



Neutral Citation Number: [2025] EWHC 1805 (Admin)

Case No: AC-2024-LDS-000212

**IN THE HIGH COURT OF JUSTICE**  
**KING'S BENCH DIVISION**  
**ADMINISTRATIVE COURT**  
**LEEDS COMBINED COURT CENTRE**

Leeds Combines Court Centre  
1 Oxford Row, Leeds LS1 3BG

Date: 16/07/2025

**Before :**

**MR JUSTICE LINDEN**

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**Between :**

**THE KING (on the application of) LINDSEY  
SMITH**

**Claimant**

**- and -**

**THE CHIEF CONSTABLE OF NORTHUMBRIA  
POLICE**

**Defendant**

**- and -**

**THE NATIONAL POLICE CHIEF'S COUNCIL**

**Interested Party**

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**Tom Cross KC** (instructed by **Conrathe Gardner LLP**) for the **Claimant**  
**John-Paul Waite** (instructed by **Northumbria Police Legal Services Department**) for the  
**Defendant**

**The Interested Party did not attend and was not represented, but made written  
submissions dated 3 July 2025**

Hearing date: 10 July 2025

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**Approved Judgment**

This judgment was handed down remotely at 10.30am on 16 July 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MR JUSTICE LINDEN

**Mr Justice Linden :**

**Introduction**

1. This is a claim for judicial review of the decision of the Defendant to authorise officers of the Northumbria Police Force (“the Force”) actively to participate in the “Newcastle Pride in the City 2024” event (“the 2024 Event”) on 20 July 2024, in which she also participated. Permission was granted by Hill J on 23 May 2025. She also ordered that the hearing of the Claim be expedited so that, if possible, a judgment would be promulgated before “Newcastle Pride in the City 2025” which is due to take place on the weekend of 19/20 July 2025 (“the 2025 Event”).
2. The Claimant describes herself as a lesbian who is “gender critical”. She believes that a person’s sex is an immutable characteristic and that “gender ideology”, which recognises a person’s gender identity, is “wrong and dangerous”. Her evidence is that gender ideology has been embraced by the organisers of the Event, Northern Pride Events Limited (“Northern Pride”), and was supported by many of the participants in the Event, who also strongly oppose gender critical beliefs. She entirely accepts that it was necessary for the Event to be policed, but she objects to what she sees as the Force and/or members of the Force associating themselves with the views of supporters of gender ideology and transgender activists by actively participating in the Event.
3. [46] of the Statement of Facts and Grounds specifies the activities of the Defendant and other officers to which the Claimant objects, namely:
  - i) taking part in the march or parade (“the 2024 March”) which formed part of the 2024 Event as active participants and thereby associating with messaging which was supportive of the cause of gender ideology, including in the form of placards, chanting, imagery or flags such as the Progress flag;
  - ii) in any event, associating with messaging which is supportive of the cause of gender ideology;
  - iii) holding a ‘static display’ in the City Centre at the time of the March, which displayed imagery indicating support for the cause of gender ideology, including the Progress flag;
  - iv) stationing a police van marked up in colours indicative of support for the cause of gender ideology at the 2024 Event, namely the colours of the Progress flag.
4. The Claimant argues that the participation by the officers in these ways, including the Defendant herself, was contrary to their duties of impartiality; and that the Defendant’s decision to authorise or, at least, not to prohibit, the participation and support which took place was unlawful. The relief which she seeks is a declaration that:

“the above activities of the Force during Newcastle Pride in the City 2024, and the decision of the Chief Constable that officers could or should participate in such activities, were unlawful”
5. The position of the Defendant is that the Claim is academic because a different approach will be taken at the 2025 Event. Off-duty officers will be permitted to attend and to take

part in the march (“the 2025 March”). They will not be permitted to wear uniform, although they will be permitted to wear tee-shirts which state “The National LGBT+ Network: Police with Pride. 10<sup>th</sup> Anniversary Conference” thereby indicating to other participants and observers that they are serving officers. There will also be a Northumbria Police stall at the Event which will be staffed by uniformed officers who are on duty. They will not be wearing or exhibiting Pride insignia. The Defendant argues that I should therefore refuse to determine the Claim.

6. However, the Defendant also denies that the challenged decisions and activities in relation to the 2024 Event were unlawful. She says that the participation in, and support for, the 2024 March which there was did not breach any officer’s duty of impartiality and that, in any event, it was a matter for her to decide what would and would not be permitted. The Court can only intervene if she acted irrationally, which she did not.

### **Preliminary points**

7. It is important to emphasise the following in relation to this judgment:
  - i) First, although the evidence is more wide ranging, the findings which I make below are limited to those which I consider necessary to reach a conclusion on the arguments before me.
  - ii) Second, the pleaded Claim is solely concerned with lawfulness of the relevant decisions of the Defendant relating to the 2024 Event. There is no pleaded claim in relation to the 2025 Event. I will therefore address the Claim as pleaded and do not reach any conclusions specifically about the lawfulness of the Defendant’s approach to the 2025 Event. It will be for the Chief Constable, however, to consider the implications for her approach to the 2025 Event of what I have to say about the 2024 Event, bearing in mind that the Claimant does not accept that her approach is lawful.
  - iii) Third, it is not necessary for me express any views about the moral, political or philosophical rights or wrongs of the competing views and causes in this case, and I do not do so. Nor should what I say below be seen as indicating agreement or disagreement with the views of Northern Pride and/or the participants in the events which it organises. My concern is solely to assess the lawfulness of the decisions taken by the Defendant in relation to the 2024 Event, applying established public law principles. That requires me to find facts based on the evidence submitted by the parties. But my doing so should not be taken as indicating approval or disapproval of the views and activities of proponents of gender critical ideas, or their opponents, or the Pride movement more generally.
  - iv) Fourth, much of the evidence in support of the Claimant’s case has not been contradicted by the Defendant. She has explained and sought to justify her decision in relation to the 2024 Event, principally in a letter dated 18 June 2024 to which I refer below, but she has not seriously contested the evidence about her involvement and that of her officers. Her witness statement, dated 13 June 2025, explains her decisions in relation to the 2025 Event and, in that context, she expresses her understanding of the central purpose of what she refers to as “the Northern Pride March”, but she has not engaged in detail with the evidence

about the Pride movement, Northern Pride and gender critical beliefs/gender ideology on which the Claimant relies.

