurately recorded in the order book and/or in a certificate of order is invalid on the ground that a written record of the order was not subsequently served personally upon him.

#### *Signature on the restraining orders*

[31] The applicant contended that both restraining orders were invalid as they did not contain a stamp, seal or a “wet signature”, which he contended were essential requirements for a valid order.

[32] The form of an order of the magistrates’ court is governed by rule 14 of the 1984 Rules, which provides:

“14.—(1) Subject to paragraph (2), a warrant or form of order issued to give effect to the order of a magistrates’ court shall be signed by the resident magistrate or justice

of the peace [or lay magistrate] who made the order or by the clerk of petty sessions.

(2) A warrant to arrest or warrant to search must be signed by a resident magistrate or justice of the peace [or lay magistrate].”

[33] As set out above, rule 19 imposes an obligation upon the Clerk of the Petty Sessions to enter the particulars of every proceedings in the order book. Rule 20 also provides for the court to issue a certificate of conviction or order to a person upon request. It provides:

“20.—(1) At the request of any person with a bona fide interest in any proceedings a resident magistrate, justice of the peace or clerk of petty sessions shall grant a certificate of the conviction or order made in such proceedings.

(2) The certificate shall be signed by a district judge (magistrates’ court), a lay magistrate or by the clerk of petty Sessions.

(3) A certificate under this Rule shall be prima facie evidence of the conviction or order and, except where it is proved that such a certificate purporting to be signed by a resident magistrate or justice of the peace [lay magistrate] or clerk of petty sessions was not in fact so signed, the certificate shall operate as a valid form of conviction or order for any purpose whatsoever.”

[34] The applicant’s own evidence contains copies of the two relevant restraining orders. At the foot of each order is the printed name of the relevant Clerk of the Petty Sessions, together with a statement of their position, thereby signifying the capacity in which they signed the order. The applicant was referred to the above rules in oral submissions and he acknowledged that a written order recording the decision of the court may be signed by the Clerk of the Petty Sessions, as distinct from the judge. However, he maintained that it ought to be a “wet signature.” He identified no legal rule or principle to support this proposition. He had previously made this complaint in an email to the Minister of Justice dated 18 August 2025. In a response dated 7 September 2025, his attention was drawn to the power of a Clerk of the Petty Sessions under rule 14 to sign an order and also section 7 of the Electronic Communications Act 2000 which regulates electronic signatures. It provides as follows:

“7.-(1) In any legal proceedings—

- (a) an electronic signature incorporated into or logically associated with a particular electronic communication or particular electronic data, and
- (b) the certification by any person of such a signature,

shall each be admissible in evidence in relation to any question as to the authenticity of the communication or data or as to the integrity of the communication or data.”

[35] As a matter of common sense, the natural and ordinary meaning of the word “signature” is the mark of a person. Frequently it will comprise the name of the person, but it may take any form. When attached to a document it will normally provide evidence of authentication of the contents. In the case of a court order, the statutory requirement for the signature of a district judge, lay magistrate or Clerk of the Petty Sessions is a requirement for one or other of those persons to authenticate the content of the document as a record of the decision of the court or judge, by attaching their mark. An electronic signature is nothing more than the mark of a person recorded in electronic form which is incorporated into or is otherwise logically associated with an electronic communication. In this case, the documents available to the court therefore clearly represent printed versions of electronic documents in which the Clerk of the Petty Sessions has recorded their signature by electronic means. Pursuant to section 7, this is an admissible form of evidence as to the authenticity of the court order and the existence of a signature. The documents were created electronically and signed electronically by way of authentication. The mere fact that the electronic record was later printed out and presented in a physical form, does not detract from the validity of the original signature.

[36] There is no legal requirement that an order of the magistrates’ court must be signed by means of a “wet signature” by a judge using a pen and ink. The statutory requirement is that a court order is authenticated by means of the “signature” of one of the specified persons. An electronic signature is a perfectly permissible means of authentication and section 7 of the 2000 Act makes express provision for the admissibility in evidence of electronic communications which have been authenticated by means of an electronic signature. The evidence before the court comprises a printed version of an electronic record which was authenticated by means of an electronic signature of the Clerk. This is entirely in accordance with the Magistrates’ Court Rules.

