

Chief Constable of Northumbria Police
% Legal Department
Head Office
Forth Banks Police Station
Forth Banks
Newcastle Upon Tyne
Tyne and Wear
NE1 3PH

By email to: [REDACTED] [REDACTED]

3 October 2025

Dear Chief Constable

Pre-action Protocol Letter Before Action

Our client: Nina Cresswell

Your client: Chief Constable of Northumbria Police

1. We are instructed by Ms Nina Cresswell, "**Ms Cresswell**", the proposed Claimant in this matter. Ms Cresswell will is known to the Chief Constable following protracted proceedings arising out of a sexual assault Ms Cresswell was subject to in 2010 and subsequent investigations thereafter.
2. This letter is sent in accordance with the Practice Direction in relation to the Pre-Action Conduct and Protocols ("**the Practice Direction**") and in accordance with the spirit of the provisions of the Pre-Action Protocol for Personal Injury Claims ("**the Protocol**")
3. It is standard practice for GLP to publish redacted copies of legal correspondence. GLP reserves the right to publish a redacted copy of this letter and/or future correspondence.

Background to the Claim

2010 assault and investigation

4. In May 2010, Ms Cresswell was a university student in Sunderland. She was 20 years old. On 27/28 May 2010, she went to Passion nightclub with some friends. She met Mr Hay at the club. Ms Cresswell left the club after her friends, at around 4am. Mr Hay now accepts that he left the club with Ms Cresswell.
5. At 06:33, Ms Cresswell telephoned Northumbria Police. The log states: *"Attempted Rape male walked cllr home from Passion Night Club and he pinned her down and tried to have sex with her. Cllr sts she had to run away from him."*
6. At 06:34, the incident log states that Ms Cresswell said that she was drunk and the incident was hazy. The subsequent Professional Standards Report ("**PSR**") states that Ms Cresswell should have been given the opportunity to provide a full account at a later date when not under the impairment.
7. Ms Cresswell called [REDACTED] who came to her flat. Officers attended at around midday to speak to Ms Cresswell. Ms Cresswell's account of the incident was not recorded in an official Serious Sexual Assault Investigation Book ("**SSAIB**"). The subsequent 2020 investigation ("**2020 Investigation**") enquired as to whether paperwork had been retained, and it found that it had not.
8. The same day, on 28 May 2010, a decision was made for the complaint to be "no crime-d". The reasons given are as follows:

The ip states she has dreams about being raped, she has left passion night club and gone with an u/k male up homeside and turned right onto maratine terrace entering the rear lane, ip states he tried to kiss her and then changed her storey [sic] later to that she did kiss him in the rear lane. She has then left the rear lane i/c of the male turning left back onto holmeside, turning right onto green terrace heading toward the leisure centre, where the alleged assault occurred. The ip then stated he had pushed her to the ground and pinned her down she then changed her storey stating he had not pinned her down and was not on the ground at anytime and that he was just stood in front of while he masturbated, he has asked her to touch His penis and she refused, he has then carried on masturbating and at the same time when she has stepped forward he has took hold of both her upper arms and moved her back. She has then ran away from him making her way down to low row, running past revolution and up past fel fel, onto hylton road, where she has sat on her step as she states she left her bag at scene also her shorts which she cannot remember if she took them off or he did, there is no damage to the ip's clothing. She has then been approached by a neighbour across the street who took her back to the scene where she recovered her bag.

CCTV has been recovered from revolution bar it shows the ip walking past at the alleged time of the incident. She is fully clothed, carrying her bag and i/c of a male, she looks at no point distressed. The bedsits across the road has been checked and [redacted] ip then stated she met this female further down [redacted] the road and not outside her front door. When asked about the CCTV she states she cant remember walking home with a male and that she must not have left her clothes at the scene. When questioned about the female she states she has walked back

to the scene with, she changed her storey [sic] saying she now could not remember if she did or not. Ip could give no explanation as to why the footage shows her walking past fully clothed.

When attending the address for the second time [REDACTED], stating there was a group of males and that one had masturbated in front of her and she had then ran away from them. She can give no description of any persons.

