

(1) PETER HALL

(in his own right and as executor of the estate of MICHAELA ANNE HALL, deceased)

(2) ANNE HALL

(in her own right and as executor of the estate of MICHAELA ANNE HALL, deceased)

(3) FIONA SMITH

(executor of the estate of MICHAELA ANNE HALL, deceased)

Claimants

-v-

(1) THE CHIEF CONSTABLE OF DEVON AND CORNWALL POLICE

(2) THE MINISTRY OF JUSTICE<sup>1</sup>

Defendants

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PARTICULARS OF CLAIM

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(A) SUMMARY OF CLAIM

1. These are claims for damages for personal injury and human rights breaches, arising out of the Defendants' awareness of, involvement in, and control of the domestic abuse, violence and coercion and control perpetrated by Lee Kendall ("**Kendall**") against Michaela Hall ("**Michaela**"). Michaela was ultimately murdered by Kendall, at some point between 31 May 2021 and 1 June 2021, at the age of 49.
2. The First and Second Claimants are, respectively, the father and mother of Michaela, as well as two of the three joint executors of Michaela's will. The third joint executor is the Third Claimant, who was a close friend of Michaela's.

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<sup>1</sup> The Claim Form in this matter was issued protectively prior to the inquest into Michaela's death. Since then proceedings have been stayed. The Claim Form named the Second Defendant as 'The National Probation Service' ("**NPS**"). The NPS is a statutory service operated by the Ministry of Justice ("**MoJ**"), rather than a legal entity. The Claimant and the Second Defendant agree that the correct entity against whom this claim should be brought is the MoJ. As at the time of filing and serving these Particulars of Claim, the Claimants' application to amend the name of the Second Defendant (which the Second Defendant consents to) is yet to be determined by the Court.

3. Michaela's two sons, Shaun Hall (aged 13 at the date of Michaela's murder) and [REDACTED], are not parties in this claim but their interests in it are represented by the Claimants as executors of Michaela's will.
4. The First Defendant is the Chief Constable of Devon and Cornwall Police and is hereafter referred to as "DCP". DCP is a public authority within the meaning of s.6(1) Human Rights Act 1998 ("HRA 1998") and is vicariously liable for all relevant acts and omissions of officers, employees and agents of DCP referred to in these Particulars of Claim.
5. The Second Defendant is the Ministry of Justice ("MOJ"), which is the government department with responsibility for the justice system and, in particular, prisons, probation services, and the operation of the criminal justice system. The Second Defendant is a public authority within the meaning of s.6(1) HRA 1998 and is vicariously liable for all relevant acts and omissions of its officials, employees and agents.
6. From 2014 (and at all material times) the MOJ's operation of the probation service was divided between:
  - a. The National Probation Service ("NPS"), which was operated by the MOJ directly and handled 'high' and 'very-high' risk offenders, and
  - b. Community Rehabilitation Companies ("CRCs"), private companies to which the MOJ delegated its probation functions and obligations insofar as 'low' and 'medium' risk offenders were concerned. At all material times, the MOJ remained responsible and therefore liable for the actions of the CRCs in operating probation services on behalf of the MOJ, as well as fulfilling the MOJ's statutory functions and obligations pursuant to the Offender Management Act 2007.
7. On or around 16 May 2019, it was announced that the Second Defendant's contracts with CRCs would be brought to an end, and all offender management would once again be conducted solely by the NPS. The decision to divide probation management functions between the NPS and CRCs was deemed to have been a failure because, among other things, there had been repeated and systemic errors in the assessment of risk by, and allocation of cases to, CRCs. The reunification of the NPS and CRCs was ongoing at the time of Michaela's murder and was completed less than a month after her murder, on 26 June 2021.
8. Both the First and Second Defendants had contact with Michaela and/or Kendall prior to and during Michaela's abuse and, ultimately, death. At the time of her death, both Defendants held extensive knowledge of: Kendall's historic domestic violence against women and

children (i.e. prior to meeting Michaela); Kendall committing repeated acts of violence toward Michaela prior to her death; and evidence indicating the level and extent of Kendall's abuse, coercion and control of Michaela, which was escalating in frequency and severity. In particular, the Defendants had knowledge that:

- a. Kendall had 47 previous convictions for 78 offences at the time of meeting Michaela. This had risen to 53 convictions for 97 offences by the time he was released to her home in May 2021, two weeks before murdering her;
- b. Kendall had been linked to over 200 incidents between 1991 and 2021;
- c. Approximately one-third of his convictions involved violence, including assault of his four-year-old son and threats to kill;
- d. Drugs and alcohol were significant factors in his offending and risk.

9. Between the period April 2019 and 1 June 2021 ("**the Relevant Period**"), the extent of Kendall's abuse of, and violence toward, Michaela was such that – notwithstanding his coercion and control, and the resulting underreporting to the relevant statutory authorities – the First Defendant recorded approximately 40 entries on its incident logs in connection with violence against Michaela, and Kendall was arrested approximately 9 times for offences against Michaela. The extent of Kendall's interactions with DCP, and DCP's knowledge of Kendall and the risks he posed, will be informed and demonstrated by the First Defendant's internal information management systems, which have not yet been disclosed to the Claimants.

10. During the Relevant Period, Kendall was under the direct supervision of the Second Defendant's probation system, and/or known to the Second Defendant as a consequence of the risk that he posed to, and the violence he committed against, Michaela. In the months where Kendall was not being directly supervised by the Second Defendant, the MOJ was nonetheless aware of his ongoing risks and violence by virtue of, *inter alia*:

- a. The six Multi-Agency Risk Assessment Conferences ("**MARACs**") concerning Michaela. Each MARAC occurred owing to Michaela having been assessed to be at imminent risk of serious harm or death;
- b. The Second Defendant's designation of Kendall as a prolific and priority offender ("**PPO**"); and

- c. His status as a PPO resulting in him being subject to a programme of Integrated Offender Management (“IOM”) – joint management of the most persistent and problematic offenders by the MOJ and other statutory agencies, including DCP – from December 2018. Kendall was subject to the IOM programme during his probationary periods. Thereafter, notwithstanding the lack of any statutory compulsion for him to engage with the IOM, Kendall was still monitored in accordance with IOM arrangements, with the aim of reducing his re-offending risk (sometimes referred to as “non-statutory” supervision).
11. The Claimants are in possession of some, but not all, of the Second Defendant’s records concerning Kendall. Some categories of records date back to 2021, and others date back to 2019. However, for reasons that are apparent from the issues raised in these Particulars of Claim, records prior to that date are relevant to the Second Defendant’s awareness of Kendall’s risk and liability and are yet to be disclosed.
12. In light of the outstanding records from both Defendants, it is likely that these Particulars of Claim will require amendment following disclosure.
13. In summary, by this claim the Claimants seek:
  - a. Declarations that the First and/or Second Defendants breached Michaela’s rights pursuant to Articles 2, 3 and/or 8 of the European Convention on Human Rights (“ECHR”);
  - b. Damages for Michaela as a direct victim of acts and omissions amounting to breaches of Articles 2, 3 and/or 8 ECHR;
  - c. Declarations that the First and/or Second Defendants breached the rights of the First and Second Claimants and Michaela’s sons (Shaun Hall and [REDACTED]), as indirect victims of the breaches of Michaela’s Article 2 and/or 3 ECHR rights;
  - d. Damages for the First and Second Claimants and Shaun Hall and [REDACTED] as indirect victims of acts and omissions amounting to breaches of Articles 2 and 3 ECHR;
  - e. Declarations that the First and/or Second Defendants breached the Article 8 ECHR rights of the First and Second Claimants, Shaun Hall and [REDACTED];
  - f. Damages for the First and Second Claimants and Shaun Hall and [REDACTED] as direct victims of acts and omissions amounting to breaches of their Article 8 ECHR rights.

**(B) FACTUAL BACKGROUND**

14. Michaela Anne Hall was born on 20 October 1971 and was aged 49 at the time of her death. She had a history of anxiety, depression and OCD,<sup>2</sup> for which she had received treatment from her GP. There was also evidence that she may have had autism spectrum disorder ('ASD') or other neurodiversity, and investigations into this were ongoing at the time of her death. Research indicates that women with ASD are more vulnerable to abusive relationships.
15. Michaela's family describe her as having been a loving and caring woman, mother and daughter, and as being intelligent and articulate, but as being extremely ready to trust and to help people, to the extent that this could leave her vulnerable.

Michaela's Employment and Meeting Kendall

16. Michaela previously had a career as a senior air stewardess with various leading airlines. Following some time away from those roles after her youngest son, [REDACTED] was born, she developed a keen interest in working with vulnerable people in the community and enrolled in night school to gain qualifications in social care, followed by a degree programme at the University of Plymouth. One of her lecturers described her as *"keen to make a difference and genuinely caring about working with ex-offenders"*.
17. She began a volunteering role for the Prison Advice and Care Trust ("**PACT**"), a charity that provides support services to people affected by imprisonment, including those with convictions and prisoners' children and families, in or around December 2017.
18. After a few weeks of volunteering, Michaela was employed by PACT from approximately January 2018. In that role, she was primarily supporting female offenders upon their release from prison. However, Michaela's role was terminated on or around 13 May 2018, owing to concerns about her ability to maintain and enforce professional boundaries with the charity's service users; for example, Michaela would give service users lifts in her car in hours when she was not working, and on one occasion allowed a female service user to sleep in her car and left her with the keys while Michaela did some grocery shopping for her. PACT's view was that *"although each incident on its own was relatively low risk, the combined picture [of Michaela's inability to maintain boundaries] was becoming a concern"*.
19. On or around 22 October 2018, Michaela was employed as a criminal justice casework co-ordinator for Julian House, a charity that (*inter alia*) provides support and accommodation

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<sup>2</sup> Obsessive Compulsive Disorder

services to people leaving prison to help them: avoid homelessness, re-integrate into society, and mitigate the risk of re-offending. The charity and its caseworkers try to break cycles of mental health problems, substance abuse and homelessness, all of which are driving factors for re-offending.