- v) Fifth, although Hill J's Order of 23 May 2025 directed the parties to give urgent consideration to whether other interested parties should be joined to the Claim, and specifically raised this question in relation to Northern Pride, they are not a party and they have not been served with the documents in the case. Nor has any statement from them or any other Pride organisation been put before the Court by the Defendant or the Interested Party, the National Police Chiefs Council ("NPCC").
- vi) Sixth, I recognise and accept that the Claimant is entitled to rely on the evidence which she has put before the Court and that, absent good reason to do otherwise, uncontradicted evidence will ordinarily be accepted, particularly by the Administrative Court. However, in the light of the Defendant's approach to the evidence it is necessary for me to proceed with caution. Where I record below that such and such is the evidence of a given person, or that this is what they say, this does not indicate doubt about their evidence but, rather, a recognition that others may have a different view or a different way of expressing the point. I have also tried to use neutral terminology, although this may be impossible to achieve in the present context, but readers should bear in mind what I have said about the limited input from those who do not share the Claimant's views or those of her supporting witnesses.

## **The evidence**

### **Gender critical beliefs v gender ideology**

- 8. The Claimant's evidence includes a witness statement made by Professor Kathleen Stock on 7 October 2024. She was a Professor of Philosophy at the University of Sussex until November 2021, when she resigned in the context of what she describes as "a high profile campaign of harassment by transactivists for [her] gender critical views [which] made it impossible for [her] to continue working there". She is currently a co-director of "The Lesbian Project" whose general object is to increase the wellbeing of exclusively same sex attracted females in the United Kingdom.
- 9. Professor Stock provides a clear and succinct explanation of what she calls "gender identity theory" or "gender ideology" on the one hand, and gender critical or "sex realist" beliefs on the other. It is not necessary for me to do more than to note that:
  - i) She characterises the tenets of gender ideology as being that each person has a gender identity which may or may not match the biological sex which is assigned to them at birth. These are trans or transgender people. People who espouse gender ideology believe that it is a person's gender identity, rather than their biological sex, which makes them a man or a woman, or gender non-binary. They believe that gender identity, rather than biological sex, is what should be recognised and protected in law and social policy.
  - ii) On the other hand those, including Professor Stock, who hold gender critical views believe that biological sex in human beings is real, binary and immutable. It is what makes a person a man or a woman. They typically deny that everyone

has a gender identity. They also believe that gender ideology rests on sexist and regressive assumptions, effectively reducing womanhood and manhood to a set of stereotypes about femininity and masculinity. They oppose the recognition of gender identity and expression in law and social policy.

10. Importantly, given the issues in the Claim, gender critical *beliefs* are recognised as protected “philosophical” beliefs for the purposes of the prohibition of discrimination on the grounds of religion or belief under the Equality Act 2010. They are also protected by Article 9 (the right to freedom of thought, conscience and religion) and Article 10 (freedom of expression) of the European Convention on Human Rights (“ECHR”), albeit these are qualified rights: see *Forstater v GDC Europe* UKEAT/105/20, [2022] ICR 1. In *Forstater* the Employment Appeal Tribunal expressed no view as to the merits of the transgender debate but it held that, while gender critical beliefs may cause offence to some trans people, they are widely held, including amongst respected academics and some trans people, and they are consistent with the law.
11. Professor Stock’s evidence is that the modern gender ideology or transactivist movement advocates various policy positions and changes which have been endorsed by mainstream LGBT+ organisations including Stonewall, and Pride organisations. These include, for example:
  - i) a lowering of barriers to obtaining a Gender Recognition Certificate, so that gender identity is the principal or only criterion;
  - ii) the treating of “gender identity” as a protected characteristic in equality law and policy, and the legal recognition of “non-binary” gender identities;
  - iii) the automatic recognition of a person’s professed gender identity in all contexts, including educational, medical, and judicial;
  - iv) a ban on therapeutic or clinical engagement which might express scepticism about the persistence of a person’s gender identity, or its importance;
  - v) increased access to medical intervention for transgender people, including for children and adolescents;
  - vi) access by right, for natal males who identify as female, to nominally woman-only spaces such as changing rooms, dormitories, hostels, refuges, prisons, bathrooms, and sports teams and competitions; and the equivalent rights for natal females who identify as male.

### The Pride movement

12. Professor Stock goes on to give a brief history of the Pride movement which, she says, involves activities which are aimed at influencing or altering the nature of government, or the process of government including public policy. She says that a significant part of the activities of the Pride movement are political and, historically, it and associated organisations have adopted highly contested positions on matters of politics and ideological debate.

13. Pride events and marches in the United Kingdom are organised by different organisations in different cities: for example, Northern Pride in the case of Newcastle. Professor Stock's evidence is that, in the last decade or so, most or many Pride organisations have become strongly committed to gender ideology and the policy objectives which flow from it. She gives examples of what she describes as political activities by Pride organisations i.e. challenging government, campaigning for changes to law and policy and seeking to persuade others to support the cause gender ideology. Many of the organisations which run Pride marches, and associated events, publicly endorse these beliefs and objectives. Pride marches are therefore generally in the name of LGBTQIA+ people, which stands for "Lesbian, Gay, Bisexual, Trans, Queer, Intersex, Asexual and others".
14. Professor Stock's evidence is that the embracing of gender ideology by the Pride movement means that it is difficult or uncomfortable for gender critical people to participate in its activities. For example, existing equality law protects biological sex, sexual orientation and those who are undergoing gender reassignment but not gender identity and expression. Campaigning for gender identity to be a protected characteristic in law is directly at odds with the views of gender critical people. She also says that gender critical views are widely regarded as unacceptable within the Pride movement and are often the subject of hostility.

