

**MAURICE JOHN KIRK**

**Claimant**

**and**

**CHIEF CONSTABLE OF SOUTH WALES CONSTABULARY**

**Defendant**

**Further Particulars in reply to the Defendants request 21 June 2017.**

**As Order by the Court 28 January 2019**

**to be served upon the Defendants and submitted to the Court**

**by 4pm on 25 February 2019**

**Submission of Further Particulars by the Claimant to be used with**

**the Further Particulars by Counsel for the Claimant**

1. The Claimant notes the Court has made Order saying that the Defendant's request 21 June 2017 is excessive. Additionally much of the answers to the issues requested by the Defendant are found in the Defendant's own documents such as the Police Summary of Evidence June 2009 and the MAPPA Executive Summary dated 24 August 2010 as supplied by the Defendant's lawyers to the Claimant during civil proceedings
2. The requests are answered by an overall summary, as the more appropriate way to deal with so very many overlapping issues.

## **Malice in the Actions by the Defendant**

3. The actions of the Officers involved in the main decision making and planning show no genuine belief, and it follows as obvious that there is malice and dishonesty.
4. When all UK Police Forces were well aware that the issues with older firearms and the decommissioned Lewis gun was a flaw in the Law. As is obvious and explained by the Law Commission's 2015 Consultation LC363 on firearms law. The Defendant acted with bias and malice, arrested and Remanded and then tried to wrongfully convict the Claimant knowing there was no honest or genuine course in law for such actions, by improperly and maliciously trying to confuse what the law was regards how the Lewis gun Exhibit 1 could be legally deactivated, as were the batch of five Lewis guns from which it came.
5. All UK Police Forces were well aware that the law was flawed to even mean too many guns that are regarded by Law as deactivated and do not need a certificate, can sometimes be easily made to fire as explained in the Law Commission's Consultation LC363 of 2015 on reforming firearms law.
6. Also explained in the Law Commission's Consultation 2015 is that although the Home Office approved two proof houses can be used as evidence of deactivation, the Law Commission says page 3 and 1.12 that there is

“(4) the failure in the Firearms (Amendment) Act 1988 to impose a legal obligation for the firearms to be certified as having been deactivated to a Home Office approved standard;

Law Commission page 3 of LC363 printed 15 December 2015

7. The authorities in England (from Nottinghamshire Police to the CAA) did not act with the malice of the Defendant but rather reacted more proportionately to clarify the situation and then saw no need for any arrest or legal action to be taken regards any party.

8. However when all UK Police Forces were well aware that the real issue was that the law was flawed, the Defendants attempted to manufacture all manner of information to confuse so that they could act maliciously to harm the Claimant
9. The Defendant put effort into implying no proof house markings meant it was illegal instead of admitting the truth that because this Lewis gun was deactivated under the older legislation it did not need the Home Office approved proof house markings. When Mr Scott was under cross examination by Mr Kirk Mr Scott agreed the firearm could not fire at the material time of the receipt of the Lewis gun.
10. It is obvious that the conduct of Police was not simply inadequate, but rather as Firearms law was such a hot topic for discussion, were well aware the law was flawed and were misleading all parties by focusing on whether the Lewis gun was deactivated to Home Office standards and hiding why the Lewis gun did not need to be deactivated to the Home Office standards.
11. The Police College advise UK Police Forces and their website says for example:-

“Firearms deactivated by other means (without proof house marks) may no longer fulfil the definition of a firearm and thus no longer require domestic authority to possess/acquire/sell etc”
12. The Defendant acted maliciously and dishonestly in presenting information regards how although the ingenuity of other people to make a decommissioned Lewis gun fire, that did not mean it was not deactivated, but rather that the Law was flawed and when all UK Police Forces knew the problems of flawed Law. Yet malice was displayed that when all UK Police forces knew the issues was that the law was flawed, the Defendant put huge effort into trying to claim that the Claimant should serve a ten year prison sentence.