2020 Investigation

9. In June 2020, Ms Cresswell posted an article online about the sexual assault, where she named Mr Hay as the perpetrator. Ms Cresswell also contacted [REDACTED] and published a post on Facebook and Instagram in July 2020. Mr Hay then brought an action in defamation against Ms Cresswell.
10. Mr Hay reported Ms Cresswell to the Northumbria Police. On 7 June 2020, Police Scotland spoke to Mr Hay who alleged that she had made false allegations against him online. This was subsequently passed to Durham Constabulary and then Northumbria Police.
11. On 23 July 2020, Ms Cresswell contacted Northumbria Police to request that the original report of attempted rape be re-opened. The incident was recorded as a sexual assault and then changed to an attempted rape.
12. On 24 July 2020, officers attended Ms Cresswell's home to obtain an account. This was provided in full and recorded in an SSAIB with a crime number.
13. On 22 September 2020, Ms Cresswell gave an Alternative Best Evidence ("**ABE interview**") and provided an evidential account. The following summary is set out in the police log: *The male offered to walk her home from Passion Nightclub to Hylton Road. In the cut through Crowtree Leisure Centure, the Male attempted to kiss her and began to masturbate in front of her. He pinned her arms to the wall and told her, you're not going home until you take your shorts off and bend over. The male has forcibly removed her shorts, caller was still wearing her tights. She managed to get away by ducking under the male's arm and running away.*
14. The CRIS report records Ms Cresswell stating that the police told her they checked CCTV and they told her there was CCTV showing William Hay walking her home. Ms Cresswell provided the police with witnesses to speak to, including who was with her at the night club and friends she disclosed to.
15. On 22 December 2020, an officer, [REDACTED], attended Ms Cresswell's address in relation to the complaint from Mr Hay regarding malicious communications.
16. On 11 January 2021, Mr Hay was interviewed under caution. Ms Cresswell was later told by the police that Mr Hay admitted leaving the club with her and as they walked home, he tried to kiss her. The PSR states that "*further witness enquiries were conducted after interview*" but does not set out what these are.

17. On 24 March 2021, Ms Cresswell gave consent for release of medical records.
18. On 19 April 2021, Northumbria Police decided there was no realistic prospect of conviction, the incident report notes as follows:

*It is worth noting that if this report was made in 2021, **Nina would be spoken to when sober, an ssaib booklet completed, then perhaps a forensic medical offered** ... in the absence of clarity from Nina, this would be the only way to determine whether penile penetration (or other sexual contact) took place...*

This matter was reopened in 2020 and correctly recorded as a crime. further enquiries were carried out to today's investigative standard ... I note the strengths of the investigation and i am now satisfied that this report is thoroughly explored....it should be noted that, whilst this is recorded as an attempted rape, there is nothing in Nina's account that suggests an attempt rape occurred. I believe this should have been recorded as a sexual assault, but I accept this cannot be changed owing to Nina's intoxication at the time. That said, the argument is academic - unfortunately this investigation is unable to prove those component parts of either offence.

19. On 28 April 2021, the PSR states that the police told Ms Cresswell of their decision that there was no realistic prospect of conviction.
20. On 21 September 2021, Ms Cresswell was interviewed for the offence of malicious communications. The PSR states that on 11 November 2021 a decision was made to take no further action. However, messages sent by [REDACTED] to [REDACTED] state that they spoke to Ms Cresswell on 22 December 2020: "she was warned that any further contact from her to yourself or Billy would now be deemed as unwanted, and she has now been informed."
21. In 2022, Mr Hay brought a libel case against Ms Cresswell. In February 2023, a four-day hearing took place in the High Court regarding Mr Hay's defamation allegations.
22. During these proceedings, Mr Hay accepted that he left the nightclub with Ms Cresswell and "walked a short way from the nightclub. . . He admitted that he went to kiss the defendant and that he either stepped back or otherwise made it clear she did not want to kiss him. He was surprised at her reaction but did not become aggressive. After this incident he recalled that the defendant had gone round a corner and he had followed her. She was sitting up on some stairs and he was down on the roadside. They chatted for a few minutes and then the claimant returned to the club leaving the defendant sitting on the stairs" Hay v Cresswell [2023] EWHC 882 (§87).
23. In the extensive judgment published on 26 April 2023, the Court found that the defence of truth applied as **she had proved** that Mr Hay sexually assaulted her. The Court commented that "the police investigation was superficial and inadequate and that the officers were likely to have misunderstood aspects of the defendant's account" (§195).