20. It was in this capacity that Michaela met Kendall, who had been sentenced by Plymouth Crown Court to a term of 35 months' imprisonment for burglary of a dwelling and various public order offences, including threatening to stab a police officer. He was serving his prison sentence in HMP Exeter, a Category B prison.<sup>3</sup>
21. Kendall (who was born on 14 December 1978 and aged 42 at the date of Michaela's death) was a prolific, violent offender. He had a long history of involvement with police. Prior to meeting Michaela, he held 47 prior convictions for 78 offences including violence, theft, fraud, criminal damage, and public order offences. Drug and alcohol use was a significant factor in his offending.
22. By virtue of their extensive historic involvement with Kendall, both Defendants were aware that he had a history of, *inter alia*: domestic violence against a number of partners and his four-year old son; non-compliance with probation supervision and court orders; mental health problems, including psychosis, anxiety and suicide attempts; illicit drug use, including addictions to heroin and crack cocaine; abuse of prescription drugs; and addiction and abuse of alcohol.
23. As a result of his risk, Kendall was identified by the Second Defendant as a Prolific and Priority Offender ("PPO"), i.e. falling into a group of "*the relatively small number of offenders who together commit a disproportionately large amount of the crime recorded at any one time*". The PPO scheme was designed to tackle prolific offending and its causes by, *inter alia*, ensuring that PPOs are promptly apprehended and convicted, and swiftly brought to Court where they continue to offend, and by offering a range of supportive, rehabilitative and resettlement programmes designed to break the cyclical patterns, and causes, of re-offending.
24. Since at least 2014, while in the community Kendall had previously been managed under the Integrated Offender Management ("IOM") scheme, a cross-agency programme designed to facilitate teamworking by the relevant statutory agencies (including police and probation) to monitor and manage persistent and problematic offenders. To assess eligibility for the IOM

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<sup>3</sup> A Category B prison is a high-security prison for prisoners who do not require the maximum security of Category A prisons, but for whom escape must be made difficult.

scheme, prisoners must have sufficiently high scores on risk assessment and reoffending prediction tools, such as Offender Group Reconviction Scale (“**OGRS**”) and the Crime Severity Score (“**CSS**”). Offenders who remain under the supervision of the probation service can be compelled to participate in the IOM scheme as part of their probation arrangements. Thereafter, offenders may still be subject to IOM oversight, although there is no power of compulsion to require that they engage once their probation arrangements come to an end.

25. In or around November 2018, Kendall was released on licence and once again managed on the IOM scheme. The Second Defendant assigned Paul Arrowsmith, a probation officer, to monitor and supervise Kendall. In December 2018, in light of his release on licence, Julian House assigned Michaela to be Kendall’s support worker.
26. On 24 December 2018, Kendall was sentenced to 6 weeks’ imprisonment for the offence of racially or religiously aggravated harm, alarm or distress, and for shoplifting, following an incident on 21 December 2018. He was recalled to prison by the Second Defendant but released on 11 January 2019. At that point, he was assessed by the Second Defendant as posing a ‘Medium’ risk of serious harm (“**ROSH**”) to ex and future partners. That assessment, and the reasoning underpinning its conclusions, has not been disclosed to the Claimants. Serious harm is defined by the Second Defendant for the purposes of ROSH scoring as *“an event which is life threatening and/or traumatic and from which recovery, whether physical or psychological, can be expected to be “difficult or impossible””*. A ‘Medium’ ROSH score indicates that *“there are identifiable indicators of risk of serious harm. The offender has the potential to cause serious harm but is unlikely to do so unless there is a change in circumstances, for example, failure to take medication, loss of accommodation, relationship breakdown, drug or alcohol misuse.”*
27. On the same day, Kendall was arrested on suspicion of the offence of possession of a blade (in this case, a knife) in a public place. He was sentenced to 8 weeks’ imprisonment on 14 January 2019. In custody, Kendall’s ROSH score to ex and future partners was assessed as ‘Low’. In the absence of the Second Defendant’s records (which contain this and other assessments), the reason for the lowering in his risk assessment score is not clear to the Claimants, particularly considering his further offending.
28. On 11 February 2019, the Second Defendant again released Kendall from HMP Exeter on licence. Michaela saw Kendall at some date in the following week. She informed Mr Arrowsmith that Kendall was under the influence of substances and had a black eye. Documents indicate that potential crimes for affray and a public order incident may have been committed, but that these were not actioned by DCP.

29. On 18 February 2019, the Second Defendant recalled Kendall to prison for non-compliance with his licence conditions, including failing to attend appointments and maintain contact with Mr Arrowsmith. He was again released on licence on 19 March 2019: it is unclear why his conduct and offending did not result in him serving the remainder of his custodial sentence. Kendall was released as a PPO, subject to IOM, and was subject to post-sentence supervision by the Second Defendant.
30. On the same day, Michaela attended a GP appointment with Kendall, where he was diagnosed with chronic alcoholism. The following day, 20 March 2019, Kendall was hospitalised as a result of two overdoses on Subutex (a prescription medication used to treat opioid dependency).
31. The Defendants did not provide Kendall with any or any adequate rehabilitative and support programmes - including but not limited to alcohol and drug detoxification courses and housing - and notwithstanding Kendall being a PPO and IOM managed offender.
32. Both Defendants' underlying records in respect of the above incidents are yet to be disclosed. Those records are relevant to Kendall's presentation, supervision and management in the community at the time that he met Michaela.

#### Michaela and Kendall's Relationship

33. In April 2019, Julian House discovered that Michaela had begun a personal relationship with Kendall. She was suspended from her position and resigned on 11 April 2019. Both Defendants were made aware of Michaela's relationship with Kendall in April 2019.
34. On 23 April 2019, Mr Arrowsmith made a safeguarding referral to Cornwall County Council's Children's Services ("**Children's Services**") which stated, *inter alia*, that Kendall: was likely to be residing at Michaela's home at 26 Charlotte Close, Mount Hawke, Cornwall ("**Michaela's Home**"); had a history of domestic abuse and violence against partners and his son; had a prolific offending history, including 47 prior convictions for 78 offences, including threats to kill; and suffered from mental health conditions including psychosis, anxiety, medication abuse, and alcohol/drug abuse.
35. There is no indication in the evidence available to the Claimants that, following these developments, either of the First or Second Defendants:
  - a. Made a referral in respect of Michaela's safety to Cornwall County Council's Adult Services, having regard to their knowledge of Kendall's past history of domestic abuse and violence;

- b. Provided Michaela with information about Kendall's previous domestic violence, abuse and offending, nor the risk that she and her children were exposed to, particularly in light of the Domestic Violence Disclosure Scheme ("DVDS", also known as "Clare's Law"), which enables police officers to disclose information about an offender's criminal history to a person deemed to be at risk of future abuse, whether proactively or in response to that individual making a request for disclosure;
- c. Considered amending Kendall's licence conditions to either prevent contact with Michaela and her children, or to mitigate the risks associated with the same;
- d. Considered the implications for Kendall's management and supervision under the IOM programme and the need for any action, such as increased monitoring;
- e. Provided Kendall with access to alternative housing and/or to rehabilitation detoxification services;
- f. Referred Kendall's case for management by the statutory Multi-Agency Public Protection Arrangements ("MAPPA"),<sup>4</sup> which would have assisted in requiring other agencies, including but not limited to housing and health authorities, to assist in providing rehabilitative and support services that could have prevented Kendall's relapse and further offending, in lieu of which Michaela felt compelled to assist him.

#### Kendall's Assaults on Michaela

- 36. The full extent of the assaults committed by Kendall on Michaela are not known. Not all assaults were reported. Given the extent of Kendall's violence, as well as his coercion and control of Michaela, it is likely, on the balance of probabilities, that more assaults took place. These Particulars of Claim set out the assaults that were known to the Defendants, typically as a result of reports by Michaela, her family, social workers, and her neighbours.
- 37. Summaries of each of the reported incidents are provided below, informed by evidence given in the inquest into Michaela's death. They are yet to be cross-referenced against DCP records, recordings of 999/111 telephone calls, relevant body worn video footage ("BWV"), MOJ records, and relevant correspondence, all of which are yet to be disclosed to the Claimants.

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<sup>4</sup> Multi-Agency Public Protection Arrangements ("MAPPA") are a set of statutory arrangements to assess and manage the risk posed by certain sexual and violent offenders. MAPPA bring together the Police, Probation and Prison services, as well as other agencies that are under a duty to co-operate with the Responsible Authority (the primary agency for MAPPA). These include Children's Services and Adult Social Care, Health Trusts and Authorities, Youth Offending Teams, Home Office Immigration Enforcement, local housing authorities and certain registered social landlords, the Department of Work and Pensions and electronic monitoring providers.

*First recorded assault: 20 May 2019*

38. Michaela telephoned DCP, reporting that Kendall had assaulted her, resulting in two black eyes and a nose injury, that he was smashing up her car, had smashed up glass ornaments and windows in her house, that she had locked him out of her address, and that her 11-year-old son (Shaun) was asleep upstairs. She reported that she believed Kendall was experiencing a drug induced psychosis, as he was on methadone and had also taken Valium<sup>5</sup> and alcohol.
39. In respect of this incident:
  - a. When DCP officers arrived, Michaela had facial bruising, suggesting that an assault had taken place on a prior day;
  - b. Michaela showed officers a knife that Kendall had picked up and threatened to kill her with;
  - c. Officers completed a Domestic Abuse, Stalking, and 'Honour'-Based Violence (“DASH”) risk assessment by asking Michaela a series of DASH-checklist based questions, with her responses resulting in a ‘Medium’ result, meaning there were identifiable features of risk or serious harm or homicide. The First Defendant’s DASH policy adopted definitions in line with the Second Defendant’s OASys guidance.<sup>6</sup> This DASH assessment has not been disclosed by the First Defendants. The Claimants note and rely upon the question raised by the Domestic Homicide Review (“DHR”) into Michaela’s death as to whether the conclusion ought to have been ‘High’ risk, given Michaela’s fear and Kendall’s use of a knife.
  - d. Michaela told officers that she felt unable to support a prosecution on the basis that it would not result in Kendall receiving the help he needed.
40. Further to DCP officers arresting Kendall:
  - a. Kendall was not tested for drugs and drug-related offences were not considered, despite the importance of holding PPOs accountable in Court;
  - b. While in DCP’s custody, Kendall refused to be interviewed. For reasons that are unclear and *prima facie* inexplicable, DCP did not proceed to interview Kendall and instead released him on bail, with bail conditions not to contact Michaela or attend Michaela’s home;

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<sup>5</sup> Diazepam, a muscle relaxant drug typically used in the treatment of anxiety.

<sup>6</sup> See paragraph 42, below.