#### The Progress flag

15. Professor Stock also gives evidence about the development of the Pride flag, which was originally in rainbow colours, to become the Progress or Progressive Pride flag in around 2017. The Progress flag now includes a light blue, light pink and white section which represents transgender and non-binary people, and replicates the colours of the "transgender pride flag" created by U.S. Navy veteran Monica Helms. The Progress flag also includes brown and black stripes, representing people of marginalized ethnicities; and a black stripe which represents those who are living with, or have been lost to, AIDS.
16. She goes on to explain why, for her and any informed observer, the Progress flag conveys more than generalised support for trans people: it conveys support for gender ideology. In summary, she says that the increasing use of the Progress flag coincided with the embracing of gender ideology within UK LGBT organisations such as Pride in London, Northern Pride and Stonewall. It was used by these organisations in branding and publicity which advanced the policy and legal objectives of gender ideology. By way of example, the publicity for the "Proud Allies Training" offered by Northern Pride on its website says that the training will explore "how Gender Identity and Expression can empower us all" and how "Legislation and Activism impact the creation of safer, more welcoming spaces". The training is said to be suitable "for all professionals committed to championing LGBTQIA+ inclusion, with added benefit for those working in public facing roles, front of house, customer service, marketing, HR, policy makers, focus group/network leads, management teams and board members/trustees." The publicity is accompanied by a prominent picture of a person draped in a Progress flag at the top of the webpage.

Northern Pride

17. Northern Pride Events Limited is a company limited by guarantee and it has charitable status. Its registered office is in Newcastle. In its financial statements to 31 January 2023 it identifies itself as “an LGBTQIA+ charity” and states that its aims include:

“the elimination of discrimination on the grounds of sexual orientation, gender identity and expression, and sex characteristics” (emphasis added)
18. Under “Public Benefit” the following is stated:

“We continue to acknowledge that our core purpose is to deliver event based campaigns for the community and support the growth of LGBTQIA+ community allyship, empathy and activism...”
19. Northern Pride’s online publicity in relation to the 2023 March included the following statements:

“Northern Pride this year decided to once again repeat its mission statement of Remember, Resist and Rise Up to highlight the real struggles that still exist.

The march is marking the 20 years since the repeal of Section 28 - laws which prohibited "the promotion of homosexuality" and which was seen as discriminatory - but at the same time is highlighting potential new legislation.”
20. It goes on to quote Ste Dunn, director of Northern Pride, hitting out at:

“..leaked information which claims there is new, harmful, Government guidance on trans young people in schools which risks returning us to the dark days of Section 28.”...

"The march will remember the impact it had at the time, pay homage to those who lived through it and are still experiencing its effects today and rise up against further legislative attempts to undermine the community and our rights to live as we are."
21. It highlights the support of the National Education Union “...one of the leading forces behind much of the campaign against Section 28 during the 1980s and 1990s” and adds that:

“Northern Pride is concerned that the UK will follow in the footsteps of the USA where LGBTQIA+ rights are being eroded, given recent events in Florida and a ruling in June in Colorado which upheld a business's rights to discriminate against gay couples.”
22. In her second witness statement, dated 19 June 2025, the Claimant also draws attention to the Northern Pride Committee’s response to the recent decision of the Supreme Court in *For Women Scotland v The Scottish Ministers* [2025] UKSC 16, [2025] 2 WLR 879. As is well known, the Supreme Court confirmed that, for the purposes of the Equality Act 2010, the protected characteristic of “sex” means “biological sex” and not the sex which a person acquires when issued with a Gender Recognition Certificate pursuant to the Gender Recognition Act 2004. The Northern Pride Committee responded by issuing a statement which said that they were “deeply disappointed” with the ruling and



shared “the concerns voiced across our community on what this means for the rights of transgender people under the 2010 Equality Act...We feel strongly that the ruling is highly dangerous...We will always stand in solidarity with our trans friends to ensure that they have the support and resources they need and to help make their voices heard...”.

23. The Claimant also referred to a post by Northern Pride at the end of April 2025 which thanks all of the “Trans folk and their allies” who participated in a protest against the *For Women Scotland* judgment. The post states that “Northern Pride will continue to amplify trans voices and lived experiences...and in particular, we will continue to educate and advocate through our training programme Proud Allies”.
24. Mr Cross KC also relied on a transcript of training which Ste Dunn gave to officers of the Force on 18 February 2025 as part of the Proud Allies programme, in which he said:

“the numbers are growing and this is why we try to always remember that Pride is still a political movement. It is still a protest and it’s still around challenging the inequality and persecution that people have, not just here in the UK but abroad”.
25. The Claimant also referred to a public statement by Northern Pride about the 2025 March which says that:

“Any groups, organisations or businesses that are specifically designed or constituted to radically exclude any part of the LGBTQIA+ community or fundamentally deny the rights and identities of our community are not permitted and would be asked to leave..

Everyone is welcome to march if they have positive and inclusive intentions and support our values. Any individuals or groups who do not align with this will be asked to leave and, in some cases, removed”.
26. Mr Cross explained, and Mr Waite did not dispute his explanation, that the reference to “radically exclude” in this statement alludes to the acronym “TERF”, which stands for “trans exclusionary radical feminist”. It is used pejoratively to describe feminists who express views which others consider transphobic, such as the view that trans women are not women, opposition to transgender rights, and exclusion of trans women from women's spaces and organisations. The Northern Pride statement is therefore directed at gender critical people, and its essential message is that they are not welcome on the march. The only people who are welcome are those who support or, at least, do not oppose gender ideology. There is no evidence to suggest, and no reason to think, that the position was different in previous years including 2024.

#### The relationship between Northern Pride and the Northumbria Police Force

27. The statements of the Claimant, Mr Harry Miller (co-founder of an unincorporated association known as Fair Cop, and the claimant in *R (Miller) v College of Policing* [2021] EWCA Civ 1926, [2022] 1 WLR 4987) and Professor Stock all give evidence about public support for Pride by the Defendant, the Northumbria Police Force and the Northumbria Police and Crime Commissioner, over a number of years. Given the particular focus of the Claim, it is not necessary to set out all of the details but I note, for example, that the Force’s Annual Equality monitoring report for 2022/23 states:

**"Northern Pride.**

'We are Proud to Support Pride' was our key message both internally and externally, as the Northern Pride festival returned to Newcastle Town Moor in 2022. The theme of this year's Pride was Remember, Resist, Rise Up."

28. The 2023/2024 monitoring report lists attendance at Northern Pride events as being amongst the key activities of the Force and notes that in 2023:

"Chief Constable Vanessa Jardine delivered her first speech at Northern Pride, celebrating how the force engages with and supports our LGBTQ+ communities....It is incredibly important that we participate in the Pride March, stand with our LGBTQ+ colleagues and continue to uphold our allyship within these communities."