2023 Investigation

24. On 5 and 6 May 2023, officers attended Ms Cresswell's home address. [REDACTED] had seen the media coverage from the defamation trial and wished to speak to Ms Cresswell. Attempts had been made to contact Ms Cresswell via phone but had not connected. Officers attended the address to check the phone number so that [REDACTED] could speak to her directly. The following day, [REDACTED] and [REDACTED] returned to Ms Cresswell's address in order to tell Ms Cresswell that the case was being re-opened.
25. The PSR accepts that these officers attending Ms Cresswell's home address without notice caused Ms Cresswell significant distress and was not acceptable.
26. It further accepts that there were problems with how the police responded to complaints made by [REDACTED] who contacted the police after the visit to complain that they continued to contact Ms Cresswell despite being asked not to. [REDACTED] received no response to her complaint. The PSR found no record of these complaints and considered this to be not acceptable.
27. On 14 May 2023, Ms Cresswell informed the police that she did not want any further involvement with the investigation, but was informed that the matter would still be investigated to see if there were any reasonable lines of enquiry to complete.
28. On 27 June 2023, Northumbria Police appointed a [REDACTED] to investigate Ms Cresswell's complaint of 8 allegations relating to the poor investigation and the manner in which the police treated and communicated with her and [REDACTED]
29. The investigator ordered the transcripts of the witness evidence from the civil proceedings. This delayed the investigation. Emails between [REDACTED] and [REDACTED] show that despite frequent chasing, by 12 September 2024 the matter was still with the Rape Investigation Team.
30. On 23 January 2025, Ms Cresswell informed the police that she no longer wished the police investigation to continue. This was confirmed in writing on 18 February 2025 by [REDACTED] [REDACTED] who confirmed that the investigation had been closed. Ms Cresswell was offered an apology for the way in which the police responded to her 2010 report and for subsequent distress caused.
31. On 6 March 2025, [REDACTED] stated that he was on track to provide a report by 21 March 2025. On 26 March, he sent a letter saying his report was with his supervisor. The last email was from 27 June 2025 stating that he was waiting for the [REDACTED] to review the report.
32. On 18 July 2025, Ms Cresswell received the Professional Standards Investigation Report.

Professional Standards Report

33. Following an investigation by the Northumbria Police Professional Standards Department, their report dated **18 July 2025** was critical of the investigation at various points and found that ***“the service provided by Northumbria was not acceptable. I sincerely apologise on behalf of the Northumbria Police for the unacceptable service that you received.”***

34. The report also made the following findings:

- a. That the comment made by the High Court Judge in the libel trial that the 2010 investigation was "superficial and deficient" appear to have been "entirely reasonable in the circumstances....and had a similar report been made today it would not be treated in the same manner"
- b. The actions of the attending officers in the 2010 report were "not acceptable" and further investigation should have been carried out
- c. That the fact that Ms Cresswell was not given an opportunity to provide a further account in the 2010 report when she was not under the influence of alcohol, along with the lack of documentation confirming that the account was formally recorded in an SSAIB was "not acceptable"
- d. That the service provided in relation to [REDACTED] making a complaint and receiving no contact was "not acceptable"
- e. The 2010 investigation fell below the standards of investigation expected in today's policing and the service was "not acceptable"
- f. That the actions of officers in the 2023 investigation in terms of attending Ms Cresswell's address without prior arrangement and turning up unannounced were conducted in a non trauma informed way and were "not acceptable"

The Law

The Chief Constable's status as a Public Authority

35. We do not anticipate there to be any dispute that at all material times:

- (i) Northumbria Police, for whom the Chief Constable is vicariously liable was acting as public authority in accordance with the definition within section of the Human Rights Act ("**HRA 1998**"); and
- (ii) Ms Cresswell is a victim within the meaning of the HRA 1998 and Article 34 of the European Convention on Human Rights ("**ECHR**")

36. Please confirm in your response whether those matters are accepted. In the event that any of those matters are disputed, please set out full and detailed reasoning in your response, with reference to the law in this area.

Human Rights Act

37. Article 3 ECHR provides that “No one shall be subject to torture or to inhuman or degrading treatment or punishment”.

38. The following obligations are inherent within Article 3:

- i. A **negative obligation** not to inflict harm contrary to Article 3;
- ii. A **positive obligation** to establish a framework of legislation, policies and means of enforcement which will prevent the occurrence of torture, inhuman or degrading treatment, to the greatest extent possible. It is incumbent upon state agents to ensure such measures provide effective protection, particularly to children and other vulnerable people to prevent ill-treatment which the authorities had or ought to have had knowledge of. (As per *C Bulgaria* (2005) 40 EHRR 20; *Commissioner of the Police of the Metropolis v DSD* [2018] UKSC 11).