13. It follows the Defendant also knew that sometimes the mechanisms of the gun can be working, but the gun does not fire. And when Foxy established the decommissioned Lewis gun was gone, the Defendant was still too desperate in trying to manufacture information to maliciously imply risk and illegality.
14. Regards what normal people would believe about a sale of any item is an indication that the Defendants did not and do not believe their own words. The delay from the Defendant's alleged August 2008 advertisement so that nearly a year later most people would expect that any item advertised that long ago to have been sold, and add to that Foxy confirming the Lewis gun as "gone" dated 29 and 30 May 2009 is evidence of no genuine belief that the Lewis gun was at the Claimant's home, and there was obviously no genuine belief at the time or now that a raid and arrest as did occur, and the Remand in custody that was aggressively sought as a documented part of the police plan, was necessary or proportionate.
15. In any community risk assessments generally, those people who start acquiring weapons are seen as becoming an increased risk. Whereas the Defendant alleges that the Claimant was doing the reverse, of selling the Lewis gun and also selling the Lewis gun to a museum or like enthusiasts.
16. It should also be noted that Mr Cooper says that the decommissioned Lewis gun could not fire when he received it.
17. The detail of the raid on the home is important evidence of malice aimed to damage the Claimant because the Defendants actions were unjustified, as a result of an excessive use of unsubstantiated malicious assertions:-
  - a. Any normal neighbours would not want the Claimant living there in future
  - b. Any normal wife would not want her husband living there in future regardless of innocence or guilt, because the intrusion and disruption from being falsely accused is far too great. In addition to a spectacular

armed raid that would frighten neighbours and the Claimant's wife and child there were around twenty five officers at the home for two days.

- c. Generally Social Services Children's Departments by policy do not respond to lay neighbours but only act on information from public bodies like schools, the NHS and police. Police quite needlessly and so seemingly maliciously and dishonestly pounded Social Services with unsubstantiated assertions of risk regards the Claimant posing to the daughter at that time, which they can blandly assert but cannot then or now substantiate with credible detail. Social Services do not intervene just because family members could merely act differently, or do not get on, or are difficult or eccentric or even have a revulsion for each other. Yet police tried to trigger the process for Social Services to take the child into care and then the wife would have to argue a legal case why she should have the child back. And no normal wife would put up with that potential so to force upon the family that the Claimant be not welcome in the home. The Social Work MAPPa minutes June 2009 shows Social Services can view the Claimant's convictions as minor and his general conduct as not unreasonable and despite police unsubstantiated assertions that the Claimant was not actually a fire arms risk It is follows that as police have been unable to at any time substantiate a proportionate risk by the Claimant to the child for their actions, that this excessive response of a prolonged raid with Social Services forced to attend, was intended as a malicious act to break up the family and cause the wife distress and so to chose, as would any normal wife, to not allow the husband to return.

18. The main Officers controlling the decision making and planning knew that the Claimant was viewed as eccentric and well known for eccentric comments who lived engrossed with WW1 and WW2 aircraft and also promoted that era's sense of humour, even with imitating the WW2 serving Prime Minister Winston Churchill's photograph holding a similar gun. The Officers involved in Decision making and planning knew there was no risk and cannot substantiate any serious risk in the context of the MAPPa Social Work

minutes seeing the Claimant as only convicted of minor offences, that the Claimant was not a fire arms risk and the CPS had advised that some of the Claimant's recent actions (presumably that police complained of) were legal.

19. The Defendant was malicious and did not believe their own words were true for many reasons including:-

- a. The Defendant was unable to prove the basic issue that the Exhibit 1 Lewis gun was actually the Lewis gun previously owned by the Claimant.
- b. The Defendant was aware, (as were others) that the Lewis gun was in a different condition and looked different to the decommissioned Lewis gun that Claimant had owned.
- c. That evidence suggests the Lewis gun was painted from silver to black to make it look admissible at trial at Cardiff Crown Court.
- d. There was witness evidence that the Lewis gun could not fire while in the condition from leaving the Claimant's ownership at Cardiff airport.
- e. The Lewis gun once recovered by South Wales Police was not transported around UK as if South Wales Police believed it was a firearms weapon
- f. Additionally, at the end of each Cardiff Crown Court Trial day the Lewis Gun Exhibit 1 was thrown over the shoulder of a single Officer who then walked out and in the streets, so to show they did not transport the Lewis gun Exhibit during trial by the correct procedures for a firearm or machine gun (to be transported securely by a number of Officers) and the Lewis gun Exhibit 1 at Trial was not transported in and out of Court as if they believed it to be an illegal firearm