29. The evidence contains various other examples of the Defendant publicly voicing her support for Pride over the years.

30. Professor Stock also draws attention to a 2023 Northumbria Police policy document entitled "Equality, Diversity and Human Rights" in which it is stated that:

"Northumbria Police is committed to encouraging diversity and inclusion amongst its workforce, eliminating discrimination, and promoting equality of opportunity irrespective of 'protected characteristics' including; age, disability, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation, and gender reassignment, gender identity or expression." (emphasis added)

The Claimant's 4 June 2024 letter

31. In view of aspects of Mr Waite's argument it is necessary to summarise the 9 page pre action protocol letter which was sent to the Defendant on behalf of the Claimant on 4 June 2024. This stated that, amongst other things, she proposed to challenge "the ongoing policy or practice of the Defendants to take part in activity which gives or may reasonably be perceived by the public as giving the impression that they support gender ideology". Examples of such activity were said to include "marching or encouraging marching in Pride". The letter described the Claimant as a "gender critical lesbian" who wished to express her views about gender ideology and to protest against it. It set out her dealings with the Northumbria Police in relation to online harassment of her about which, she said, the Force had done nothing. She contrasted this with her being investigated by the police for a potential breach of the Malicious Communication Act 1988 when she posted gender critical views. This, she said, had led her to conclude that the Force was biased against gender critical people.
32. The Claimant also detailed public statements and activities of the Defendant in her official capacity which the Claimant argued were evidence of the Defendant and the Force signalling their support "for trans causes". She specifically referred to support for Northern Pride and to the Defendant's public statement that it was "incredibly important that we participate in the Pride March". And she pointed out that in July 2023 the Police Service of Northern Ireland had decided that their statutory obligation to act with fairness, integrity and impartiality meant that its officers and staff could not

participate in the Pride parade in uniform. She also set out the relevant legal framework and guidance on the duty of impartiality, which I summarise below, and she asked the Defendant to confirm, amongst other things that Northumbria Police would “not take a participatory role in Pride 2024, whether by marching or undertaking activities indicating support for it in any way”.

The Defendant’s 18 June 2024 letter

33. In my view the 18 June 2024 reply from Northumbria Police Legal Services to the Claimant’s pre action protocol letter provides the most reliable account of the Defendant’s thinking in relation to the 2024 March, not least because the second paragraph of the letter states:

“The purpose of your letter appears to be to challenge participation by the Force in Pride. I will therefore set out why the Chief Constable considers participation in that event to be a lawful exercise of discretion on her part.”

34. In her witness statement dated 13 June 2025, the Defendant confirms that, as one would expect, she personally approved the letter at the time.

35. The Defendant’s explanation of her position begins by noting, at [3], that she is “*obliged to give effect to*” the public sector equality duty set out in section 149 of the Equality Act 2010 (“the PSED”). A page is then devoted to setting out the text of the section in full.

36. The letter then sets out five matters which the Chief Constable considered “*relevant to the discharge of*” her section 149 duty namely:

- i) First, “the LGBT+ community in general and the trans community in particular” are the subject of a significant number of hate crimes.
- ii) Second, members of the trans community are or may be particularly vulnerable in that they are likely to be more prone to significant mental health issues, so that hate crime may have a greater impact on them.
- iii) Third, “members of the trans community may experience higher levels of social isolation, exclusion and stigma because of their status”.
- iv) Fourth, “it is important that the police provide a safe and accessible space for the reporting of crime by LGBT+ persons (including for the avoidance of doubt members of the trans community)”.
- v) Fifth, it is important for the police to demonstrate to potential recruits and serving officers that it will be an inclusive environment in which to serve.

37. At [5]-[8] the 18 June letter then says the following:

“5. One of the underlying purposes of the Pride Festival is (on the Chief Constable’s understanding) to combat the stigma and discrimination which was once associated with membership of the LGBT+ community (and which is still prevalent in parts of society). Her understanding is that the event achieves this by

celebrating the individuality and dignity of members of that community. (emphasis added)

6. Police participation in Pride is, in the Chief Constable's judgement, necessary and justified in demonstrating to society at large (and members of the LGBT+ community in particular) that there is a safe and inclusive space (a) for the reporting of crime against members of that community (b) in which LGBT+ officers can fully participate. It is one way of demonstrating that the stigma which has traditionally afflicted members of the LGBT+ community will not be reflected in the interactions which that community has with the Police.

7. The Chief Constable considers that Police participation in Pride is necessary and justified as part of her Public Sector Equality duty. It is also consistent with the principle of "policing by consent" which is the cornerstone of policing in this country. She is satisfied that participation in Pride does not display bias or partiality of any description. (emphasis added)

8. The basis of your objection to police participation in Pride appears to be that the event celebrates/supports the status of members of the trans community. You do not suggest or imply that such participation would be wrong if the event related solely to the LGB community. The Chief Constable is satisfied that it would be both wrong and contrary to her duties under the Equality Act to differentiate (on the one hand) between members of the LGB community and those who are undergoing gender reassignment (including those proposing to undergo such reassignment). Both groups are entitled to equal treatment under that Act."

38. The letter goes on to assert that whether to participate in Pride and the form which such participation takes "is matter for the discretion of the Chief Constable". It states that officers may participate in the event, as members of many police forces have done since 2003, and pride colours may also be exhibited on a small proportion of police equipment:

"The Chief Constable is satisfied that both forms of participation are necessary and justified to achieve the objectives set out above. That is a question for the discretion afforded to her by parliament. She recognises that not everyone will agree and respects their right to do so. There is, however, no sensible basis upon which it can be asserted that her actions are unlawful." (emphasis added)

39. The letter then points out that the Chief Constable "takes community engagement very seriously, participating in such events as International Women's Day, Iftar which involved fasting with the Muslim community and community events with the Jewish community."

40. At [11] the letter states:

"For the reasons set out above, the Chief Constable will not be taking the steps which you ask for.... She does not consider that such participation breaches any impartiality obligations, which have to be read compatibly with her Equality Act duties and responsibilities." (emphasis added)

Police participation in the Event

41. The Claimant and Mr Miller attended the 2024 March which took place in Newcastle city centre and lasted around an hour. Their evidence about what they saw, which is supported by photographs, is uncontested by the Defendant, as I have said.
42. Mr Miller describes how, towards the front of the March there was a group of protesters carrying Palestine flags and chanting slogans by way of call and response through a loud hailer, including:

“From the River To The Sea, Palestine Will Be Free

No Pride in Genocide.