This includes treatment inflicted by one private individual against another (*A v UK* (1998) 27 EHRR 611, para 22).

- iii. A **procedural obligation** to conduct an effective investigation into possible violations of the substantive obligations, arising when authorities are provided with credible or arguable allegations, or where there is a reasonable suspicion that treatment in violation of Article 3 has taken place. This includes circumstances in which the alleged violation was perpetrated by one private individual against another, rather than by an agent of the state. This is confirmed by a plethora of case law including *Assenov v Bulgaria* (1999) 28 EHRR 652, para 117 and *DSD v Commissioner of Police of the Metropolis* [2014] EWHC 436 (QB), paras 213-214, 216.

The threshold for the allegation is a low one, i.e. one that is more than “merely fanciful” (*R (AP) v HM Coroner for Worcestershire* [2011] EWHC 1453, para 60).

39. Treatment held to be inhuman or degrading includes serious sexual assault (as in Ms Cresswell’s experience) as per *DSD v commissioner of Police of the Metropolis* [2014] EWHC 436 (QB), para 215.

40. In *CJ & Anor v Chief Constable of Wiltshire Police* [2022] EWHC 1661 (QB), the High Court held that the Article 3 duty is triggered where the investigation into criminal conduct fell foul of Article 3. In other words, there is a threshold of seriousness of the criminal conduct that must first be met, triggering an Article 3 investigation. In *CJ*, as in this case, it was accepted that sexual abuse suffered by the Claimants amounted to inhuman treatment for the purposes of Article 3.

41. In *Sarjantson v Chief Constable of Humberside* [2013] 3 WLR 1540, the Court of Appeal held that to establish liability the claimant merely has to show that the state was under an obligation to take certain steps, and failed to do so. The PSR confirms that the standard of the investigation was not acceptable.

42. In *DSD v Commissioner of Police for the Metropolis*, [2018] UKSC 11, the Supreme Court approved the decision of Mr Justice Green in the High Court in which he was required to consider a claim against the police for investigative failures arising out of allegations of rape. The judgment of Green J, approved by the Supreme Court, confirmed the following:

- i. *In my view when construing the HRA and when taking account of Strasbourg case law I am bound to accord significant weight to that case law because it is coherent, well evolved and its core tenets are settled. (paragraph 211).*
- ii. *Article 3 of the Convention imposes a duty upon the police to investigate which covers the entire span of a case from investigation to trial. (paragraph 212);*
- iii. *The said investigation “must be independent, impartial and subject to independent scrutiny.” (paragraph 212)*
- iv. *[T]he duty is not conditional upon the State being guilty, directly or indirectly of misconduct itself. (paragraph 213)*
- v. *[T]he duty is triggered where there is a credible or arguable [claim] that a person has been subjected to treatment at the hands of a private party which meets the description of torture or degrading or inhuman treatment in Article 3.(paragraph 214)*
- vi. *[A]llegations of crime that are “grave” or “serious” will amount to torture or degrading or inhuman treatment. Rape and serious sexual assault fall within this category. (paragraph 215)*
- vii. *[W]here a credible allegation of a grave or serious crime is made, the police must investigate in an efficient and reasonable manner which is capable of leading to the identification and punishment of the perpetrator(s).” (paragraph 216)*
- viii. *[T]he duty is one of means, not results, i.e. the police will be in breach of Article 3 if the conduct (the means) of the inquiry falls below the requisite standard. The breach can occur in principle regardless of whether the investigation leads in fact to arrest, charge and conviction.” (paragraph 217)*
- ix. *[T]he assessment of the efficiency, and, reasonableness of an investigation also takes into account whether the offender was adequately prosecuted. In this respect, a successful prosecution within a reasonable period of time will render prior operational failures irrelevant (non-justiciable). However a prosecution that is brought after an unreasonable point of time does not in and of itself expunge the legal effect of prior operational failures.” (paragraph 220)*
- x. *[I]nvestigative failures may be systemic or operational.” (paragraph 223)*
- xi. *The determination of whether an investigation was “reasonable” or “capable” of leading to the apprehension, charge and conviction of a suspect is a fact sensitive exercise, in respect of which any particular vulnerability of the victim is a relevant factor. (paragraph 224).*

43. As Article 3 imposes an obligation of means, not of results, there will not be an automatic violation where a properly conducted prosecution fails to secure a conviction. However, this also means that there can be a violation of the procedural obligation due to an inadequate

investigation even where the investigation results in arrest, charge and conviction (*Edwards v UK* (2002) 35 EHRR 19, para 71; *Premniny v Russia* (2011) 31 BHRC 9 (App. No. 44973/04), para 74; *DSD v Commissioner of Police of the Metropolis* [2014] EWHC 436 (QB), para 217).