- c. DCP did not issue a Domestic Violence Protection Notice (“DVPN”) and thus did not obtain a Domestic Violence Protection Order (“DVPO”) from a magistrates’ court;
- d. DCP later certified the case as requiring no further action (“NFA”). There is no evidence that an evidence-led prosecution was considered.
41. As a consequence of the assault, on 22 May 2019 the Second Defendant recalled Kendall to prison to serve the remainder of his custodial sentence. During Kendall’s imprisonment, Michaela was able to re-enter employment, working with an agency company, Marks and Spencer, and subsequently as a receptionist in a GP surgery.
42. On 5 June 2019, Mr Arrowsmith conducted a review of Kendall’s ROSH scoring, as part of updating the Second Defendant’s Offender Assessment System (“OASys”).<sup>7</sup> For reasons that are unclear, he graded Kendall’s risk of serious harm as being ‘Medium’ to the public, and ‘Low’ to children and to known adults. In light of the information held by the Second Defendant, and the circumstances of the recall, this was plainly inaccurate and unsustainable.
43. On the same day, Mr Arrowsmith conducted a Spousal Assault Risk Assessment (“SARA”), which is a structured risk assessment tool used by the Second Defendant that is specifically designed to assess risk in cases of intimate partner violence. The SARA contained a number of factual errors, and Mr Arrowsmith ultimately gave Kendall a risk rating of ‘Medium’ in respect of an imminent risk of violence towards Michaela. Given the knowledge held by the Second Defendant, that risk plainly ought to have been ‘High’.
44. The Defendants had information available to them that Michaela was maintaining contact with Kendall while in prison, and that he was coercing Michaela to be complicit in criminal acts (providing a mobile phone to him in prison).
45. On 23 August 2019, Mr Arrowsmith conducted a further OASys review, concluding that Kendall posed a ‘Medium’ ROSH to children, known adults, and the general public. In light of the information held by him, Kendall’s ROSH score ought to have been ‘High’.
46. There was a Parole Board oral hearing on 12 September 2019, concerning Kendall’s recall, which Michaela and Mr Arrowsmith attended. The Parole Board refused to direct Kendall’s re-release, on the basis that it was necessary for the protection of the public that he should be confined to prison. The panel noted, *inter alia*, that: substance misuse was a “key factor” in

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<sup>7</sup> The standardised risk and needs assessment tool used by the Second Defendant, which scores offenders against actuarial and dynamic risk factors and produces a Risk of Serious Harm rating in respect of including children, known adults and the general public. OASys utilises a combination of objective and subjective risk scoring.

Kendall's offending; he was "indifferent to the consequences for victims"; he posed a "significant risk of causing harm"; and that they were concerned that Michaela "had been put in the position of feeling in any way responsible for [Kendall's] behaviour, or needing to excuse [his] actions."

47.

[REDACTED]

48. Notes held by Children's Services indicate that Michaela was concerned about Kendall's accommodation upon release, and that she was anticipating having to "try to stretch my money" to pay for Kendall's flat deposit and rent, as well as her own rent. This was an early indicator of coercion and control.

49. There is no indication in the evidence available to the Claimants that, in preparation for Kendall's release, either the First or Second Defendants:

- a. Provided Michaela with information about Kendall's previous domestic violence, abuse and offending, nor the risk that she and her children were exposed to, in accordance with the DVDS/Clare's Law;
- b. In respect of the First Defendant, issued a DVPN (and, thereafter, DVPO) that would have prevented Kendall from residing with Michaela or otherwise managed or mitigated the risk to her and Shaun;
- c. Considered the implications for Kendall's management and supervision under the IOM programme, even as a non-statutory offender;
- d. Provided Kendall with access to alternative housing and/or to rehabilitation detoxification services through the IOM programme;
- e. Otherwise sought to dissuade Kendall from residing at Michaela's Home.

*Second recorded assault - August 2020*

50. Upon release from prison on or around 13 July 2020, Kendall informed the Second Defendant he would be residing at Michaela's Home. The First Defendant, via the IOM programme, was aware of this from 14 July 2020, when it was also recorded that Kendall had failed his drug and alcohol testing the day after his release from prison; and had admitted to having consumed a significant amount of alcohol as well as crack cocaine. Despite knowing that Michaela was at risk, no action was taken by the First or Second Defendant to protect Michaela or mitigate the risk (such as through the use of a DVPN followed by a DVPO, or obtaining alternative housing through the IOM programme).

51. On 4 August 2020, Michaela's role as a receptionist at a GP surgery was terminated, on the grounds that she had begun behaving strangely, including asking to borrow money from colleagues and using her phone to contact Kendall while working. Her manager was concerned that she was asking to borrow money to fund Kendall's alcohol habit.
52. On 14 August 2020, Kendall was reported to have assaulted a neighbour of Michaela's. For unknown reasons, DCP marked this incident as NFA, and did not seek to prosecute Kendall despite that being an important limb of managing PPOs.
53. One of DCP's IOM officers, PC Streatfield, made an unannounced visit to Michaela's Home on 24 August 2020. PC Streatfield: noted that her left eye was blackened; told Children's Services that he had "*concerns in relation to continued domestic abuse*" and ongoing use of alcohol, illegal drugs and prescription drugs; and noted that Kendall's presence had "*fractured relationships with [Michaela's] children and her parents*".
54. Despite those concerns, the First Defendant did not: issue a DVPN; take steps through the IOM programme to manage and mitigate the risks; investigate and charge Kendall in connection with the assault of Michaela's neighbour; nor consider arrests, charges and evidence-led prosecutions in respect of the assault on Michaela, the use of drugs, and controlling or coercive behaviour offences contrary to section 76 of the Serious Crime Act 2015.<sup>8</sup>

#### ***Third recorded assault - 2 September 2020***

55. On 2 September 2020, DCP received a call from one of Michaela's neighbours to report that a domestic incident was ongoing in Michaela's Home. When officers arrived, this was denied. However, on the following day, DCP officers added an addendum to that entry to record that they had received intelligence that Michaela had two black eyes. Despite this, DCP did not conduct further enquiries, such as visiting Michaela's Home to confirm the presence of her blackened eyes, with a view to charging Kendall.

#### ***Fourth recorded assault - 16 September 2020***

56. On 16 September 2020, Victoria Banthorpe (a social worker from Children's Services, with whom Michaela had regular contact) made an unannounced visit to Michaela's Home and

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<sup>8</sup> Section 76 of the Serious Crime Act 2015 criminalises engaging in controlling or coercive behaviour in an intimate or family relationship that causes serious alarm or distress, where such behaviour has a serious effect on the victim and the perpetrator knew or ought to have known it would have such effect. Amendments to that section made by the Domestic Abuse Act 2021 were not in force at the material time, but those amendments are not material to the claims advanced in these Particulars.

noted her bruised/blackened eyes. This information was relayed to DCP, who stated that the crime would “likely be screened out”. The reasons for this are unclear.

57. Post-death documents suggest that a crime of assault occasioning actual bodily harm was “in [the] early stages of triage”, but that it was overtaken by a subsequent assault. However, there is no explanation for why this crime was not investigated and actioned appropriately.
58. On 21 September 2020, Children’s Services sent an email to DCP stating that: “Michaela had a black eye... She said Lee is drinking 3 to 4 bottles of wine a day and would like an at home detox. They both appear to be playing emphasise on the urgency of this and Lee will not consider residential. Could you let me know your position?” [sic]. Despite this being an important element of IOM supervision, there is no evidence of a response having been sent back.

#### ***Fifth recorded assault – 22 September 2020***

59. DCP received a call from a neighbour reporting that a domestic argument could be heard. Police attended and found evidence of a disturbance, including broken glass and crockery on the floor. Michaela was seen to have a black and swollen eye, and evidence of a fresh injury to her wrist. Shaun was noted to be present. Officers arrested Kendall and interviewed him under caution. The contents of interviews with Kendall have not been disclosed. Similarly, the Claimants are unaware of conversations held between officers and Michaela, as will be recorded in BWV and police logs.
60. In respect of this incident:
  - a. DCP certified the case as NFA, instead of releasing Kendall on bail (with conditions not to contact Michaela or reside at her home) for a period of investigation;
  - b. There is no evidence that an evidence-led prosecution was considered and pursued;
  - c. DCP did not issue a DVPN (and thus did not obtain a DVPO);
  - d. DCP did not consider whether coercion and control offences had been committed;
  - e. There is no evidence that officers convened a discussion with other IOM agencies to consider whether the situation could have been remedied or mitigated by offering Kendall housing, social, financial, or detoxification support through the IOM process. Instead, an IOM meeting on 7 October 2020 noted that Michaela would assist Kendall by driving him to any appointments arranged for him.

### *Sixth recorded assault - 12 October 2020*

61. Michaela was visited by Ms Banthorpe, who observed that she had two black eyes. Michaela disclosed to her that she had found Kendall taking heroin in her home and, when he was asleep, had flushed the remainder down the toilet. When Kendall woke up and realised what she had done, he launched "*a sustained attack*" on Michaela and punched her in the head repeatedly. Michaela had called out to Shaun, who was in the neighbouring room, to call the police, but Shaun had not done so because he was frightened that this would make the situation worse. This assault (and the subsequent assault on 15 October 2020, set out below) resulted in Children's Services applying for an interim care order in respect of Shaun.
62. Ms Banthorpe observed that Kendall was "*escalating with his violence*" against Michaela. Michaela told Ms Banthorpe that the situation was getting worse and out of control, but that she did not know what to do. She stated that she did not want to report the matter to DCP, and was worried about where Kendall would go if she made him leave, and what he might become involved with as a consequence.
63. Ms Banthorpe reported this incident to DCP and spoke with DCP's Domestic Abuse Unit ("*DAU*"), who agreed that Michaela's situation was "*concerning*". Despite this, there is no evidence that this incident was actively investigated, nor that steps were taken to arrest or charge Kendall, including in respect of drug-related and coercion and control offences. Nor is there evidence that DCP considered whether the situation could have been remedied or mitigated by offering Kendall housing, social, financial, or detoxification support through the IOM process.

### *Seventh recorded assault - 15 October 2020*

64. In a telephone call with Ms Banthorpe, Michaela disclosed to her that: she was going to be in danger because Kendall was "*really mad*" that Shaun had been taken to her parents' home following the incident three days earlier; she liked her job but found it "*embarrassing going in with black eyes all the time*"; she had "*fucked [her] life up so much*" and was "*financially fucked*"; and that she didn't care what happened to her and wanted to either slit her wrists or for Kendall "*to smash her head in*". Ms Banthorpe reported this exchange to DCP and requested that officers conduct a welfare check, although officers told her they were "*loathed to go out at the moment as they might make a situation if nothing is happening*" [sic].

65. At 6:30pm, Michaela left Ms Banthorpe a voicemail, informing her that Kendall had tried to set fire to her pillow, her cardigan, and the house. Ms Banthorpe again reported this to DCP, re-iterating her concerns for Michaela's safety and requesting that officers visit the address.
66. Despite these disclosures being a clear indicator of life-threatening violence and of coercive and controlling behaviour, the requests for a welfare check were not actioned by DCP until 17 October 2020. Kendall was present and so Michaela would not engage. Officers noticed a fresh injury that they attributed to the events of 15 October 2020. Kendall was arrested on suspicion of assault occasioning actual bodily harm. He was released on bail with conditions not to attend Michaela's Home, and a DVPN was also issued. This was the first time in 18 months that a DVPN was issued, despite repeated incidents and reports of domestic violence.
67. In respect of this incident:
- a. For reasons that are unclear, DCP certified the case as NFA. There is no evidence that an evidence-led prosecution was considered and pursued;
  - b. Offences for controlling and coercive behaviour, or for arson, were not considered;
  - c. DCP did not consider whether the situation could have been remedied or mitigated by the offering of housing, social, financial, or rehabilitative support through the IOM process.