Toute le monde deteste la police,

'No Borders, No Nations, Trans Liberation'

'Northumbria Police, Off Our Pride'

Intifada don't deny it, Stonewall was a fucking riot."

Pride Is A Protest, Liberation Now.”
43. This group also carried the Progressive Pride Flag and wore tee-shirts or carried signs with slogans such as:

“Stonewall was a riot

'Queers For Free Palestine"

"I do not believe that our sexuality, gender expression and bodies can be liberated without making ferocious mobilisation ... "

'For LGBT Liberation, fight for socialism.'
44. As part of the same march there was a contingent of uniformed officers of the Northumbria Police Force led by the Defendant. This contingent was marching behind the banner of the trade union, Unison (although not part of the Unison contingent). One of the officers was carrying a Police Pride flag. Other officers were also carrying flags with Pride colours alongside police insignia, and some were wearing uniforms with the word “Police” in Pride colours.
45. Mr Miller says that:

“50. The Chief Constable marched in the immediate proximity of those carrying the flags and emblems clearly associated with the gender ideologists' cause. Trans women Are Women, Trans Rights Are Human Rights, the intersectional flag and the blue, pink and white transgender pride flag signalled to me (and I believe would signal to anyone or certainly many people, including gender critical people) a political association in a similar way to how someone shouting "Build A Wall" or "Make America Great Again" signals an association with Donald Trump.”

46. In addition to marching there was a Northumbria Constabulary ‘static display’, apparently staffed by uniformed officers. This displayed the Progressive Pride Flag and the blue, pink and white colours of the transgender pride flag as part of a display which incorporated the Northumbria Police badge or insignia as well as a poster with the words “Northern Pride” and the colours of the Progress flag. The static display also included or was alongside a Northumbria Police van with the colours of the transgender pride flag prominently painted or marked on its sides.
47. The Claimant also gives evidence about a Christian street preacher who was being challenged by some of the marchers, and who was told by the police that he should stop preaching. She says of the actions of the police contingent on the March and the static display:

“It sent a powerful message to the trans activists and others who support gender ideology that the Northumbria police were "on your side". To people like me who do not agree with gender ideology, to the Christian preacher who was trying to proclaim his message before he was silenced, and to anyone else who doesn't agree with the other political aims of that march, the message was equally clear: the Northumbria police is not sympathetic (and is most certainly less sympathetic) to your stance, and you would do well to moderate your behaviour and speech accordingly.”

48. Professor Stock says:

“For me, the sight of the Northumbria Police either participating in Pride marches, supporting Pride events in public statements, or using or encouraging the use of Progress or rainbow flags, emblems, lanyards or other symbols associated with trans causes in a public-facing way, conveys its support for gender ideology. If that is not the Force's intention it is certainly its effect. For instance, the sight of serving Northumbria Police officers marching in uniform alongside those flying Pride and Progress flags during a Pride march; or a Northumbria Police car decorated in Progress colours, positively advertised on social media channels associated with Northumbria Police...suggests to me that elements of the force are likely to favour gender ideology over gender-critical stances, and to therefore be partisan when it comes to managing conflicts around criticism of gender ideology; and I know that many other gender-critical people feel similarly.”

The Defendant’s witness statement dated 13 June 2025

49. The Defendant’s witness statement is the only evidence which has been filed on her behalf. However, although she relies on her letter of 18 June 2024 her witness statement does not purport directly to explain or justify her decisions in relation to the 2024 Event or address the Claimant’s evidence about her and her officers’ involvement in that event. Rather, her statement explains aspects of her approach to the 2025 March. She says at the beginning of the statement, its purpose is to set out:

“(a) The nature and extent of the proposed involvement of Northumbria Police officers at this year’s Northern Pride. (emphasis added)

(b) Relevant legal (and other) considerations in this area which I have taken account of.

(c) My understanding of the purpose of the Northern Pride March (including how the event is perceived by the general population).

(d) My conclusions as to why the proposed involvement does not breach those obligations.

50. In section (c) of the statement, which is at [26]-[34], the Defendant explains that her understanding is that the “central aims” (not just one of the underlying purposes, as she says at [5] of her 18 June 2024 letter) of the “Northern Pride March” are to celebrate and affirm the rights of members of the LGBT+ community to freedom of expression, to promote a culture of tolerance and respect towards members of that community and to promote non-discrimination against members of the LGBT+ community. She says that in her view these aims are not controversial. She accepts that there are areas of discrimination law relating to the transgender community which are controversial but she says that it does not appear to her from reading the Northern Pride website that the purpose of the “March”, or at the very least the central purpose, is to campaign for a change in the law. She does not identify any particular material on the website which she has in mind and nor does she address the evidence from that website or the posts by Northern Pride on which the Claimant relies.
51. The Defendant says that she accepts that it is likely, or at the very least possible, that Northern Pride as an organisation and some participants in “the March” hold views on the issue of transgender rights which are controversial. With respect to her, it is not clear why she thinks that there is any real doubt about this given the Claimant’s evidence about Northern Pride and the publicly available material about the organisation which, again, she does not specifically address.
52. The Defendant says that she is aware that there is significant public debate about the issue of transgender rights. “I have taken account of this factor in reaching my decision in this case” (although on the face of it she appears to be referring to her decision about the 2025 March) but she considers that the central objectives of the March, as she understands them, are uncontroversial. “I am conscious that it is participation in the March (and not participation in Northern Pride as an organisation).”
53. The Defendant says that she has read the statement of Mr Miller but it is also important for the Court to view certain of Northern Pride’s videos on YouTube which, she says, show that “the event” is “a celebration and festival”. She says that she considers that the central purpose of “the March” is captured on the footage. I have viewed the series of 2 minute or shorter clips and she is right to say that the footage covers “the events” of 2022, 2023 and 2024, albeit briefly. The Pride events are, in effect, a festival and they include stalls and entertainment. They also include a march. From such footage of the *marches* as there is, they are colourful and apparently joyous occasions for the participants. But they are in the nature of a peaceful demonstration in which the participants express themselves and their beliefs and, in particular, their support for the LGBTQIA+ perspective. There are numerous flags displaying the colours which indicate support for transgender people and their interests. There are tee-shirts, placards and banners with pro transgender slogans, and there are banners of supportive business, community, workplace and political organisations. The perspective of all of the marchers may not be identical but the overall consensus of support for the transgender community and transgender rights as part of the wider LGBTQIA+ agenda, and the wish of the marchers to express this support publicly are quite apparent.

