

**IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
Mrs Justice May**

CLAIM NO. QB-2022-001420

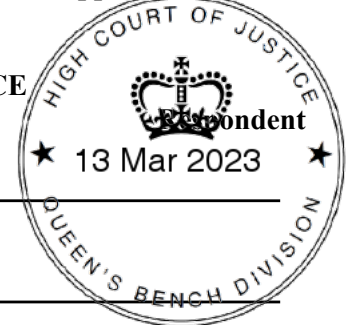
BETWEEN:-

SHELL UK OIL PRODUCTS LIMITED

-and-

THE CHIEF CONSTABLE OF SURREY POLICE

Applicant/Claimant



ORDER

QB-2022-001420

UPON the Claimant's application by notice dated 7 October 2022 for third party disclosure from the Respondent pursuant to CPR Part 31.17

AND UPON the Claimant and the Respondent having submitted a "Consent Order" for the approval of the court, which, by order of Tipples J dated 7 October 2022 was instead referred to an oral hearing

AND UPON hearing Myriam Stacey KC, Leading Counsel for the Claimant and Aaron Moss for the Respondent at an oral hearing on 8 March 2023

IT IS ORDERED THAT:

1. The Respondent shall, upon request by the Applicant, give disclosure, pursuant to CPR 31.17, of those documents in his possession identifying the names and addresses of any person who was arrested by one of her Majesty's officers of Surrey Police, or by one of her Majesty's Officers on behalf of Surrey Police, in relation to conduct connected with protests on 28 April 2022 and/or 24 August 2022 at either (1) Clacket Lane motorway services, and/or (2) the Shell Petrol Station at Cobham motorway services.
2. The Respondent shall give disclosure of the documents described in paragraph 1 of this Order within a reasonable period (being not more than 14 days) of service of this Order upon him.
3. The Respondent shall (subject to the conditions of paragraphs 4 - 6 below), on and to the extent of the request of the Claimant (who may seek some or all of the categories of documents listed below), in relation to any conduct or activity, in relation to which he has disclosed documents pursuant to paragraph 1 of this Order, provide the following in so far as that discloses any conduct and/or activity which may constitute a breach of the injunctions granted in these proceedings and/or may assist in identifying any person who might have undertaken such conduct and/or activity:

- a. arrest notes, incident logs or similar written records relating to the activity and/or conduct in question and those involved;
 - b. other still photographic material; and/or
 - c. body-worn or vehicle camera footage.
4. The Claimant shall make any request in terms of paragraphs 3a., 3b. and/or 3c above within 21 days of receipt of any documents disclosed pursuant to paragraph 1 of this Order.
5. Subject to the conditions of paragraph 6 below, the Respondent shall give disclosure of any documents and/or data described in paragraphs 3a., 3b. and/or 3c. as soon as reasonably practicable (and in any event within 28 days) following the receipt of a request made by the Claimant in accordance with paragraph 4 above.
6. In the event that the Respondent, acting reasonably, considers that the provision of any of the documents and/or data named within paragraph 3 may prejudice any ongoing criminal investigation or fall within the category of Public Interest Immunity (“PII”), the Respondent has the right to withhold provision of the documents and/or data or redact these accordingly, until such time (that is considered reasonable) when disclosure of the documents and/or data, will no longer prejudice any criminal investigation.
7. The Claimant agrees to meet the reasonable and proper costs of the Respondent in relation to compliance with the terms of this Order, if demanded, to be assessed if not agreed.
8. Without the permission of the Court, the Claimant shall make no use of any document disclosed by virtue of paragraphs 1 - 5 of this Order, other than one or more of the following uses:
 - a. applying to name and join any person as a named defendant to these proceedings and to serve the said person with any document in these proceedings;
 - b. investigating, formulating and pleading and prosecuting any claim within these proceedings arising out of any alleged disruptive protest at any of the Claimant’s sites which are (or become) the subject of these proceedings;
 - c. use for purposes of formulating, pleading and prosecuting any application for committal for contempt of court against any person for breach of any order made within these proceedings.
9. Until further order, the address and address for service of any person who is added as a defendant to these proceedings shall be redacted in any copy of any document which is served other than by means of it being sent directly to that person or their legal representative.

Reasons

The “Consent Order” as originally submitted to the court sought disclosure of a class of documents which included documents that were, by definition, not then in existence since the class included reference to any future arrests which the Surrey Police may make. Following the hearing on 8 March 2024 the terms of the proposed draft order were amended to refer to

documents relating to (i) two specified protest incidents on 28 April and 24 August 2022, together with (ii) any documents relating to any other arrests at any other protests at Shell-branded fuel stations in Surrey which may have taken place subsequently.

I approve an order covering (i) above, requiring disclosure of documents in the possession of the police relating to the two incidents referred to in the Third Witness Statement of Emma Pinkerton dated 6 October 2022 (at paragraphs 2.5 and 2.7), namely the original protests on 28 April 2022 and subsequent events on 24 August 2022.

The proposed addition of (ii) a proposed general class of documents to be disclosed relating to any arrest which Surrey Police may have made since 24 August 2022 is too general to enable the court to make an order in sufficiently specific terms as required by CPR Part 31.17(4)(a) and discussed by Vos J (as he then was) in *Constantin Medien Ag v Ecclestone and others* [2013] EWHC 2674; further or alternatively, in the absence of evidence from the Claimant giving details of where, when and in what circumstances further protests (if any) have occurred at Shell-branded fuel stations in Surrey the court is unwilling to exercise its discretion to extend the terms of the order. To the extent that the Claimant obtains information from any of its branded fuel stations in Surrey that there have been protests involving the police then it is open to the Claimant to make a further application to the court giving details of the protests and seeking further documentation from the Surrey Police in relation to such incidents.

Dated this 13 day of March 2023