*Eighth recorded assault - 18 October 2020*

68. The First Defendant received a telephone call from a member of the public who reported hearing screams coming from Michaela's Home. Officers attended and found Kendall hiding in a cupboard, in breach of the DVPN. He was arrested and charged with breaching the DVPN. At court, the DVPN was converted into a DVPO, but no separate criminal sanction was imposed for the breach of the DVPN.
69. Officers completed a DASH risk assessment which resulted in a conclusion that Michaela was at a 'High' risk of serious harm or homicide.
70. In respect of this incident:
- a. DCP did not consider investigating nor arresting Kendall for an assault against Michaela, or for other offences relating to his coercive and controlling behaviour
  - b. There is no evidence that DCP officers convened a discussion with other IOM agencies, with a view to considering whether the situation could have been remedied or mitigated by the offering of housing, social, financial, or rehabilitative support through the IOM process.

71. On 27 October 2020, Kendall was reported to be at Michaela's Home and was again arrested for breaching the DVPO. He was taken to Court and fined £50, and advised that further breaches might result in imprisonment.
72. As a result of the high-risk DASH assessment, the **first Multi-Agency Risk Assessment Conference ("MARAC")**<sup>9</sup> took place on 28 October 2020, at which both Defendants were represented.
73. On 7 November 2020, Kendall was again arrested for breaching the DVPO and sentenced to 14 days' imprisonment. For reasons that are unclear, Kendall only served 3 of those days.

#### *Ninth recorded assault - 16 November 2020*

74. The day after the expiry of the DVPO, the First Defendant received a telephone call from the Second Claimant, Michaela's mother, reporting her concerns for Michaela's safety. This was followed by a neighbour reporting hearing screaming from Michaela's Home. Officers attended and found that Michaela had injuries to her nose, and that she was struggling with breathing, which may have indicated strangulation. She told officers that Kendall had: been drinking all day; taken her house and car keys from her; punched her; smashed her glasses; and killed the family pet gerbil (a recognised indicator of coercive control and escalating dangerousness). Police also noted a broken window.
75. Given that Michaela was now reporting Kendall's abuse and assaults to officers, this was an important moment in DCP's ability to engage with Michaela and break the cycle of domestic abuse: Michaela had reached the 'third' of six stages of ending an abusive relationship, in that she had begun to recognise the abuse and Kendall's responsibility for it. These stages, and the need to proceed with caution to keep a victim engaged, were reflected in DCP's domestic abuse training materials, although the evidence given at the inquest proceedings was that officers involved in Michaela's case were not familiar with, and/or had not acted in accordance with, that training.
76. Kendall was arrested, although the offences for which he was arrested are not known. Another DASH assessment was conducted by DCP, concluding that Michaela was at high risk, resulting in a second referral being made to MARAC. A further DVPN was also authorised (and, thereafter, a DVPO was obtained).

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<sup>9</sup> MARAC is a multi-agency forum that meets weekly to coordinate the response to high-risk domestic abuse cases by sharing information and developing protective action plans. The cases discussed at MARAC are, by definition, those in which the victim is at imminent risk of serious harm or death.

77. Prior to Kendall being released from DCP's custody, PC Moore, a specialist domestic abuse officer, informed Michaela that she was at risk of serious harm or death. Michaela responded that she was aware of the risks that Kendall posed, and she agreed to support from domestic abuse services. DCP's contact with Michaela was not in accordance with the aforementioned training: it was not sufficient to place the onus upon Michaela in circumstances where DCP had an obligation to protect her from the risk of serious harm or death.
78. On 18 November 2020, the **second MARAC meeting** took place, at which both Defendants were represented. It was reported at that meeting that Michaela had never wanted any support from any agencies, but the First Defendant knew that to be a mischaracterisation given (i) her engagement in respect of the offence on 16 November 2020, and (ii) both Defendants knew, or ought to have known, that victim non-engagement is a recognised and well-evidenced feature of domestic abuse and is not to be equated with consent to abuse, violence, or coercion and control, nor with absence of need for protection.
79. Despite the escalating harm and damage to Michaela and her property, DCP did not pursue evidence led prosecutions in respect of the ninth recorded assault, coercive and controlling behaviour (which was extremely apparent on this occasion), nor the damage to Michaela's Home.
80. On 21 November 2020, the Second Claimant telephoned DCP to report that Kendall had breached his DVPO. The same information was reported to DCP by a Children's Services worker, Angela Chapman, on 30 November 2020. This incident was marked as NFA, rather than being proactively investigated with a view to protecting Michaela.

*Tenth recorded assault - 20 December 2020*

81. Shortly after the expiry of the DVPO, DCP received a report from a neighbour that Kendall was at Michaela's home, attacking her, and trying to take her car. It is understood that officers attended and that Kendall and Michaela were separated. No further action was taken, such as a further DVPN on the basis of this reporting.

*Eleventh recorded assault - 22 December 2020*

82. DCP received a call reporting that Michaela was being assaulted in her home. On the same day, DCP received intelligence that Michaela had contacted Kendall's GP to ask them to withhold certain medications due to Kendall abusing them. There is no indication that DCP did anything with either piece of intelligence. Monitoring Kendall's drug addiction was a function that the Defendants, as part of IOM and MARAC, ought to have been fulfilling.

### *Twelfth and thirteenth recorded assault - 23 December 2020*

83. Michaela telephoned DCP to report that Kendall had assaulted her and that she wanted him removed from her home. She also told them that she was calling from a neighbour's home, having run away from Kendall.
84. When officers arrived, Michaela told them that on 20 December 2020, not long after DCP's officers had left her home, Kendall had smashed her face and nose in, taken her phone away so that she could not contact anyone, and that the carpet was covered in blood as a result. She explained that he had threatened to smash her face in again that morning and now believed that he would be smashing the house up, unhappy that she had left to use the phone. She described her bedroom carpet as being covered in blood from the previous assault.
85. Kendall was arrested on suspicion of assault occasioning actual bodily harm. He was bailed to attend a police station in January 2021, with conditions prohibiting him from contacting Michaela or entering Charlotte Close (the street on which Michaela's home was situated). DCP did not authorise a DVPN.
86. DCP did not pursue an evidence-led prosecution in respect of the twelfth or thirteenth recorded assaults. Nor did it investigate or charge Kendall with other relevant offences, including threats causing fear of unlawful violence, coercive and controlling behaviour offences, and in respect of the damage to Michaela's Home.
87. Another DASH assessment was conducted by DCP, concluding that Michaela was at high-risk of serious harm or homicide. The third referral to MARAC was made, and the **third MARAC meeting** took place on 30 December 2020.
88. On 5 January 2021, officers attended Michaela's Home and found Kendall there, in breach of his bail conditions. Kendall was not arrested for breaching his bail conditions and was instead placed on a train to Plymouth.

### *Kendall's Threats to Those Providing Support to Michaela*

89. On 11 January 2021, Kendall sent a DCP officer an abusive and threatening message, after the officer had recommended to Michaela that she partake in a domestic violence programme. No action was taken by DCP in response to this offence.
90. On the same day, Kendall assaulted one of Michaela's neighbours, who had previously expressed support for Michaela in the face of her ongoing abuse and violence. It is understood that Kendall was arrested, charged with assault and bailed. On 28 January 2021, Kendall was

convicted of common assault, for which he received a fine and was given a restraining order preventing him from contacting Michaela's neighbour.

91. Given that this offending took place in the context of coercive and controlling behaviour offences, the First Defendant ought to have charged Kendall with coercive and controlling behaviour offences.

***Kendall's Threats to the First and Second Claimants - 31 January 2021***

92. On 31 January 2021, the First Claimant (Peter) spoke with Michaela on the telephone. He could hear Kendall in the background, shouting that he wanted to speak with Peter. Peter subsequently received two abusive telephone calls from Kendall, in which he threatened: *"I'm going to fuck you up. I'm going to come over and burn your house down and burn you. I know where you live and where your cars are. I'm going to fuck you up."*
93. This left the First and Second Claimants, who lived nearby, fearing for their safety, notwithstanding that DCP attended their home to fit extra locks and an alarm. Kendall was subsequently charged with the offence of putting people in fear of violence contrary to section 4 of the Protection from Harassment Act 1997.
94. The First Defendant failed to consider the threats made to the First Claimant as evidence of controlling or coercive behaviour offences committed by Kendall toward Michaela, notwithstanding that the threats were directed at a member of Michaela's supportive family network and formed part of Kendall's pattern of isolating Michaela from those who could provide her with support.

***Fourteenth and fifteenth recorded assault - 12 February 2021***

95. DCP received a telephone call from a neighbour reporting an ongoing domestic incident at Michaela's Home. Officers attended and, in Kendall's presence, Michaela told them there was no issue and refused them entry. However, officers were called back to the scene approximately three hours later, after Michaela had gone to a neighbour's house to seek help and disclosed that she had been assaulted by Kendall. The neighbour described Michaela as being covered in blood.
96. Michaela told DCP officers that Kendall had been drinking, had made allegations against her, and had barricaded himself in the bedroom. She had tried to break down the door to get to him and help him, and he had then come out and assaulted her, punching her in the head. Michaela also disclosed that the assaults were getting worse and that Kendall had assaulted

her a few days prior by kicking her in the head. The officers noted Michaela's injuries and the amount of blood on her.

97. Officers found Kendall barricaded in the bedroom as reported. Kendall told officers that he had a Stanley knife and would "*cut them up*" if they came in.
98. In respect of this incident:
  - a. Kendall was arrested on suspicion of assault occasioning actual bodily harm. He was not arrested in connection with his threats against the officers, notwithstanding the strengthened sentencing powers associated with offences against first responders.
  - b. Michaela provided a witness statement in support of a prosecution. This represented a significant moment in Michaela's engagement and her willingness to consider ending the abusive relationship (stage four of six). As stated at paragraph 75 above, these stages, and the need to proceed with caution to keep a victim engaged, were reflected in DCP's training for officers, but were not familiar to and/or followed by DCP's officers.
  - c. Michaela disclosed to DCP that Kendall had assaulted her previously by "*kicking her in the head and strangling her to the point she believed she was going to die and nearly passed out*". She had swelling around her right eye socket, a lump on her forehead, and several cuts and grazes around her nose. This demonstrated a significant and dangerous escalation in violence and indicated a risk of homicide.
  - d. Michaela is reported as having told Children's Services that "*the police officer made it clear to her as well and one day we could be telling Shaun his mum is dead*". Michaela also said, as she had done to DCP officers in similar terms previously, that "*...everyone is pressurising her to make statement, trying to say to her this will help Lee, she does not feel this will him going to prison is not going to help. Also what will it be like when he is released*" [sic], and that she was having to fund Kendall's alcohol habit, of approximately £400 per month.
  - e. Another DASH assessment was conducted by DCP, concluding that Michaela was at high-risk of serious harm/homicide. The fourth referral to MARAC was made. However, DCP did not mention the incident of non-fatal strangulation that had been disclosed by Michaela in the DASH assessment, nor was it disclosed in the fourth MARAC meeting.
  - f. Non-fatal strangulation is known to be an indication of a serious escalation in domestic violence and a predictor of domestic homicide. For this reason, it was made an either-way offence by changes made by the Domestic Abuse Act 2021, which came into force on 7 June 2022 (after Michaela was murdered). It was, however, at all material times

understood by relevant professionals (and was noted by the DASH guidance) to be a significant form of violence and a critical risk factor for homicide. Reports of non-fatal strangulation ought, therefore, to have been treated extremely seriously by both Defendants. By not relaying this information to MARAC or the other statutory agencies, the First Defendant deprived professionals of critical information about the risk to Michaela and the escalating and life-threatening nature of Kendall's violence.

g. Another result of DCP's failure properly to record Kendall's strangulation of Michaela was that a relevant warning marker was not placed on her property, which would have flagged that history and risk to any professional assessing or managing the risk that Kendall posed, as well as those responding to 999 calls (and it could, therefore, have influenced the response by DCP to the emergency call placed on 31 May 2021, as set out below).