[37] The applicant has also claimed that the restraining orders are invalid as they do not bear the seal of the Court. The applicant was unable to identify any statutory or common law requirement for authentication of an order of the magistrates’ court by means of a seal. No provision of the 1981 Order or the 1984 Rules imposes such a requirement. In this respect, the Rules governing magistrates’ court proceedings are different from those governing the High Court and Court of Appeal. The Rules of Judicature do require the inclusion of a seal to authenticate an order of the High

Court or Court of Appeal. Order 42, rule 2 of the Rules of the Court of Judicature (NI) 1980 provide:

“2. - (1) Every judgment shall ... (b) be sealed and filed by an officer of that office and such officer shall at the time of filing enter such judgment in the record kept for the purpose and the date of filing shall be deemed to be the date of such entry.”

[38] For all of the above reasons, the use of an electronic signature on the restraining orders and the absence of a “wet signature” or a seal do not affect the validity of the orders made.

### *Validity of convictions*

[39] During the course of oral submissions, the applicant’s challenge to the restraining orders included complaints about the underlying criminal proceedings. While the pleaded challenge related only to the validity of the restraining orders, it was clear to the Court from the applicant’s oral submissions, that his challenge required some analysis and understanding of the underlying proceedings, which I address below. In relation to the September 2023 conviction for common assault, he referred to a bundle of evidence which he provided to the PSNI and to his then solicitors on 10 August 2023. He claimed that this material was “*never used in court at any stage.*” He later made a complaint to the Police Ombudsman for Northern Ireland in relation to the PSNI’s failure to forward this evidence to the PPS. It is not clear whether the contents of these materials related to allegations against Lysanne McKnight which he wished to be investigated, or whether they related to the allegation of common assault with which he was charged. I have reviewed the materials which were included in the applicant’s evidence in these proceedings and they appear to relate to complaints about alleged criminality by Lysanne McKnight, rather than the events on 20 February 2023 which gave rise to the charge of common assault. In a letter of 7 October 2024, PONI wrote to the applicant in the following terms:

“Your complaint was in relation to the failure of the police to submit your statement to the Public Prosecution Service. The police documentation has recorded that on 10 August 2023, you attended Strand Road PSNI station and submitted your statement.

It is further recorded that your witness statement was reviewed and it was determined that it did not contain any details of any offences that required investigating, nor did it contain any details of counter allegations. In the circumstances, there would be no requirement to submit the statement to the PPS.

Therefore, on the basis of the information provided, the Police Ombudsman has been unable to identify any aspects of misconduct by any individual police officers in relation to your complaint. In the circumstances, the Police Ombudsman does not propose to take any further action in relation to your complaint and has updated its records accordingly."

[40] The applicant's evidence in these proceedings does not reveal or explain in any way how these materials undermine the original criminal charge of assault, the conviction for assault or the imposition of a restraining order. The applicant accepted in oral submissions that he pleaded guilty to this offence and that he had legal representation for the proceedings. His email to Belfast Magistrates' Court on 12 September 2024 records that he also provided this material to his own solicitors at the relevant time.

[41] There is nothing in any of these materials or submissions which in any way undermines the validity of the restraining order. The applicant pleaded guilty to the charge of common assault and the court exercised its powers under Article 7 of the Protection from Harassment (NI) Order 1997 to impose a restraining order for the protection of the victim of the assault. The applicant adduced no evidence to suggest that he was improperly pressurised to enter a plea of guilty or otherwise to explain why the materials which were available to him and to his solicitors were not deployed in those proceedings, if they were otherwise relevant. His complaint appears to be that the PSNI did not forward them to the PPS which was responsible for the prosecution. In circumstances where the Police Ombudsman has considered this complaint and concluded that there was no misconduct on the part of any police officers and since the applicant pleaded guilty with the benefit of legal representation, it is very difficult for this court to proceed on any basis other than that the proceedings were conducted regularly.