- g. When all police forces in the UK were involved in the hot debate about the need for reform of firearms law so that it was obvious the real issue was that the law was flawed to allow such as the Lewis gun which has been decommissioned under earlier legislation, to remain legal
  - h. Honest risk assessments use an accurate and fair version of the full history where the Defendant knew the Claimant was eccentric and the Defendant knew Claimant was not the level or type of risk that they claimed. These false claims are seemingly endless but most obvious are when it came to MAPPA 3 level 3 where it is very obviously that the Claimant was not one of the most dangerous people and it is also obvious that there was no genuine need to take the daughter into care.
20. Yet the Defendants still proceeded with constantly seeking Remand and opposing bail without good reason.
21. Each time a potential of bail arose the Defendants were giving false assertion of risk, to seek Social Services be ready to take the daughter into care. That must have been false as the Defendant could not then or now substantiate what the unsubstantiated risk that they assert.
22. Yet the Defendant still continued with prosecution when all UK Police forces know it is the law which is flawed as opposed to weapons that are deactivated under older laws being illegal and the Defendant hid that from the Court.

**Written Comments and unsubstantiated assertions to besmirch and damage the Claimant**

23. The main Officers involved in decision making and planning such as Suzanne Hughes and others must have known the Claimant was merely eccentric and not a risk and should interpret all in that light and so we can see bias malice and dishonesty trying to besmirch and damage the Claimant with comments in the documentation that are also hurtful.

24. What is obvious is that the whole context of the Claimant owning a DH2 and Lewis gun is from the Claimant being patriotic to the UK Government and HM Forces and respecting those who gave their lives for our Country particularly around the Battle of the Somme and this is done via respectful remembrance occurs via the main established Air Shows and Air Museums such as where the DH2 with it's Lewis gun are now kept. During WW1 the short lived DH2 with it's Lewis gun was the main protection for the soldiers in the months leading up to the Battle of the Somme, because the DH2 could out turn the enemy aircraft and return fire with another advantage of being the only aircraft with a forward pointing gun, so making a substantial difference at a vital time. But while the Claimant spends his time energy and money in supporting this patriot activity and remembrance of our fallen heroes, the Defendant maliciously defame the Claimant to assert unsubstantiated claims as if fact that the Claimant is anti-establishment.
25. The Claimant seeks an apology for claims that he is anti establishment, with corrections giving appropriate recognition that the Claimant is patriotic and confirmation that police records and the Police National Computer have now been corrected.
26. Parliament intends that public bodies and particularly police shall be accountable and shall also be accountable through the Courts. The Claimant seeks an apology (with proof of corrections to police records) for any suggestion that pursuing a civil legal action against any pubic body or police as Parliament has intended is anti establishment or irrational or improper.
27. The MAPPA Social Work minutes show Police say the Claimant is a risk because he publicises the wrong that Police do in the Media. When the UK Media industry wants increased public funding from Parliament to do just that.
28. The MAPPA Executive Summary and Dr Tegwyn Williams try to say that the Claimant does wrong or is a risk because the Claimant says the Chief Constable acts unlawfully and so tries to take her and police before the civil courts when Parliament through the Police Act 1996 intends that taking the

Chief Constable to the Civil courts and making allegations and arguing issues regards the conduct of the Chief Constable, is a correct lawful process for accountability

29. Claimant as part of his plan to hold the Chief Constable to account, as is Intended by Parliament, asked the Judge Chambers in the Autumn of 2008 to Order that the Chief Constable sign the affidavit that was a summary, where the Claimant did this so that the Chief Constable could be personally held to account for an untrue or misleading account. Yet when the Chief Constable signing the Affidavit is what the Court Ordered, the MAPPA Executive Summary is deceitful in saying it was Dolmans idea as opposed to a Court as a way to falsely accuse the Claimant of being irrational and so police use deceit to present him as a risk. The Claimant requests an apology regards this issue and corrections made to records.
30. As is recorded in the June 2009 MAPPA Social Work minutes, Police suppress CPS advice that that some of what the Claimant did (that Police presumably complain of) was lawful and police continue to besmirch and falsely accuse the Claimant. It follows the police at MAPPA (which may include DCI Suzanne Hughes) hid the CPS advice because the police at MAPPA did not believe the false assertions of risk and criminality that they were making, and those police Officers were obviously acting maliciously.
31. MAPPA 3 level 3 is only for the very most dangerous people. Obviously as is recorded by the MAPPA Social Work minutes June 2009, police saying the Claimant was “...*the subject of the MAPPA was level 3 - partly due to attracting media attention...*” is a clear abuse of power and malicious. Yet when we consider the more truthful record of what risk the Claimant poses the MAPPA Social Work minutes June 2009 says:-

“It was reviewed that Mr Kirk does have a criminal history – mostly minor offences. Does not have a criminal history which indicates previous use of firearms.”