99. On 24 February 2021, the **fourth MARAC meeting** took place, at which both Defendants were represented. The First Defendant failed to update the attendees on the details of the threat to the First and Second Claimants, which was significant in that threats to kills were made, and it was a form of isolating and distancing Michaela from her family. Nor is there evidence that DCP considered charging Kendall with coercive and controlling behaviour offences.

100. Michaela subsequently withdrew her support for the prosecution. It is understood that DCP reduced the charges to two counts of common assault on that basis. In light of the evidence held by DCP in respect of these assaults, this was not necessary, and an evidence-led prosecution of the more serious charges should have been maintained.

#### *Sixteenth recorded assault - 7 March 2021*

101. DCP were called by the landlord of a property in Plymouth to report that Kendall had assaulted Michaela, leaving her with a black eye, in breach of the DVPO. Michaela was located by DCP officers and was observed to have a black eye. Officers recorded a crime of assault occasioning actual bodily harm. Kendall was arrested and was also charged with criminal damage in association with vomiting in a police van and spitting in his police cell. He was remanded in custody and taken to HMP Exeter.

102. Michaela told Ms Banthorpe of Children's Services that she had provided DCP with photographs of her injuries. She also provided her with a video that she had to DCP, in which Kendall can be heard threatening that he would stab Michaela. Ms Banthorpe also shared this video with DCP. There is no indication that DCP took any action in relation to this video.

103. In respect of this incident:
- a. A DASH risk assessment was conducted and resulted in a finding that Michaela was at high risk, resulting in the fifth referral to MARAC.
  - b. Michaela provided a witness statement in support of a prosecution, in which she stated that she had arrived at Kendall's property and found him drunk and/or on drugs. When she went to leave the property, Kendall had grabbed her by the hair, pulled her to the floor, and then punched her to the head 6 or 7 times. However, Kendall continued to contact and coercively control Michaela from custody, resulting in her withdrawing her statement in support of the prosecution.
104. The **fifth MARAC meeting** was held on 17 March 2021. MARAC disapproved of DCP's decisions to NFA Kendall's breaches of the DVPO, noting that Kendall was "*a serious serial offender, and we should be getting him on every possible charge we can*". MARAC also requested that the Second Defendant, in its sentencing proposals for Kendall, seek the imposition of: a restriction on Kendall entering Cornwall; a mental health treatment order; and a behaviour change programme. It also requested that MARAC be given updates in respect of the conviction and sentencing of Kendall. This did not occur.

*The Prosecution and Sentencing of Kendall in April/May 2021*

105. On 12 April 2021, at a Plea and Trial Preparation Hearing at Plymouth Crown Court, Kendall pleaded not guilty to the two charges of assault occasioning actual bodily harm, but offered guilty pleas to the alternative, lesser charges of common assault. He had previously entered guilty pleas to the charges of criminal damage and harassment of the First Claimant. These pleas were accepted by the Crown Prosecution Service. Kendall's sentencing was adjourned and a pre-sentencing report ("**PSR**") was ordered. Kendall was remanded in custody.
106. The **sixth and final MARAC meeting** was held on 14 April 2021. Michaela had been retained on MARAC's agenda due to their assessment of the risk and concern for her. The Chair of the MARAC, Anna MacGregor, suggested that an approach be made to the Cornwall High Risk Behaviours Panel. Neither of the Defendants raised Michaela's case at another MARAC meeting prior to her death, notwithstanding: MARAC's request for updates; the contents of the PSR; Kendall's sentencing; and the input that MARAC could and ought to have had into Kendall's supervision by the Second Defendant.

The Second Defendant's Risk Assessments of Kendall, and the Pre-Sentence Report

107. Kendall's PSR was undertaken by the Second Defendant's Amanda Walsh, a Probation Service Officer ("PSO") with a Level 3 diploma in probation practice. Given the complexity of Kendall and his offending, as well as the extensive domestic violence recorded and the risks of further domestic violence, the PSR should have been allocated to a Probation Officer ("PO") with a Level 5 diploma in probation practice.
108. For the purpose of assessing Kendall's risk and completing the PSR, Ms Walsh had access to, inter alia:
- a. CPS documentation relating to the offences that Kendall had been charged with. From this, Ms Walsh would have known that Kendall had been charged with more serious offences than those he was ultimately convicted of, and that Kendall had made both threats to kill and had strangled Michaela, both of which ought to have been of critical importance to a risk assessor in her position;
  - b. Police records detailing Kendall's domestic abuse and coercion and control of Michaela over the last two years;
  - c. Kendall's previous OASys assessment, completed by Mr Arrowsmith in August 2019, which assessed Kendall as posing a 'Medium' ROSH;
  - d. Information from Jo Cann, the Second Defendant's probation representative at the MARAC meetings at which Michaela's case was discussed. Ms Cann relayed to Ms Walsh MARAC's request that the PSR request that the Court include an exclusion zone from Cornwall as part of Kendall's sentencing.
109. Ms Walsh should have sought the following relevant sources of information, all of which were or ought to have been within the Second Defendant's knowledge, whether directly or as a result of proper information sharing by the First Defendant to the Second Defendant:
- a. The MARAC minutes, which set out the extent of the risk to Michaela's life;
  - b. NDelius and P-NOMIS records, detailing probation's historic awareness of Kendall and the risk he posed;
  - c. Information about Kendall's previous offences, including the factual basis of his convictions and sentencing remarks;
  - d. Details of the various DVPN and DVPOs made, and the extent of Kendall's breaches of the same;

- e. Information from Kendall's IOM, which ought to have included DCP's extensive knowledge of Kendall, as well as witness accounts and photographs and videos of Kendall's violence shared with DCP.
110. Ms Walsh interviewed Kendall on 29 April 2021. It is unclear whether a recording or transcript of that interview exists, although it is summarised in the PSR. During that interview, Kendall stated, *inter alia*, that: he had committed the assaults on Michaela and the threats against the First Claimant while under the influence of alcohol, and that he intended to continue drinking alcohol on his release; he considered the recent assaults to be "*a minor hiccup*"; he blamed Michaela for the assaults, in that "*she knows what can cause these situations... I can only take so much, so lashed out*"; he was "*clean*" of drugs (which Ms Walsh was sceptical of); he had been diagnosed with psychosis, paranoia and anxiety; and that he had "*every intention of residing with*" Michaela on his release. It was Ms Walsh's professional view that there was "*no doubt*" that Kendall would assault Michaela again on release.
  111. Two weeks later, on 13 May 2021, the day before Kendall's sentencing, Ms Walsh completed OASys and SARA risk assessments. The OASys assessment was completed incorrectly and was inadequate in assessing Kendall's risk. In particular, it: lacked detail; failed to take into account Kendall's known history of violence; did not have regard to his strangulation of Michaela, which Ms Walsh had "*forgotten*"; and was completed on the basis of factual assumptions that Ms Walsh knew would not be accurate upon release (i.e. that Kendall would not be living with Michaela and would not be drinking or taking drugs). Ms Walsh concluded that Kendall's ROSH score was 'Medium' (meaning "*There are identifiable indicators of risk of serious harm. The offender has the potential to cause serious harm but is unlikely to do so unless there is a change in circumstances*"). The Second Defendant has since accepted that that assessment was incorrect and the assessment out to have been 'High' or 'Very High'.
  112. The SARA risk assessment was also incorrect and inadequate in assessing the specific risks to Michaela. Ms Walsh completed the SARA on an outdated version of the tool, and used a 'Yes', 'No' or 'P' (potential) scoring system, and neglected to use the numerical scoring system. Her assessment: lacked detail; failed to take into account Kendall's known history of violence, particularly in a domestic context; did not have regard to his strangulation of Michaela; and was completed on the basis of inaccurate facts, specifically that:
    - a. Kendall's abuse and violence had not escalated as it had consistently involved "*pulling hair and punching, generally to the face causing black eyes*" and had "*not increased in severity, yet!*";

- b. Kendall had not perpetrated a severe assault on Michaela, defined as causing serious physical injuries requiring medical attention;
  - c. Kendall had not used weapons nor made any threats to life;
  - d. Kendall had not displayed any homicidal or suicidal ideation.
113. Ms Walsh assessed Kendall's risk of imminent harm toward Michaela as 'Medium'. The Second Defendant has since accepted that the SARA assessment was incorrect and that the risk ought to have been 'High' or 'Very High'.
114. Taken together, the SARA and the OASys were a significant understatement of the risk that Kendall posed to Michaela. The assertion by Ms Walsh that Kendall remained a 'Medium' ROSH (i.e. in line with the assessment by Mr Arrowsmith on 23 August 2019), despite the transformation in the factual matrix since August 2019, was a clear indicator of its inaccuracy and ought to have immediately given the Second Defendant's officials cause for concern.
115. The OASys assessment was countersigned by [REDACTED]. [REDACTED] gave evidence in the inquest into Michaela's death that her workload at the relevant time was such that she would sign reports without reading them in full, and instead merely "skimming" them. Ms [REDACTED] could not recall whether or not she had read Ms Walsh's OASys assessment.
116. The PSR completed by Ms Walsh contained a number of statements that either contradicted the foundation of her OASys and SARA assessments, or were otherwise factually inaccurate:
- a. Kendall's "attitude concerns me, as his pattern of abusive behaviour is by no means a minor hiccup and it is clear from his history Mr Kendall can and does lash out violently at his partner, so although he states he takes full responsibility for his actions and hates himself for what he has done, it is clear from his interactions with me this is not the full picture";
  - b. She considered the police domestic abuse call out logs for the last 2 years were evidence of "an entrenched pattern of abusive behaviour towards his partner";
  - c. She had "serious concerns" about Kendall residing with Michaela "as this places her at a higher risk of future injury";
  - d. "Relationships are a risk factor for Mr Kendall and he needs to complete some intensive work around his distorted beliefs to enable him to have a healthy relationship in the future";
  - e. Substances were "part and parcel of his life" and a "catalyst" for offending, and that drugs continued to be a risk factor, with Ms Walsh reporting being concerned that Kendall was not, in fact, clean from drugs, despite his assertion to the contrary;