54. The Defendant says that she has also taken account of the fact that numerous groups participate in the Pride events from across society including businesses, not for profit organisations and some faith groups. The sponsors and supporters of the event listed on the Northern Pride website are also diverse. Participation is not limited to members of the LGBT+ community and the event is an important one in the City's social calendar. Thousands of members of the public attend the Pride March as spectators every year and show support. The event is not aligned to any political party. All of these considerations strengthen her view that the central purpose of the March is not socially or politically controversial. Again, this does not really address the Claimant's perspective or her evidence.
55. At [35]-[42] the Defendant explains why she therefore does not consider that participation in the March by an off-duty officer in their spare time is contrary to their duty of impartiality. She says that those who do so are aware of this duty and will act professionally and discharge their law enforcement duties diligently and fairly in all cases. Nor is such participation likely to create the impression amongst members of the public, including people with gender critical views, that the officers may not discharge their duties impartially. Moreover, "the visible participation of off-duty officers furthers a number of objectives in the statutory code of practice" including the building of trust, community engagement, combating discrimination and fostering good relations. It also furthers the principle of policing by consent and it gives effect to the PSED. The Defendant then says at [40]:
- "As stated above, I consider that it would be contrary to my Public Sector Equality Act duty to prevent officers from attending due to the wider value of such attendance" (emphasis added)
56. She says that the fact that some of the views expressed by Northern Pride and other participants may be political or controversial in nature does not alter the central purpose, nature and character of the event. And she goes on to explain why, for essentially the same reasons, staffing a police stall at the event does not involve any breach of the duty of impartiality.
57. Having explained her view that her approach to the 2025 March is consistent with the duty of impartiality, at [43] of her witness statement the Defendant explains her change of approach as compared to the 2024 March as follows:
- "whilst I consider that the central purposes behind the Pride March are uncontroversial, I accept that there are participants in the March who may hold controversial beliefs and express them. There is in my view a risk that, if uniformed officers participate in the March whilst on duty, Northumbria Police Force as an entity might be associated with those views. The judgment of the gold commander and myself is therefore that the participation in the March itself should be confined to off-duty police officers. I have reached this view taking account of all relevant information, including evolving societal attitudes, the statements in the Claimant's bundle and the content of the HMICFRS [His Majesty's Inspectorate of Constabulary and Fire and Rescue Services] report".
58. She does not say what she is referring to as "evolving social attitudes", or what relevant information other than the Claimant's evidence and the HMICFRS report, she has taken into account in deciding to change her approach.



59. It is notable that the Defendant's evidence does not address her own participation in the 2024 March, and her statement does not say whether she will be attending the 2025 March. This is surprising given that the pleaded Claim and the evidence supporting it specifically complain about the Defendant's participation in the 2024 March, and given that her 13 June 2025 statement appeared to be proffered as a complete account of the Force's involvement in the 2025 March. As noted above, it begins by stating that she is going to set out "The nature and extent of the proposed involvement of Northumbria Police officers at this year's Northern Pride". Moreover, Mr Waite's case was that this statement settled any issues about the 2025 March and rendered the issues in relation to the 2024 Event academic because determining them would have no bearing on the arrangements for the 2025 March; and yet the Defendant's own role in the 2025 Event was not addressed. When I raised this with Mr Waite he took instructions and confirmed that the Defendant does intend to attend the 2025 March. I was not told whether she would attend in uniform but assume, if her statement is not to be regarded as misleading, that she will not wear uniform.
60. Mr Waite was at pains to emphasise that the information about the Defendant's attendance had not been deliberately withheld. He said that he had not read the Claimant's pleaded case as raising a particular issue in relation to the Defendant's own participation and there was therefore no failure to comply with the duty of candour. He also submitted that there was no material difference, given the issues in the case, between the position of the Defendant as chief officer of the Force and the position of her other officers. Again, I am afraid that I found this surprising given that the pleaded Claim does specifically complain about the Defendant's own participation and given that, with respect, it is obvious that it is highly relevant to the issues in this case that one of the uniformed officers in the contingent on the 2024 March was the Defendant herself. Similarly the participation of the Defendant in the 2025 March, whether in uniform or otherwise, is more likely to be thought to indicate the official position of the Force than the attendance of any other officer.

## **Legal framework**

### **The duty of impartiality**

61. By section 29 of the Police Act 1996 every member of a police force maintained for a police area is required, on appointment, to be attested as a constable by making the following declaration before a justice of the peace (see Schedule 4 to the 1996 Act):
- ‘I.....of.....do solemnly and sincerely declare and affirm that I will well and truly serve the King in the office of constable, with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people; and that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against people and property; and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law” (emphasis added)
62. The Police Regulations 2003 were made pursuant to, amongst other things, section 50 of the 1996 Act which provides that “the Secretary of State may ..make regulations as to the government, administration and conditions of service of police forces”. In effect, the 2003 Regulations therefore set out the terms and conditions which govern police

officers as office holders. The matters to which regulations may relate include, at section 50(2)(e), “the conduct, efficiency and effectiveness of members of police forces and the maintenance of discipline”. Paragraph 1 of Schedule 1 to the Police Regulations 2003, read with Regulation 6, provides as follows:

“Restrictions on the private life of members of police forces

(1) A member of a police force shall at all times abstain from any activity which is likely to interfere with the impartial discharge of his duties or which is likely to give rise to the impression amongst members of the public that it may so interfere.

(2) A member of a police force shall in particular–

(a) not take any active part in politics;

(b) not belong to any organisation specified or described in a determination of the Secretary of State.”