[42] In relation to the 2 May 2004 restraining order, the applicant's oral submissions included the suggestion that he had only been present in court for a very short period of time and that he did not get an opportunity to speak. During oral submissions also he claimed that he was unaware that he had been convicted. His affidavit evidence provides no narrative account of events or other explanation to support this suggestion. The applicant's own evidence includes a copy of his criminal record, which records his convictions and sentences of imprisonment for all offences. The materials provided by the Home Office include two certificates of conviction issued under rule 20 of the 1984 Rules, one for each of the May 2004 convictions: breach of the restraining order and stalking. Each certificate records that the applicant pleaded guilty to the charge. As set out above, pursuant to Rule 20(3), a certificate of conviction is prima facie evidence of conviction and the "*certificate shall operate as a valid form of conviction or order for any purpose whatsoever.*" The applicant has adduced no evidence to suggest that he was not convicted or

which might otherwise undermine the power of the magistrate to extend and vary the restraining order. It may be that the applicant raised this issue as part of his application to discharge the restraining order. It is of note that the certificate of order for 31 January 2025 records that “*miscarriage of justice*” was one of the grounds upon which the application was made. If it was argued, the point was dismissed by the Magistrate and no appeal was brought against that decision.

[43] The only evidence relied upon by the applicant to support the suggestion that he had not been convicted of breach of the restraining order and stalking was the Upper Tribunal (Immigration and Asylum Chamber) decision dated 6 November 2025. This was a decision on appeal from the First Tier Tribunal by which it refused to revoke the applicant’s Deportation Order made on 8 August 2024. The judgment of the Upper Tribunal records at para [2] that the applicant had pleaded not guilty on 2 May 2024, but that he was later convicted. When asked whether he had pleaded guilty or not guilty, the applicant questioned why the Form 20 certificate would record a plea of guilty, whereas the Upper Tribunal had recorded a plea of not guilty. Whatever the explanation for this disparity, the applicant has not adduced any evidence whatsoever to undermine or question the overwhelming documentary evidence that he was in fact convicted of both offences on 2 May 2024 and that he was sentenced to a period of nine months’ imprisonment. Accordingly, there is simply no material before this court which could justify looking behind the two certificates of conviction dated 2 May 2024 or which might be capable of undermining the validity of the restraining orders.

[44] As set out above, the application for leave to apply for judicial review against the Chief Constable must fail for the simple reason that the Chief Constable did not make the orders which the applicant wishes to challenge. However, having considered all of his submissions on the substance of the challenge to the validity of the restraining orders, it is clear that none of those proposed grounds have any merit. The applicant has therefore failed to demonstrate that any of the proposed grounds of challenge are properly arguable or have reasonable prospects of success. Leave to apply for judicial review against the Chief Constable must therefore be refused.

[45] In addition to the absence of any arguable ground of challenge, it is patently clear that the applicant has failed to exhaust the potential alternative remedy of appeal to the county court against both conviction and sentence (to include the restraining orders). No explanation has been provided for his failure to do so. Furthermore, these proceedings are substantially out of time to challenge either of those orders. The restraining orders were made on 6 September 2023 and 2 May 2024. Order 53, rule 4 of the Rules of the Supreme Court of Judicature (NI) 1980 require that an application for judicial review is commenced within three months of the date when the grounds of challenge first arose. A challenge to the validity of the restraining orders should have been commenced, at the latest, by 6 December 2023 and 2 August 2024 respectively. These proceedings were commenced on 28 March 2025. No evidence has been adduced to explain any part of the delay or which

might otherwise constitute a good reason for an extension of time. Accordingly, leave is also refused on the grounds of delay and failure to exhaust an alternative remedy.

[46] As set out above, the role of the Chief Constable was to charge the applicant and to lay a complaint before the magistrates' court in respect of the relevant charge. Thereafter, responsibility for the conduct of the criminal proceedings passed, by operation of law, to the PPS. The mere fact that the Chief Constable is named on the order as the original complainant is simply a recitation of the title of the legal proceedings. It does not amount to an official record of the decision maker. The applicant has been fully aware of this legal position from an early stage of these proceedings but yet has persisted for reasons which remain unclear.