- f. Kendall *“lacked consequential thinking”* and had *“displayed unhealthy beliefs that it is acceptable to strike a woman”*;
  - g. Kendall’s response to previous supervision had been poor, and his record evidenced poor compliance with both police and probation.
117. These failures by the Second Defendant were not isolated to Michaela’s case. Not only were Ms Walsh and ██████████ responsible for similar failings in respect of other cases, but a number of domestic homicides (or other preventable female deaths) have been reported as having arisen from the Second Defendant’s inadequate systems for the assessment and management of risks. By way of examples only, the Domestic Homicide Review into Michaela’s death noted parallels with similar homicides arising from probation risk assessment failures, including the cases of Joseph McCann, Damien Bendell, Jordan McSweeney, the London Bridge attack, and Zara Aleena.
118. The PSR was also inadequate in that it: did not refer to the extent, frequency and severity of Kendall’s domestic violence and coercion and control; omitted reference to Kendall’s strangulation of Michaela and her statement that she thought she was going to die as a result; failed to advance the requests made by MARAC; did not make reference to the potential impact of domestic violence upon the Court’s sentencing powers; and prioritised rehabilitation over Michaela’s protection, and in circumstances where guidance stated that this would only be appropriate where the offender genuinely intends to reform their behaviour and there is a real prospect of rehabilitation being successful.
119. Ms Walsh did not recommend that Kendall be given a custodial sentence. Instead, she recommended that Kendall complete a 30-month community order, including the Building Better Relationships (“BBR”) programme, unpaid work, and a drug rehabilitation requirement. The Second Defendant has since accepted, in its Serious Further Offence Review, that Kendall *“posed an immediate risk to [Michaela] and would have been best managed on a period of licence to allow for stringent licence conditions to be put in place. The failure of Amanda Walsh... to acknowledge this within the PSR and the recommendation for a Community Order are a significant oversight in this case as no additional restrictions were put in place to manage the risk towards [Michaela]”*.

#### Kendall’s Sentencing

120. On 14 May 2021, Recorder Shepherd followed the PSR’s recommendation and sentenced Kendall to a 36-month community order. He also made a restraining order in respect of

Michaela's father. At that sentencing hearing, the Recorder stated, *inter alia*, that: Michaela needed protection from Kendall, although he was in a difficult position by virtue of the charges that had been brought and the resulting limit on his custodial powers; this was a "*hair trigger case*"; and directed that any breaches of Kendall's sentence and supervision must be brought back to court immediately and would be reserved to him.

121. The First Defendant did not issue a DVPN at the point in time of Kendall's release from prison upon sentencing. This was a missed opportunity to protect Michaela, particularly in light of the Recorder's comments.

#### The Second Defendant's Post-Sentencing Supervision of Kendall

122. Kendall continued to be supervised by the Second Defendant following his sentencing. Having been incorrectly categorised as posing a Medium ROSH by Ms Walsh, his case was allocated to the CRC. Had Kendall's risk been assessed correctly, he would have been supervised by the NPS rather than the CRC. The differences in management between CRC and NPS were significant: high-risk NPS-supervised offenders were seen at least weekly (compared with CRC's typical four-weekly minimum); they were eligible for and integrated with the NPS' MAPPA arrangements; and their supervising probation officers had access to broader information systems and multi-agency forums specifically designed for managing high-risk offenders.
123. On the basis of Ms Walsh having premised her PSR on the illogical factual assertion that Kendall would be homeless in Plymouth, Kendall's case was allocated to the Plymouth CRC office. This caused delay in allocating Kendall a probation officer.
124. On 18 May 2021, at the Cornwall CRC office, Kendall's case was allocated to a probation officer without any or any proper review of the case taking place. Had Kendall's case been reviewed at that point, it would have been referred back to the NPS as being a high-risk case that was not suitable for CRC management.
125. The following further failures then occurred in the management and supervision of Kendall:
  - a. Kendall's probation officer, Deborah Norton-Brown, was allocated Kendall two working days before she was due to go on annual leave, meaning that she would not be able to supervise Kendall in the critical window of him returning to Michaela's Home following a conviction that Michaela had initially supported and could, therefore, be punished for. No arrangements were made for another probation officer to supervise Kendall during her leave (which was when Kendall's murder of Michaela took place);

- b. Ms Norton-Brown conducted a cursory review of the PSR and did not read Kendall's risk assessment. This prevented her from being in a position to notify her manager and/or the NPS that the case had been inappropriately allocated to the CRC;
  - c. Contrary to policy and because of her imminent annual leave, Ms Norton-Brown conducted her initial interview with Kendall via telephone rather than in person;
  - d. In that interview, Ms Norton-Brown displayed a lack of professional curiosity, and failed to enquire as to key risk-related issues, such as Kendall's drug and alcohol use, and his domestic abuse of Michaela;
  - e. No risk assessments of Kendall were conducted prior to Ms Norton-Brown going on leave. That was particularly important in circumstances where the OASys and SARA assessments had been undertaken on the basis that Kendall was not living with Michaela nor taking drugs and were, therefore, no longer accurate and required updating immediately for the purpose of effective ongoing risk assessment and protection of Michaela;
  - f. No request was made of the First Defendant to consider issuing a DVPN;
  - g. No application was made to vary the community order (e.g. to seek a prohibited activity requirement preventing Kendall from attending Michaela's address, or an exclusion zone in respect of Cornwall).
126. The cumulative effect of these failings was that, in the 18-day period between Kendall's release from prison on 14 May 2021 and Michaela's murder on or around 1 June 2021, Kendall's case was not fully reviewed by, and nor was he seen face-to-face by, a probation officer.
127. On 19 and 25 May 2021, DCP IOM officers made unannounced visits to Michaela's Home. Both Michaela and Kendall stated that they did not wish to speak with officers. These visits were missed opportunities to seek a DVPN, given that they demonstrated coercion and control, and indicated that Kendall was unlikely to meaningfully engage with the requirements of his sentence.
128. On 26 May 2021, Kendall missed his initial appointment with the Second Defendant's unpaid work team, which he was required to attend as part of his sentence. This was not actioned in any way, which was a significant missed opportunity to identify the increase in Kendall's risk and his relapse in terms of alcohol and drugs. In light of Recorder Shepherd's express warning that this was a "*hair trigger case*" and that any breaches should be brought back to court immediately, the Second Defendant ought to have actioned this breach without delay. The failure to do so prevented the Recorder being informed of Kendall's non-compliance and

prevented the imposition of any further restriction on Kendall in advance of his murder of Michaela five days later.

#### Michaela's Murder by Kendall

129. On 31 May 2021, at approximately 22:10, Michaela telephoned her friend Claire Basnett and whispered that Kendall was "on one", that she was frightened, and that Kendall had tried to strangle her. She asked Ms Basnett to call the police.
130. Ms Basnett then heard Kendall enter the room, heard Michaela screaming and calling out 'DON'T COME NEAR ME LEE' and 'STOP IT LEE, GET OFF ME'. She heard a dull thud, followed by Michaela's screams sounding more distant or like they were coming from a different position (suggesting that the mobile phone had moved). Ms Basnett ended the call to enable her to call the police.
131. Ms Basnett was in the Canary Islands and thus unable to contact police forces in England. She contacted Crimestoppers UK at approximately 22:19, asking them to relay this information to DCP.
132. Crimestoppers repeatedly telephoned DCP, using numbers provided by DCP for this purpose on or around 26 January 2021, but their calls went unanswered. They eventually made contact with DCP via 101 at approximately 22:47 and reported that: there was an ongoing domestic incident; Kendall had recently come out of prison for an attack on her; that Michaela was being strangled by Kendall; and that screaming could be heard.
133. Upon receiving the call from Crimestoppers, DCP officers correctly graded the call as requiring an immediate response, which required officers to attend the address within 20 minutes of the call having been received. However, the following failures in DCP's emergency response occurred from 22:47 onwards:
  - a. The radio dispatch officer ("**RDO**") accepted the log, but delayed actioning it in order to make investigations, including in respect of calling Ms Basnett back. Those actions should have been undertaken following the immediate dispatch of officers.
  - b. Contrary to the DCP's policy and training, the RDO did not utilise the STORM system to check for available units to dispatch in response to the call. Accordingly, no unit was dispatched immediately, despite units being available.

- c. At 22:58, DCP's STORM system generated an alert due to 10 of the 20 minutes (of an 'immediate' response) having elapsed without officers having been allocated and dispatched. Officers were still not dispatched.
  - d. The incident was not classified as high-risk notwithstanding that it was a domestic incident involving a woman known to be at high risk of serious harm from a named perpetrator, with a report of strangulation and screaming. The property's warning markers ("*MARAC, drugs x2, mental health, DASSP [Domestic Abuse Serious Serial Perpetrator], conceals x2, violent x2, location ban x4, weapons x4, ailment, risk to child, no more PNDs, escaper*") could and should have been identified as rendering the call particularly high risk.
  - e. Contrary to DCP's policies and training, the call log was not brought to the attention of: the duty supervisor within the command and control unit; the local duty sergeant; nor the duty inspector.
  - f. At 23:07, PC O'Hagan and PC Snowden were dispatched, some 20 minutes after DCP received the call from Crimestoppers. They arrived at Michaela's Home at 23:23, 36 minutes after DCP received the call from Crimestoppers.
134. The emergency attendance by PC O'Hagan and PC Snowden was inadequate, demonstrated a lack of professional curiosity, failed to properly assess and act upon the risk to Michaela, and sought to blame her for the violence that Kendall inflicted upon her. Upon attending the address, the officers received no response to their knocks on the front and back doors. They could not hear anything and there were no immediate signs of disturbance that they could see. The officers are recorded on their BWV as discussing the likely risk to Michaela: PC O'Hagan stated that she had "*visions*" of Michaela "*lying there and him covering her mouth and stuff. But what can you do? She doesn't help herself... If we could get in, she wouldn't speak to us*", with which PC Snowden agreed.
135. PCs O'Hagan and Snowden failed to exercise their powers of entry and search under section 17(1)(b) and/or (e) of the Police and Criminal Evidence Act 1984 ("**PACE**"): s.17(1)(b) enables the entering and searching of premises for the purpose of arresting a person for an indictable offence, in circumstances where there are reasonable grounds for believing that they are on the premises, and s.17(1)(e) empowers officers to enter any premises for the purpose of saving life or limb or preventing serious damage to property (without the need for reasonable grounds for believing that any particular person is on the premises – see subsection (2)).
136. The officers should have exercised their PACE powers, having regard to the fact that:

- a. The incident had been graded as requiring an immediate response.
  - b. They were responding to a report of strangulation and screaming in the context of domestic violence.
  - c. The officers knew Michaela and Kendall and had attended previous incidents at Michaela's Home. They were, therefore, aware of the high likelihood of Kendall having harmed, or imminently harming, Michaela.
  - d. DCP held knowledge of Kendall's sustained domestic violence, which had previously involved strangulation, knives, and threats to kill.
  - e. The officers themselves expressed the view that they believed Michaela may be in the process of being assaulted and restrained in a way that prevented her from seeking help from the police.
137. The officers did not: seek supervisory input before departing; speak with any neighbours to corroborate the reports of recent screaming in the property; seek to contact Michaela or her friends or family (which could have resulted in the First Claimant disclosing that the landlady lived nearby and had a key to Michaela's Home); contact hospitals; or otherwise take any steps to inform whether or not to enter the property pursuant to s.17 PACE. Instead, the officers made an entry requesting that a concern for welfare visit be made in the morning,
138. Thereafter, the call log was not actioned with sufficient urgency, given the facts known to DCP:
- a. The following morning, at 07:54, a check of available units showed none were available to attend Michaela's Home. Contrary to DCP policy, this was not escalated to a supervisor or otherwise reviewed in light of the high-risk nature of the call, which concerned domestic violence and reported strangulation and, therefore, gave rise to a real and immediate risk to life.
  - b. The log remained unactioned until PCs Hutchens and Williams attended Michaela's Home at 14:50. They knocked on the door but received no answer and left the property.
  - c. At 16:41, the RDO reviewed the availability of units and noted that none were available. Contrary to DCP training and policy, the RDO did not advise the sergeant and inspector of the outstanding and unresolved domestic incident that required attendance.

- d. Officers attended again at 19:14. They were both familiar with Michaela, her home, and had attended previous incidents there. They did not receive a response to knocks on the door and therefore departed, instead of entering the property.
  - e. At 20:24, Anne Hall (the Second Claimant and Michaela's mother) telephoned DCP reporting her concerns for Michaela's welfare and explaining that she believed Michaela to be injured inside her home. She was told that officers would attend, and the call was initially marked as requiring a 'prompt' attendance. However, the call was subsequently downgraded as requiring no attendance given the attendance at the property at 19:14. Michaela's mother was not informed of this.
  - f. At 21:28, the STORM system brought this telephone call to the attention of the control room supervisor. Contrary to DCP training and policy, the call from the Second Claimant was not raised with the duty sergeant and inspector.
  - g. Due to their concern for Michaela's welfare, the First and Second Claimants visited Michaela's Home. As soon as they arrived in Charlotte Close, several neighbours approached them to report their concerns about Michaela, and told Anne and Peter that Michaela was missing. As a result, at 22:21 the Second Claimant called DCP again to say that she had been made aware that Michaela had been beaten up by Kendall the previous day, and stated that she and Michaela's neighbours believed Michaela to be injured in her home. She requested that police gain entry to Michaela's Home. However, an officer told her that they could not enter the property without a warrant (which was incorrect).
  - h. Although the officer did say that DCP would nonetheless attend, an officer was allocated to attend Michaela's Home but then, without explanation, detached themselves from the log without attending or informing the control room, thus preventing a replacement unit from being allocated to the log. No officer called Anne back to update her or to ascertain the basis for her escalating concern.
139. In light of DCP's statement that they could and would not enter Michaela's Home without a warrant – and fearing the worst – the First Claimant obtained a key from Michaela's landlady, who lived nearby. Peter entered the property and found Michaela's body.
140. There was obvious trauma to her face. Her body was blood-stained. The scene bore the hallmarks of extreme violence: there were damaged cushions and loose feathers in the living room (which officers had not observed at their visit on 14:50 on 1 June 2021, despite the sofa being visible from the front window), food debris on the carpet in the hallway, a damaged

bathroom door with diluted blood in the sink, broken crockery, blood-stained baby wipes in a bin bag in the kitchen, and a damaged bedroom door.

141. At 22:38, Anne called police to say Michaela had been found dead. Paramedics attended within approximately ten minutes, and found Michaela's parents in a state of significant distress. Police arrived shortly afterwards. Michaela was formally pronounced dead at 22:56.
142. Kendall was arrested on suspicion of murder on 2 June 2021. He pleaded not guilty. On 28 January 2022, following a 10-day trial, he was convicted for Michaela's murder and sentenced to life imprisonment with a minimum term of 21 years.

#### The Inquest into Michaela's Death

143. An inquest into Michaela's death was heard before the Senior Coroner for Cornwall and the Isles of Scilly, Andrew Cox ("**the Senior Coroner**") between 26 February 2024 and 11 March 2024. On 22 March 2024 the Senior Coroner delivered a 54-page judgment containing his findings and reasoned conclusions, along with a completed Record of Inquest. Whilst not binding on this Court, the Claimants rely upon the findings of the Senior Coroner as highly persuasive, and also rely on the oral evidence given by many of the relevant witnesses, on oath, in the course of the inquest.
144. The Record of Inquest recorded Michaela's cause of death as "*Stab Wound to the Right Eye Socket and Brain*". The Senior Coroner heard evidence from a forensic pathologist and neuropathologist, who concluded that Michaela died from a stab wound inflicted to the right eye, which penetrated the eye socket and her brain, to a depth of approximately 14 centimetres. Michaela also had bruising consistent with being grabbed by the throat, and multiple other injuries. Once the fatal wound had been inflicted Michaela would have died within 30 minutes. The injury was not survivable, as the knife severed Michaela's right middle cerebral artery.
145. The Senior Coroner recorded the following conclusion in the Record of Inquest:

*"Michaela Hall was unlawfully killed. Shortcomings in a recruitment process meant she was employed in a role she was known to be temperamentally unsuitable for, given an inability to respect and maintain professional boundaries. Subsequently, a pre-sentence report was wrongly completed by an individual who was insufficiently qualified or experienced to undertake the task. The risk of serious harm Michaela's partner posed to her was wrongly assessed as medium rather than high. This meant her partner's management in the community was inappropriately allocated to a Community Rehabilitation Company rather than the National Probation Service. Had the shortcomings and errors not occurred, it is more likely than not that Michaela would not have died when she did."*

146. The Senior Coroner also made a number of relevant findings in his judgment, upon which the Claimants rely, including but not limited to:

*In respect of the First Defendant:*

- a. DCP did not do everything it could have done, particularly in respect of charging Kendall with various criminal offences;
- b. There were missed opportunities to seek a DVPN/DVPO;
- c. The dispatch of officers on the night of 31 May 2021 was unduly delayed;
- d. The call to DCP was not classified as high-risk and was not, therefore, brought to the Duty Inspector's attention;
- e. Officers who attended Michaela's Home on 31 May 2021 should have entered the property in accordance with their powers under s.17 PACE;

*In respect of the Second Defendant:*

- f. Assessments by the Second Defendant failed to give sufficient weight to the risks that Kendall posed;
- g. Ms Walsh should not have completed the PSR, as she was under-qualified and insufficiently experienced to do so;
- h. The PSR and its underlying risk assessments were premised upon assumptions that were "*simply wrong*";
- i. Reviews of Ms Walsh's assessments were inadequate;
- j. Kendall presented a high level of risk in the community;
- k. Kendall should have been managed by the NPS as a result of his high risk. He should have been allocated to the NPS in the first place and, in any event, the CRC should have referred his case back to the NPS;
- l. Kendall should have had more controls imposed following his sentence and should have been managed through the MAPPA process.

147. On 27 March 2024, the Senior Coroner issued Regulation 28 Reports to Prevent Future Deaths ("**PFD Reports**") to, *inter alia*, DCP and the MOJ. The Claimants rely on the PFD Reports, including the Defendants' responses to the same, as further evidence of the failures that caused or contributed to Michaela's death.

**(C) THE CLAIM FOR BREACHES OF ARTICLES 2, 3 AND 8 ECHR, CONTRARY TO S.6 HRA 1998**

148. The Human Rights Act 1998 (“**HRA 1998**”) gives domestic effect to the rights guaranteed by the European Convention on Human Rights (“**ECHR**”). In particular:
- a. Section 6(1) HRA 1998 provides that “*It is unlawful for a public authority to act in a way which is incompatible with a Convention right*”. Section 6(6) provides that an “*act*” for the purpose of s.6(1) “*includes a failure to act*”.
  - b. Section 7 enables “*a victim of the unlawful act*” to “*bring proceedings against the authority under this Act*”.
  - c. Section 8 enables a court that finds an act of a public authority to be unlawful to “*grant such relief or remedy, or make such order, within its powers as it considers just and appropriate*”. Damages are to be awarded where they are necessary to afford just satisfaction to the person in whose favour the award is made.

Article 2 ECHR

149. Article 2 ECHR stipulates that “*Everyone’s right to life shall be protected by law*” and this includes a positive duty to protect life in circumstances where the state’s operational or systems duties are engaged.
150. The operational duty requires public authorities to take preventative measures to protect an individual where they are aware, or ought to be aware, of a real and immediate risk to their life from the criminal acts of a third party (see Osman v United Kingdom (1998) 29 EHRR 245 (GC)).
151. The First Defendant has asserted that its actions were not capable of causing Michaela’s death. This is not accepted by the Claimants but, in any event, causation forms no part of the test for a breach of the operational duty: the requirement on the Defendants is “*to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk*” (per *Osman*), and it is sufficient to establish that the failures in question reduced the chances of avoiding the death.
152. The Article 2 systems duty requires the state to have appropriate legal regimes and administrative systems in place to provide general protection for the lives of those in its jurisdiction. It is capable of encompassing not just the existence of high-level systems and frameworks, but also their operation and implementation on the facts of any given case.

153. The systems duty extends to effective criminal law provisions to deter the commission of offences against the person, backed by law-enforcement machinery for the prevention, suppression and punishment of breaches of those provisions, including the frameworks within which the First and Second Defendants assess and manage risk, share information, and co-ordinate their responses to known threats.

#### Article 3 ECHR

154. Article 3 ECHR ('Prohibition of torture') provides: *"No one shall be subjected to torture or to inhuman or degrading treatment or punishment"*. As with Article 2 ECHR, the state's Article 3 obligations include a positive duty to protect individuals from treatment amounting to torture or inhuman or degrading treatment or punishment in circumstances where the state's operational or systems duties are engaged.
155. The operational duty under Article 3 mirrors the structure of the Article 2 operational duty: it requires public authorities to take preventative measures to protect an individual where they are aware, or ought to be aware, of a real and immediate risk of being subjected to treatment that reaches the Article 3 threshold of severity.
156. Serious and sustained domestic abuse of the kind experienced by Michaela – comprising repeated battery, non-fatal strangulation, coercive and controlling behaviour including financial abuse, isolation from family and friends, and destruction of property – satisfies the Article 3 severity threshold.
157. The systems duty under Article 3 requires the state to put in place effective criminal law provisions and supporting institutional machinery to prevent, suppress, prosecute and punish treatment prohibited by Article 3. The systems duty is not a purely legislative obligation: it extends to the institutional frameworks within which public authorities assess risk, share information, co-ordinate responses and supervise those known to present a threat of treatment prohibited by Article 3 to identified individuals. As with Article 2 ECHR, the systems duty encompasses both the existence of systems and their operation and implementation on the ground.