32. But as is also recorded by the MAPPA Social Work minutes there is the bland unsubstantiated assertion of “...*risk to self and others*...” made by police as reason for MAPPA 3 level 3 one of the most dangerous people in the UK and that seemingly malicious unsubstantiated assertion still cannot be substantiated by specifying the kind of risk that is true of other MAPPA 3 level 3 subjects. What is the profile of other MAPPA 3 level 3? In South Wales? In the UK? Given that MAPPA 3 level 3 is quite rare for the very most dangerous. How is the Claimant the very most dangerous? Apologies and corrections are sought.
33. As evidence of malice the present 49 page risk assessment which has arisen from these ongoing MAPPA falsifications has a very long list of serious inaccuracies which are too many and too serious to arise from simple mistakes.
34. The Claimant requests an apology for being referred to the Whitehall Critical Public Protection and proof of how that record and referrals have now been corrected.
35. Obviously the police knew the Claimant was not a serious risk, and still cannot substantiate how he was supposed to be a serious risk as was claimed. Also the CPS said that due to civil proceedings the Claimant was entitled to interview the Chief Constable. Where the CPS are recorded by the MAPPA Social Work minutes June 2009 as saying
- “...Even his (Claimant) approach to the Chief Constable could be seen as his right to request an interview with her, necessary for the procedure for his civil case.”
36. But while police at MAPPA June 2009 hear the CPS advice they are recorded as saying police would shoot and by that they mean probably kill the Claimant if he lawfully tried to approach the Chief Constable.

## **DCI Suzanne Hughes**

37. Although we can start naming planners and decision makers like Suzanne Hughes then Detective Inspector and now a Detective Chief Inspector at Central BCU of South Wales Police, the Intention of Parliament is that the liability be placed on the Chief Constable for what her/his Officers do as opposed to a duty on a Claimant to identify each Officer especially in secretive processes like MAPPA.
38. When being an experienced Officer to know she was doing wrong at the Cardiff Crown Court Trial, Suzanne Hughes sat in on much of the witness evidence under oath and then gave her evidence from that advantage. But while doing so mislead the Court by omitting to make clear to the Court the truth about the law being flawed. Even though the Police College who advise Police on law take a similar stance to the Law Commission Consultation 2015 LC363

## **Ex-Chief Constable Barbara Wilding**

39. It follows that the Chief Constable Barbara Wilding who was central to all these developments, would certainly have monitored progress and would have given at least oblique oversight to the arrest and remand and commencement of a prosecution. Yet with her unusual depth of experience she must have known full well that the real issue was that the law was flawed. Because it was the place of senior police to know how it was the flawed law that facilitated organised crime having a legal supply of decommissioned weapons that could too easily be re-commissioned. Because the issues are so obvious and well known it is impossible for such an experienced Chief Constable as Barbara Wilding to not be instantly be aware that her Officers were doing these such horrific wrongs and acting maliciously.

**Relentless Claims of Mental Health/Health issues as a means to imply risk or irrationality which the Defendants know not to be true**

40. The Defendants attempt relentless and disproportionate unsubstantiated claims that the Claimant is mentally ill as a way to falsely claim risk. But are unable to ever find reliable evidence to support their claims or justify what they say or do.
41. There is no attempt to show a balanced view or an alternative view and as a balanced or alternative view is excluded over risk assessments of 10 years from 2009 to 2019 shows malice.
42. As one example the general tone of the Social Work MAPPA minutes June 2009 that the Claimant is not a serious risk or displaying irrationality or mental illness but rather is acting lawfully by the view of the CPS, is excluded from the Defendants risk assessments in 2009 and to the present 10 years later.
43. As another example the evidence of witness Mr Cooper at Cardiff Crown Court talks of how the Claimant is seen by the pilot community is excluded from MAPPA. When Mr Cooper in the witness stand under oath is questioned by the Claimant he says to the Claimant :-

“You have a reputation in the industry of, of being slightly eccentric but, but honest intelligent, know what you are talking about. And so consequently people, you know, just trust you. That’s all.”

Trial Transcript F, Page 49 of 153 dated 26 January 2010

44. When many doctors give views that do not imply mental illness or irrationality those views are excluded from MAPPA records an assessments
45. Furthermore we can see Dr Tegwyn Williams’ opinions as obviously not reliable evidence because he bases his opinions on flawed facts around whether the Claimant view of South Wales Police is justified or irrational. The

facts or issues upon which Dr Williams bases his opinions have or can be shown to be wrong. Dr Tegwyn Williams structure to a written opinion shows bias, malice and blatant dishonesty.