44. *Reasonable steps must be taken to secure evidence*, including inter alia, a detailed statement concerning the allegations from the alleged victim, eyewitness testimony, forensic evidence and, where appropriate, additional medical reports (*Beganovic v Croatia* (App. No. 46423/06), para 70; *Premniny v Russia* (2011) 31 BHRC 9 (App. No. 44973/04), para 74; *AM v Secretary of State for the Home Department* [2009] UKHRR 973, para 32; *El Masri v Macedonia* (2013) 57 EHRR 25, para 183). Any deficiency in the investigation which undermines its ability to establish the cause of injuries or the identity of the persons responsible will risk falling foul of the investigative duty (*Premniny v Russia* (2011) 31 BHRC 9 (App. para 74; *El Masri v Macedonia* (2013) 57 EHRR 25, para 183; *Al Nashiri v Poland* (2015) 60 EHRR 16, para 486).

Allegations

Breach of Article 3 rights

44. The Claimant alleges that in accordance with the facts and law set out above, the Chief Constable was in breach of his duties to her under the HRA 1998 and ECHR as a result of:

- I. A failure to uphold the positive obligation to establish a suitable framework to prevent ill treatment which they had knowledge of, which is particularly incumbent in relation to vulnerable individuals (of which it can be said that a victim of sexual assault falls into this category)
- li. The Chief Constable was in breach of their procedural obligation to conduct an effective investigation into possible violations of the positive obligation, given that this has arisen when Northumbria Police were provided with credible and/or arguable allegations from Ms Cresswell in relation to the sexual assault. It is said that at this stage that there was or should have been a reasonable suspicion that treatment in violation of Article 3 had taken place. Given that this includes violations perpetrated by one private individual against another, the Chief Constable clearly had a duty to conduct an effective investigation.

45. The 2010 investigation was clearly not Article 3 compliant as it does not meet the requirements of an Article 3 compliant investigation as laid out in paragraph 43 above. Further, the following are examples of investigative failings in the 2010 investigation:

- a. Ms Cresswell reported the sexual assault to the police shortly after it happened, so when she spoke to the police she had not slept and was still inebriated. This was the only time she was interviewed by the police and within a matter of hours the police decided no crime had been committed.

- b. The police made little attempt to identify Mr Hay before taking the decision that no crime had been committed. Instead, Ms Cresswell took steps to identify him through [REDACTED].
- c. There was poor record keeping of the account she gave to the police, and she was not asked to check or confirm the account written down in the officer's notebooks. Further, the account was not recorded in the SSAIB.
- d. The police did not give Ms Cresswell an opportunity to clarify the discrepancies in her account such as the route taken home from the nightclub, or whether she was pinned against the wall or the ground. Nor was she asked to explain what she meant by having dreams of being raped (It is strongly contested by Ms Cresswell that she said this at all).
- e. In explaining the decision to not investigate further, the police state that Ms Cresswell could not give a description of the perpetrator, when in fact she gave a description of them when she contacted the police at 06:33.

46. In relation to the second investigation opened in July 2020, the April 2021 police report states that *"there is nothing in Nina's account that suggests an attempted rape occurred."* However, in the summary of the CRIS report of Ms Cresswell's VRI interview, the elements of the offence of rape appear to be made out. This is for the following reasons:

- a. To be guilty of an attempted offence, an individual must take steps which are *"more than merely preparatory"* to the commission of the full offence, Criminal Attempts Act 1981. Ms Cresswell accused Mr Hay of actions such as pinning her arms to the wall, forcibly removing her shorts and telling her that she isn't going to leave until she takes her shorts off and bends over. The incident ends because Ms Cresswell was able to escape from Mr Hay. These circumstances clearly go beyond a preparatory act and an attempted rape charge would have been appropriate. It is unclear why the case was not referred to the CPDS for a charging decision. Failure to do so amounted to a clear operational failure. It cannot be said that this conduct was capable of identifying and punishing those responsible for a violation of Article 3 as per the requirements of a compliant investigation.
- b. As set out in paragraph 43 (vi) above, investigating officers note that *"I believe this should have been recorded as a sexual assault, but I accept this cannot be changed owing to Nina's intoxication at the time."* This is in direct violation of the CPS guidance Annex A: tackling Rape Myths and Stereotypes (dated 21 May 2021):

Just because someone is intoxicated at the time of the incident doesn't mean their recollection of events is unreliable. Research conducted by Dr Heather Flowe and others has shown intoxication to impact upon the level of detail that can be recalled by the witness rather than on the accuracy of memory. It is therefore essential that in making casework decisions, prosecutors do not assume that a witness who was intoxicated at the time of the sexual assault is less reliable than a witness who was sober.

The clear misunderstanding of the guidance and subsequent failure to refer the case to the CPS, presumably as a result of such misunderstanding which meant there was no consideration as to whether Mr Hay could have been adequately prosecuted, is a clear operational breach capable of violating Ms Cresswell's Article 3 rights.

47. In relation to the third and final investigation that was re-opened in May 2023, it is considered that this was not Article 3 compliant for the following reasons:

- a. Officers acted improperly by attending Ms Cresswell's address on multiple occasions, which was accepted by the PSR.
- b. [REDACTED] was required to continually chase the police for updates, yet Ms Cresswell was not advised of any progress with the investigation for over 18-months. The investigation came to an end when Ms Cresswell informed the police she no longer wanted it to continue. It cannot be said that the investigation was prompt or that the victim was permitted access to the investigatory process.
- c. The PSR advises that there were no issues identified with the 2021 investigation. If this is the case, it is not clear why further investigation was warranted in 2023. This caused further distress to Ms Cresswell.
- d. The investigation was not efficient nor was capable of ensuring that any prosecution would take place in a reasonable time frame, which are both requirements of Article 3 compliant investigations. This was the second investigation within as many years, so it is clearly unacceptable and a breach of Article 3 that Ms Cresswell did not receive any updates in an 18 month period.

Causation

48. It is incumbent on the Chief Constable to ensure that the force acts in accordance with the requirements of a proper investigation as per Article 3 and *DSD*. It is admitted throughout the PSR that the investigation was not acceptable and fell below the reasonable standards required. It therefore follows that the Chief Constable is liable for breaching Ms Cresswell's Article 3 rights.

49. The Chief Constable will be aware that the test in causation under the ECHR is less strict than in relation to negligence. Ms Cresswell is only required to show that there would have been a "substantial chance" or "real prospect" that without the violation the outcome would have been different (*Van Colle v Chief Constable of Hertfordshire* [2009] 1 AC 225, para 138; *Savage v South Essex Partnership NHS Trust* [2010] EWHC 865 (QB), paras 82, 89)

50. Given that it has been established that the investigation was "*superficial and inadequate and that the officers were likely to have misunderstood aspects of the defendant's account*" *Hay v Cresswell* [2023] EWHC 882 (§195), and that Ms Cresswell's defence of truth was successful, i.e. that a Court has established that Ms Cresswell was telling the truth in relation to the assault and the PSR accepted that the investigation was not acceptable and apologised to Ms Cresswell, it must follow that had her Article 3 rights been upheld and a proper investigation conducted, that is *at least* a substantial chance that the

outcome would have been different. Charges may have been brought and the perpetrator may have faced punishment. This is sufficient to meet the test of a breach of Article 3 rights and the injuries that follow.

Injuries

51. Ms Cresswell has suffered [REDACTED] as a result of the Chief Constable's actions set out above. Further details of her injuries and subsequent losses will be particularised in due course, for which damages will be claimed.

Limitation

52. The Chief Constable will be aware that pursuant to section 7(5) HRA 1998, a claim made under section 7(1) must be brought before the end of the period of one year beginning with the date on which the act complained of took place.

53. The police failings set out above amount to a continuing act of incompatibility. The time to bring a claim runs from when the act ceased, rather than when it began (*O'Connor v Bar Standards Board* [2017] UKSC 78, paragraph 30. The act ceased only on 18 July 2025 when the PSR was sent to Ms Cresswell, completing the investigation and providing admissions in respect of the investigation's failings.