#### Article 8 ECHR

158. Article 8 ECHR ('Right to respect for private and family life') provides:
- "1. Everyone has the right to respect for his private and family life, his home and his correspondence.*
- 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of*

*disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."*

159. Article 8 imposes both negative and positive obligations. The positive obligation requires the state actively to take steps to secure respect for private and family life including, in appropriate circumstances, protection from interference by third parties.
160. The positive duty under Article 8 ECHR includes a duty to maintain, and apply in practice, an adequate legal framework affording individuals protection against acts of violence by third parties, thereby protecting their physical and psychological integrity. Article 8 ought, therefore, to be considered alongside Articles 2 and 3 ECHR in the domestic violence context.
161. Article 8 also imposes obligations on the state with respect to the family life of those (particularly children) who are affected by domestic violence. The failure of the state to take all reasonable steps – including a proper assessment of a parent’s needs and the provision of appropriate support – to facilitate a child to return safely to his family home engages his rights under Article 8.

#### Breaches of Articles 2, 3 and/or 8 ECHR

162. By no later than 28 October 2020 (the date of the first MARAC), the Defendants knew or ought to have known of a real and immediate risk that Michaela would be subjected to treatment that was of a severity that contravened Article 3 ECHR, and that there was a real and immediate risk to her life. Those risks were apparent having regard to the facts and matters set out in these Particulars of Claim, including but not limited to: (i) Kendall’s recorded history of domestic abuse, prolific offending and use of weapons; (ii) the repeated reports of his violence toward Michaela; (iii) the cumulative high-risk DASH assessments completed by the First Defendant; (iv) the identification of Michaela at MARAC as a victim facing an imminent risk of serious harm or death; (v) the express disclosures made by Michaela to the First Defendant's officers; and (vi) Kendall’s intention to reside with Michaela upon release from custody.
163. The Defendants were, by reason of their knowledge and the powers and resources available to them, under an operational duty under Articles 2 and 3 ECHR to take all such measures within the scope of their powers as could reasonably have been expected to avoid those risks and – for reasons set out in these Particulars of Claim – failed to do so.
164. For all the reasons set out in these Particulars of Claim, both Defendants did not have an adequate system in place for the management, prevention or mitigation of risks posed by

domestic violence offenders who posed a known risk of homicide, and for protection of the victims of such offences. Adequate, ECHR-compliant systems were required to:

- a. Identify offenders who pose those risks at the earliest opportunity;
- b. Implement schemes and protective measures aimed specifically at identifying and assessing the risks posed by domestic violence offenders with a high level of accuracy, given the potential consequences for their victims;
- c. Utilise effective inter-agency arrangements to share risk relevant information, in a way that is not constrained by an offender's 'current' status (e.g. currently serving a criminal sentence, or being a 'statutory' IOM offender) nor incorrect assertions about the application of data protection laws in such high-risk scenarios;
- d. Take a proactive approach to the provision of rehabilitative services (such as drug and alcohol detoxification), both in custody and when in the community (whether or not the individual is on licence) in circumstances where those factors are relevant to risk and likelihood of offending;
- e. Take a proactive approach to the provision of housing in an appropriate location, in circumstances where that is relevant to the risk and likelihood of offending. In particular, offenders who remain under the control of the First or Second Defendant should not be released to the home of a known victim, either at all or without appropriate protective measures having been put in place beforehand;
- f. Utilise victim protection measures (including but not limited to DVPN and DVPOs) at all available opportunities, and considering those measures in a proactive and protective, rather than reactive, way;
- g. Ensure that prolific domestic abuse and violence offenders are held accountable for all known breaches of licences, sentences, and criminal offending, particularly in light of the fact that they are unlikely to be held accountable for the entirety of their offending against victims which, because of the controlling and coercive nature of domestic abuse, is unlikely to be fully reported to the Defendants;
- h. Actively consider and proceed with evidence-led prosecutions, even in circumstances where a victim is unable to (and/or unwilling to, to the extent that those issues are different) pro-actively support criminal charges, prosecutions, and holding individuals accountable for breaches of sentences and/or licence requirements;

- i. Ensure that those who are responsible for considering criminal charges, or the creation of files to be passed to the CPS for consideration of charges (which contain evidence for, and suggestions of, appropriate criminal charges) are aware of, *inter alia*: the significance of accepting alternative lesser pleas; failing to charge an offender for all incidents and offences (rather than the most recent or more serious one); the importance of coercive and controlling behaviour offences; and the impact of those matters on likely sentencing of offenders;
- j. Involve sufficiently qualified employees, agents, or officers, given the complexity of identifying, managing and responding to domestic abuse, violence and coercion and control;
- k. Be underpinned by regular, rigorous and effective training on domestic abuse, violence and coercion and control, including but not limited to: warning signs in relation to such conduct; high-risk behaviours and indicators; patterns of escalating violence; the likely reasons for non-engagement with agencies; not assuming that non-engagement equates to consent to, or a desire for, abusive relationships to continue; the need for agencies to approach and deal with victims in a way that is sensitive to the various stages of domestic abuse cycles; and the impact of child removal and child protection upon the perpetrator and their other domestic abuse victims;
- l. Be underpinned at all stages by a knowledge of the particular features of domestic violence cases;
- m. Be informed by, and founded upon, gender-based violence and trauma perspectives, which include but are not limited to the need to avoid victim blaming, or otherwise assuming that the victim is responsible for, or consenting to, the abuse and violence;
- n. Have an awareness of, and/or give consideration to, the High Court's inherent jurisdiction in cases where the Defendants are unable to protect victims using their existing statutory powers.

165. The First and Second Defendants did not have ECHR compliant systems in place. If and to the extent that their systems included elements of an appropriate system as set out above (which the Claimants do not accept), those systems were not operated and implemented in any, or any effective, way during the Relevant Period, in contravention of Articles 2 and 3 ECHR.

166. The First and Second Claimants, and Michaela's children, are indirect victims of the breaches of Michaela's rights under Articles 2 and 3 ECHR: they were close family members who, by

reason of the Defendants' breaches, had to witness: Kendall's abuse, violence and coercion and control; its effects upon Michaela; its effects upon themselves and their wider family; and, in the case of the First and Second Claimants, the horrifying moments when Michaela's body was found by the First Claimant and removed from Michaela's Home. They have all suffered pain, distress and bereavement as a result of the ill-treatment of Michaela, and have been diagnosed with recognised psychiatric illnesses. They continue to be affected by the impact of the breach of Michaela's rights.

167. The matters set out in these Particulars of Claim also amounted to a breach of Michaela's rights under Article 8 ECHR, as well as to a breach of the Article 8 ECHR rights of the First and Second Claimants and Michaela's children. For reasons set out in these Particulars of Claim, their family life with Michaela was repeatedly and traumatically severed as a consequence of the Defendants' failures in respect of managing the risks posed to them and to Michaela.
168. In respect of the aforementioned breaches, the Claimants rely, in particular, on the ECtHR judgment of *JS v Slovakia* (Application no. 35767/23), in which the First Section of the ECtHR held, in the context of criminal proceedings for domestic violence offences, that:
- a. Public authorities must have regard to the "*particular features of domestic violence cases*" and consider the relevant matters "*from a gender-based violence perspective*". That should include having regard to any relevant information, such as a "*continuous pattern*" of violence, and the dynamics of any violence, abuse and coercion and control.
  - b. A failure to "*address interrelated incidents that fall under the same pattern of aggressive behaviour amounts to a disregard of the obligation to submit those cases to the careful scrutiny required of the domestic courts under the Convention*".
169. Although *JS* was concerned with a claim for a breach of Article 3 ECHR, those principles apply equally to the Claimants' claims under Article 2 and 8 ECHR.

#### **(D) LOSS, DAMAGE AND INTEREST**

170. By reason of the First and Second Defendants' breaches specified above, loss and damage has been suffered by Michaela's estate; the First Claimant; the Second Claimant; and Michaela's children (Shaun Hall and [REDACTED]). In particular:
- a. Michaela, who was born on 20 October 1971, sustained significant pain and suffering in the course of the repeated and sustained assaults on her, which escalated in both

severity and frequency with time, ultimately resulting in an extremely violent death following the fatal attack on her, which took place either on or following 31 May 2021.

- b. Over and beyond the ordinary grieving and bereavement that Michaela's family and friends have suffered, Michaela's parents (the First and Second Claimants) and sons (Shaun and [REDACTED]) witnessed the regular and escalating assaults on Michaela and/or their aftermath. In respect of the First and Second Claimants, this included them being responsible for entering Michaela's Home and suffering the trauma of finding her violently assaulted dead body. All four individuals have suffered from psychiatric injury in consequence.
- c. Shaun Hall and [REDACTED] have lost their mother, at an age and in circumstances which they should not have been exposed to.
- d. Both children were removed from Michaela's Home due to the risks that Kendall posed. This prevented them from growing up with, and spending the same amount of time with, their mother before she died.

171. The Claimants seek declarations that the First and Second Defendants breached the ECHR rights of Michaela, the First and Second Claimants, and Shaun Hall and [REDACTED].

172. Damages in order to achieve just satisfaction are claimed:

- a. By the Claimants on behalf of Michaela's estate:
  - i. For breaches of Michaela's rights as a direct victim under Articles 2 and 3 ECHR;
- b. By the First and Second Claimants, in their personal capacity:
  - i. As indirect victims of the breaches of Michaela's Article 2 and 3 ECHR rights; and
  - ii. As direct victims in respect of their own Article 8 ECHR rights; and
- c. On behalf of Shaun Hall and [REDACTED]:
  - i. As indirect victims of the breaches of Michaela's Article 2 and 3 ECHR rights; and
  - ii. in respect of breaches of their Article 8 ECHR rights.

173. Particulars of loss and damage are set out in the Schedule of Loss accompanying these Particulars of Claim. The Claimants reserve the right to provide further particulars of loss and damage in due course.
174. Interest is claimed pursuant to section 35A of the Senior Courts Act 1981 for such a rate and period as the Court sees fit.

**SCARLETT MILLIGAN**  
**39 Essex Chambers**

**Statement of Truth**

I believe / the Claimants believe that the facts stated in these Particulars of Claim are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed: ..... *CKnight* .....

Name: ..... Catherine Knight, SOLICITOR .....

Date: ..... 08 May 2026 .....