46. We need to be clear that Dr Tegwyn Williams said the Claimant has significant irreversible brain damage in September and October 2009 when the “two” ABMU NHS Radiology experts at Dr Tegwyn Williams’ NHS had said 29 August 2009 that the brain scan result was normal.
47. To mean Dr Williams knew he was not medically qualified as an expert in neuroradiology to interpret the presence or absence of brain damage from brain scans to report his finding to the Crown Court. He also does not use anyone who is a medically qualified expert.
48. Dr Tegwyn Williams must have known he was doing wrong because in 2007/8 he wrote Chapter 19 “*The expert witness: professional practice and pitfalls*” in the *Handbook of Forensic Mental Health (Pub: Willan 2008)* explaining not to go beyond one’s expertise and to use other experts if issues are outside of one’s expertise. Therefore Dr Williams not only acted improperly, but potentially even criminally in knowingly and so seemingly intentionally misleading the Crown Court, CPS and Police on important issues.
49. But it is the Defendant’s response is evidence of malice. The continued deceit by the Defendant regards trying to still hide the wrongdoing of their fellow 2009 MAPPa colleague Dr Tegwyn Williams is evidence of malice.
50. This continued malice and deceit from the 2009 MAPPa has meant four jail terms for conviction and three breaches of the Order to not say the truth, when all of those convictions were achieved by police prosecution papers that were deceitful and misleading before the courts. .
51. When the Defendant knew that Dr Tegwyn Williams had been dishonest yet the Defendant were and still are promoting and propagating Dr Tegwyn Williams dishonest reports by sending them to France and Tottenham to try

and damage the Claimant. And the dishonesty and falsifications continue by a ripple effect into the 2019 MAPPA prison release risk assessment and licence conditions that presently exerts an unnecessary unjustified excessive level of control over the Claimant. Hence reason why the Court is needed to intervene.

52. The Claimant seeks an apology for the Defendant disrupting these civil proceedings by Police deceitfully presenting prosecution evidence by totally hiding the horrific deceit that they know Dr Tegwyn Williams has done.

53. The Defendant's actions regards covering up the wrongdoing of Dr Tegwyn Williams means the Defendant poses a risk to the public. So that the Court needs to intervene.

#### **James Dowler 5254**

54. An obvious contradiction regards whether the level risk is serious, can be seen by James Dowler 5254 who was the Officer who decided to prosecute by making an arrest the last time (2017) the Claimant was arrested for a breach of the Restraining Order not to say the truth about the criminal misconduct of Dr Tegwyn Williams and South Wales Police

55. However the arresting Officer James Dowler in 2017 at Cardiff Bay Police Station who the Claimant understands was closely involved in issues since 2009 (and James Dowler is seemingly involved in the deceit by the Defendant regards Dr Tegwyn Williams) did not regard the Claimant as any risk but rather conducted the arrest alone, when obviously there were many police he could have called on to assist him. When alone the arresting Officer did not even use handcuffs. When the Claimant is larger than that officer. So to show the Officers of the Defendant make it all up regards risk when it suits them.

56. To show need for the Court to intervene the deceit is never ending where James Dowler in 2017 proceeded with an arrest and prosecution based on what he knew was not true regards Dr Tegwyn Williams and if the prosecution brought by James Dowler had been honest either the Claimant would not have

been convicted or the Claimant would have had less of a sentence at prison or under licence or the level of licence controls.

57. The sheer volume and seriousness of the false information used in the 2019 OASYS system risk assessments dated 4 December 2018 that have grown out of the 2009 risk assessments, is further evidence of malice by the Defendant. There seems to be over 118 errors in this 49 page file. The main errors are found between pages 26 and 39 and include:

- Previous firearms convictions
- Child abuse convictions
- Cannabis cultivation and smoking cannabis
- ABH 1980

58. The worst offences have no legal history and so it follows that the police are totally unable to prove them.

59. The Claimant does not know when these records were adjusted to read so badly and to what extent there were false entries during the 2009 MAPPA but it seems to follow that they were compiled by the Police to blacken the Claimant's name further.

60. Corrections and an apology regarding the false entries mentioned in points 54-56 and 57-59 are requested.

## **STATEMENT OF TRUTH**

**I believe that the facts stated in these Further Particulars are true.**

**Maurice John Kirk**

**Dated 25 February 2019**