54. Further and in the alternative, the limitation period can also be extended under section 7(5)(b) where the court considers it just and equitable to do so having regard to all the circumstances of the case (*Cameron v Network Rail Infrastructure Ltd* [2006] EWHC 1133, para 43; *Weir v Secretary of State for Transport* [2004] EWHC 2772 (Ch)).

53. In respect of the application of s7(5)(b), in *Rabone v Pennine NHS Trust* [2012] UKSC 1 Lord Dyson set out the applicable principles at §75 to include (i) length of and reasons for delay in issuing the proceedings, (ii) the extent to which the evidence is likely to be less cogent than it would have been and (iii) the conduct of the public authority after the right of claim arose etc.

Ms Cresswell considers that the following factors in her claim are relevant and would be sufficient to persuade a court that limitation should be extended:

- a. There is arguable merit in Ms Cresswell's claim and she is able to establish a prime facie case that the Defendant breached her Article 3 rights.
- b. Victims are not provided with separate legal representation and she has only recently been advised on the merits of such a claim.
- c. Her legal representation contacted the Defendant promptly to address the issue of limitation, following her instructions. We wrote to your force on 20 May 2025 and requested a limitation extension whilst the outcome of the PSR was awaited. To date, no response has been received. This was done to protect Ms Cresswell's position after she engaged solicitors and whilst the PSR was awaited. It is clear, however, from the PSR,

that the breach remained ongoing and admissions were made in respect of failings as late as 18 July 2025.

- d. The outcome of the PSR, which confirms that the investigation fell below acceptable standards (and was, as argued above, in breach of Ms Cresswell's Article 3 rights) was only received on **18 July 2025**. Ms Cresswell has acted promptly following this confirmation to send this letter asserting the violation.
- e. Given the timeline of events and the recent receipt of the report, it cannot be said that the Chief Constable would be prejudiced in any way by an extension to the limitation period under s7(5)(b). The evidence remains cogent, indeed, it has been reviewed thoroughly in preparation for the PSR which was published on 18 July 2025.
- f. As per *DSD* at §220, the assessment of the investigation will take into account whether an offender was prosecuted and a successful prosecution within a reasonable time period will render prior operational failures irrelevant. The merits of Ms Cresswell's case would have been difficult to assess while the police investigated the case in case it led to a successful prosecution.
- g. The conduct of the police force following the initial investigation was poor. No action was taken until Ms Cresswell brought the issue to the attention of the police again in 2020. Issues remained pervasive in the 2021 investigation and the 2023 investigation, which eventually ended due to Ms Cresswell's request following lengthy delays. The PSR was then not available until mid July 2025. It cannot be said that the force have acted properly following the right of claim arising.

54. Although it is not considered that limitation has expired, the Claimant considers that it would be useful to agree that limitation expires on **18 July 2026**. Please advise within 14 days of the date of this letter as to whether this is accepted. If we do not receive a response, proceedings will be issued to protect Ms Cresswell's position without further recourse to you.

Disclosure

55. The Claimant seeks the following disclosure:

- a) All CRIS reports and investigative logs relating all police investigations into this matter (2010 to 2024)
- b) Any transcripts including Ms Cresswell's VRI, [REDACTED] record of interview, and any transcripts obtained by the police relating to the civil defamation matter
- c) All witness statements obtained during any of the three police investigations

- d) Any CCTV, Body Worn Footage or any other electronic evidence obtained during any of the police investigations
- e) Any advice or communications with the Crown Prosecution Service during any of the police investigations, including responses received by the CPS
- f) Copies of pocket books in relation to any parts of the investigations from 2010 to 2024
- g) The written duty report provided by the Sexual Offences Liaison Officer and all accounts reported in the Serious Sexual Assault Investigation Booklet in relation to this matter
- h) All incident and victim logs in relation to this matter

Alternate Dispute Resolution proposals

55. The proposed Claimants are willing to consider Alternate Dispute Resolution ("ADR") proposals.

The address for reply and service of documents

56. Correspondence in this matter should be sent by email to [REDACTED]
[REDACTED]

Proposed reply date

57. An acknowledgement of this letter is requested in accordance with the pre action protocol for personal injury disputes, with a substantive response within 3 months.

Yours faithfully,

Good Law Project

Good Law Project