63. In *Champion v Chief Constable of the Gwent Constabulary* [1990] 1 WLR 1, the House of Lords considered the materially identical predecessor to this provision, paragraph 1 of Schedule 2 to the Police Regulations 1979. At 7E-F Lord Griffiths (with whom Lords Keith, Jauncey and Lowry agreed) said:

“The purpose of paragraph 1 of Schedule 2 is clear enough. Its object is to prevent a police officer doing anything which affects his impartiality or his appearance of impartiality. Impartiality means favouring neither one side nor the other but dealing with people fairly and even-handedly. The paragraph takes its colour from the particular prohibition on taking any active part in politics which is an overtly partisan activity in which one favours one side to the exclusion of the other. It is activities that are likely to be seen in a similar light that are aimed at, activities that identify those taking part with a particular interest or point of view in a way which will, or may be thought, make it difficult for them to deal fairly with those with whom they disagree....” (emphasis added)

64. The majority (Lord Ackner dissenting) held that the Chief Constable in the *Champion* case had erred in prohibiting a police officer, who had been elected as a parent governor, from serving on the appointments sub-committee of a local comprehensive school. Their Lordships accepted that they could only interfere with the Chief Constable’s decision if it was “totally unreasonable or.. the necessary inference [was] that [he] must have misdirected himself as to the purpose and effect of the regulations” (5G) or it was *Wednesbury* unreasonable (15H). But they concluded that this test was satisfied given that the role would neither interfere with the impartial discharge of the police officer’s duties nor be “likely” to give the impression amongst members of the public that it may do so. The reasoning of the Chief Constable in coming to a different conclusion was “flawed” (7H) and his “conclusions [did] not appear....to flow from his premises” (16A/B). Lord Ackner also referred to the test as being one of *Wednesbury* unreasonableness (12E-F) but held that the test was not satisfied on the facts of the case.
65. The Police (Conduct) Regulations 2020 also require that police officers act with impartiality. They were made pursuant to section 50 of the Police Act 1996 and paragraph 29 of Schedule 3 to the Police Reform Act 2002. Regulation 4 provides that

the 2020 “Regulations apply where an allegation comes to the attention of an appropriate authority which indicates that the conduct of a police officer may amount to misconduct, gross misconduct or practice requiring improvement”. In broad terms, the 2020 Regulations require the appropriate authority to decide whether misconduct proceedings should be brought against the officer. Under Regulation 2, “misconduct” includes “a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action”. Regulation 5 then provides that “the Standards of Professional Behaviour established are the standards of professional behaviour described in Schedule 2”. Schedule 2 includes the following:

**“Honesty and Integrity**

Police officers are honest, act with integrity and do not compromise or abuse their position.

....

**Equality and Diversity**

Police officers act with fairness and impartiality. They do not discriminate unlawfully or unfairly.

**Orders and Instructions**

Police officers only give and carry out lawful orders and instructions. Police officers abide by police regulations, force policies and lawful orders.

.....

**Discreditable Conduct**

Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty.”

66. The College of Policing also publishes a non-statutory Code of Ethics (referred to at paragraph 23 of Schedule 1 to the Policing Protocol Order 2023 as noted below). This comprises the “Ethical Policing Principles” and “Guidance for ethical and professional behaviour in policing”. The former makes various references to the requirement of impartiality in dealing with the public. These include:

“Challenging unprofessional behaviour and practice.....

We challenge all prejudice, discriminatory behaviour and any activity that undermines the impartiality of policing.” (emphasis added)

“We show respect and empathy by being fair and impartial....

We respond fairly, impartially and with sensitivity to people’s needs and situations. We accept this as part of the selflessness required to undertake our roles.”

67. The Guidance also contains the following passages:

- i) Under the heading “Business interest and associations”,

“Our high expectations demand that we:

... are actively aware of, and identify when, associations with – or advocacy for – any groups or individuals create a conflict of interest or risk to our police work and responsibilities, consequently affecting our ability to discharge our policing duties effectively and impartially” (emphasis added)

ii) Under the heading “Fairness and respect”,

“As policing professionals, we are expected to understand our role in acknowledging and responding to our diverse society, and to treat all people and their property with fairness, dignity and respect, in accordance with their needs. We:

...are aware of – and challenge – the influence that biases (such as stereotypes, 'group think' or partiality) can have on our actions and decisions, and ensure that we act with impartiality...” (emphasis added)

Chief Constables

68. Section 2(1) of the Police Reform and Social Responsibility Act 2011 provides that each police force is to have a chief constable. Chief constables are appointed by the police and crime commissioner for the relevant police area pursuant to section 38 of the 2011 Act, and they hold office subject to section 38 and the terms and conditions of their appointment (section 2(2)). Section 2(3) of the 2011 Act provides that a police force, as well as its civilian staff, are “under the direction and control of the chief constable of the force”. That is referred to in 2(5) as the chief constable’s “power of direction and control”.

69. Pursuant to section 79(1) of the 2011 Act, the Secretary of State must issue a “policing protocol” to which “relevant persons” – the Secretary of State, elected local policing bodies, the chief officer of each force maintained by an elected local policing body, and police and crime panels - must “have regard” in exercising their functions. The relevant Order is the Policing Protocol Order 2023 which came into force on 3 July 2023. Paragraph 21 of Schedule 1 to the Protocol Order also describes the chief constable as having direction and control over the force’s officers and staff. Paragraph 23 states that:

“The Chief Constable is responsible to the public...for –

(a) leading the force in a way that is consistent with the Code of Ethics and Oath of Attestation made by all constables on appointment and ensuring that it acts with impartiality (including political impartiality)”.

70. I also note that under Regulation 2 of the Police (Conduct) Regulation 2020, referred to above, the “appropriate authority” is the chief officer of the police force concerned unless the issue relates to the chief officer or acting chief officer herself. In the run of cases it is therefore formally the chief constable who decides whether given conduct, including an alleged breach of the duty of impartiality, warrants misconduct proceedings.

71. Section 39A of the Police Act 1996 also empowers the College of Policing, with the approval of the Secretary of State, to issue codes of practice in relation to the discharge of their functions by chief officers of police. Section 39A(7) provides that:

“(7) In discharging any function to which a code of practice under this section relates, a chief officer of police shall have regard to the code.”

72. On 7 December 2023 the College of Policing published a “Code of Practice for Ethical Policing” which includes the following on which Mr Waite relied:
- “Ensuring that staff have the capability and capacity to recognise and respond to vulnerability...
  - Ensuring that staff understand the need to build public trust and confidence, and are supported to do so – for example, by engaging with local people to explore their viewpoints and priorities, and by developing working relationships.
  - Ensuring that staff understand the importance of engaging the public in developing policing priorities, policies and decisions, and in putting them into effect.
  - Ensuring that their force is able to understand the expectations, changing needs and concerns of different communities, and to do what is necessary to treat them in an impartial and proportionate manner, including through listening to the voices of victims.
  - Ensuring that their organisation meets its public sector equality duties.
  - Taking a proactive approach to eliminate discrimination, advance equality of opportunity and foster good relations, providing a culture that ensures acceptance and understanding.
  - Ensuring that staff recognise that different individuals or groups may have different needs.”