### *Challenge to the Secretary of State for the Home Office*

[47] As set out above, the applicant is a German national who has lived in the UK for many years. He has also been granted EU settled status, allowing him to remain in the UK, with an active UKVI account and an eVisa. He was served with a Stage 1 Deportation Order on 2 May 2024, following his convictions for stalking and breach of the restraining order and the imposition of a sentence of nine months' imprisonment. The deportation order was made pursuant to section 3(5) Immigration Act 1971 on the ground that his removal from the UK was conducive to the public good, in light of his convictions. Upon completion of his second sentence of imprisonment, the applicant appears to have spent further time in immigration detention before release on 9 September 2025 with the benefit of immigration bail. On 19 February 2026, he was again detained by the immigration authorities, having left the UK and re-entered the same day via the common travel area. The Home Secretary has explained that his departure from the UK had the legal effect of terminating immigration bail. This occurred shortly before the scheduled leave hearing in the challenge to the Chief Constable. After his detention, the applicant amended the application for leave, to include a further challenge against the Secretary of State. He seeks leave to challenge the "*initiation and continuation of immigration enforcement measures*" together with other conduct related to the transmission and use of information relating to the applicant. Notwithstanding the manner in which the challenge was framed, in his skeleton argument and in the course of submissions, it was clear that the target of this proposed challenge rested on the validity of the restraining orders. The applicant contended that the entire criminal process and restraining orders were unlawful and, hence, no valid grounds existed for making a deportation order or detaining him pending deportation. His order 53 statement raises a number of proposed grounds of challenge which he contends "*arise from the same factual foundation as the original JR.*"

[48] Accordingly, the applicant's unexpected detention in February 2026, appears to have been a catalyst for the challenge. While the decision to detain him appears to fall within the scope of the challenge, he has not made a freestanding challenge to the detention decision. Rather he wishes to stop the deportation process by

challenging the legality of the convictions and restraining orders which provided the foundation for the deportation order and hence the deportation process which has followed.

[49] The applicant's evidence contains limited details about his immigration status and the history of the deportation process. Materials submitted by the Secretary of State reveal that the deportation order was made and served on the applicant in prison on 2 May 2024, following his second set of convictions, as described above. In June 2024 the applicant applied to be admitted to the Facilitated Return Scheme. This is a voluntary scheme designed to facilitate return to and settlement in a home country and includes the payment of a grant to assist with resettlement. The applicant's application was later rejected because he made further representations against removal and contested efforts to remove him to Germany. The materials also reveal that the applicant then followed the normal statutory process for challenging a deportation decision, by appealing to the First Tier Tribunal. His challenge was dismissed by the First Tier Tribunal. He then made a further appeal to the Upper Tribunal which was rejected on 6 November 2025. The final paragraph of that decision records the following:

"18. The appellant is in the process of challenging the validity of the convictions in the admin court, however, there was no application to adjourn these proceedings. In any event, applying Rule 2 of the 2008 Procedure Rules, the overriding objective of fairness did not demand an adjournment. The appellant's application to the admin court had not been determined on the papers at the date of the hearing before me."

[50] For the reasons explained above, this portion of the judgment of the Upper Tribunal is not entirely accurate insofar as the applicant has not challenged the validity of his convictions. He has attempted to challenge the restraining orders which were made following his convictions and which formed part of his sentence. However, he has done so by means of a misplaced challenge against the Chief Constable. However, insofar as the applicant relies upon the same grounds to make a collateral challenge to the convictions and restraining orders by means of a challenge to the deportation order and process, I have analysed above and rejected those proposed grounds of challenge. The available evidence is that the applicant pleaded guilty to both sets of charges and never appealed against either conviction or sentence. Insofar as the applicant contends that the Upper Tribunal decision records that he pleaded not guilty to the second set of charges, the important and undisputed point is that he was actually convicted of those offences. Those convictions were never appealed and they have not been quashed as a result of this challenge.

[51] The applicant has challenged the deportation order by means of an appeal to the First Tier Tribunal and the Upper Tribunal and both appeals were rejected. It

appears from the decision of the Upper Tribunal that the validity of the convictions did not feature as part of the appeal, rather he informed the Tribunal that he was challenging the convictions through these proceedings. The true scope of this challenge was not the convictions, but the restraining orders. However, insofar as it touched upon the underlying convictions, I have concluded that the proposed grounds of challenge which were advanced have no merit, even if they had been raised in a challenge against the correct Respondent. The current legal position is therefore that the convictions and restraining orders remain valid court orders and a challenge to the deportation process, including detention, which is founded upon the asserted invalidity of those orders also has no merit.

[52] Accordingly, in those circumstances, no identifiable grounds for judicial review have been advanced against the Secretary of State which are arguable or which have reasonable prospects of success.

[53] For all of the above reasons, this application for leave to apply for judicial review is dismissed against both proposed respondents.