The public sector equality duty

73. The public sector equality duty is set out in section 149 of the Equality Act 2010. It is not necessary to set the full text of the section out but section 149(1) provides as follows:
- “(1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”
74. The section then goes on to explain subsection (1) in greater detail.
75. In *Hotak v Southwark London Borough Council* [2015] UKSC 30, [2016] AC 811 at [73]-[74] Lord Neuberger, with whom Lords Clarke, Wilson and Hughes JJSC agreed, approved [31] of the judgment of Dyson LJ (as he then was) in *Baker v Secretary of*

*State for Communities and Local Government* [2008] EWCA Civ 141, [2009] PTSR 809 where he emphasised that:

*“[the public sector equality] duty is not a duty to achieve a result...It is a duty to have due regard to the need to achieve these goals”.*

### **Should the Claim be rejected on the grounds that it is academic?**

#### Applicable principles

76. In *R v Secretary of State for the Home Department ex parte Salem* [1990] AC 450 at 456G-H, Lord Slynn said:

“...in a cause where there is an issue involving a public authority as to a question of public law, your Lordships have a discretion to hear the appeal, even if by the time the appeal reaches the House there is no longer a lis to be decided which will directly affect the rights and obligations of the parties inter se.”

77. He went on to say that:

“The discretion to hear disputes, even in the area of public law, must, however, be exercised with caution and appeals which are academic between the parties should not be heard unless there is a good reason in the public interest for doing so, as for example (but only by way of example) when a discrete point of statutory construction arises which does not involve detailed consideration of facts and where a large number of similar cases exist or are anticipated so that the issue will most likely need to be resolved in the near future.”

78. Although *Salem* was an appeal to the House of Lords, these principles are applicable at first instance in the context of a judicial review: see e.g. *R (on the application of Zoolife International Ltd) v Secretary of State for Environment, Food and Rural Affairs* [2007] EWHC 2995 (Admin) at [32]-[38]. Silber J confirmed that one of the reasons for the *Salem* approach is that it is not the function of the courts to decide hypothetical, academic or premature questions which do not impact on the parties before them or, in effect, to give legal advice to parties. The time of the courts should be spent on “real issues”. He emphasised that the caselaw shows “clearly that academic issues cannot and should not be determined by courts unless there are exceptional circumstances”.

79. In *R (on the application of L) v Devon County Council* [2021] EWCA Civ 258 at [50] Laing LJ said:

“50. Judicial review is a flexible and practical procedure. All remedies in judicial review are discretionary, including declarations... The Administrative Court has at its disposal a range of doctrines, with discretionary elements, to control access to its scarce resources... The discipline of not entertaining academic claims is part of this armoury. It enables the court to avoid hearings in cases in which, although the issue may be arguable, the court's intervention is not required, because the claimant has obtained, by one means or another, all the practical relief which the Court could give him... As a matter of judicial policy, the best way of controlling access to the court for claims such as these is the rigorous filter of the test in *Salem*.”

The Defendant's submissions

80. Mr Waite's submission that the Claim should not be entertained by this Court traces the procedural history which, in summary, is as follows:

- i) The pre action correspondence, which I have summarised at [31]-[40] above, related, at least in part, to the then prospective 2024 March. Part of the relief which the Claimant sought was the Defendant's agreement that officers would not participate in that March.
- ii) In her pre action response the Defendant complained that the Claimant had not undertaken Alternative Dispute Resolution ("ADR") and said that she would take this point if proceedings were issued. The Claimant agreed to engage in ADR but the process did not lead to settlement. It was after the process had failed, and therefore after the 2024 March, that proceedings were filed on 9 October 2024.
- iii) The Defendant's consistent position since then has been that the Claim is academic because the 2024 March has taken place. Notwithstanding this, the Claimant's position has been that the Claim is not academic because a declaration by the Court is necessary "in order to clarify the position for the future", not least given that the March is an annual event. "The Court's judgment on the claim will inform future conduct in the public interest" (see e.g. the Claimant's Reply dated 5 November 2024).
- iv) On 27 February 2025, His Honour Judge Saffman directed, amongst other things, that by 14 April 2025 the Defendant would notify the Claimant of the intended nature of the Force's involvement in the 2025 March. He also directed that the Defendant serve a copy of her direction to her workforce about wearing and displaying visible representations which she was due to make by 31 March 2025 pursuant to a recommendation of the HMICFRS in its report dated 10 September 2024. He expressly made these directions "mindful that the Claimant's practical objective is that set out above" (i.e. to obtain a judgment "which would inform future conduct in the public interest" on the basis that the March is an annual event) "and that clarification of future police conduct at events such as [Northern Pride] will be the subject of police guidance by 31 July 2025".
- v) Purportedly pursuant to Judge Saffman's Order, the Defendant then provided a statement dated 14 April 2025 which said, so far as material in relation to the 2025 March, that "police officers who are off duty and wish to participate in the [Northern Pride] event will be permitted to do so if they so choose". It did not provide a copy of the Defendant's direction to the workforce as it was now the position that no direction would be given until national guidance had been provided to police forces.
- vi) On 16 April 2025, the Claimant then applied for permission to be determined in relation to the Claim complaining, with some justification, that the Defendant had not complied with Judge Saffman's Order including by providing scant information about the Defendant's approach to the 2025 March. In particular, the nature of the permitted participation by off-duty officers had not been

explained and the position of on duty officers had not been addressed at all. Nor had the question of any other form of participation by the Force. Accordingly, the Claimant asked for permission to be granted. Her solicitor's statement in support of her application added: "However, an acute concern now arises in relation to timing". On the basis that "these proceedings derive their practical purpose precisely in relation to [the 2025 March]" the Claimant sought a hearing to determine the Claim "before the end of June". The statement emphasised that "The important thing from her perspective is that it now heard in good time before 19-20 July".

- vii) When permission was granted by Hill J on 23 May 2025, she directed that the hearing of the Claim be expedited and listed it for a 1.5 day hearing on 9-10 July 2025 accordingly (amended to a one day hearing 10 July by Order dated 3 June 2025 owing to the unavailability of Mr Cross on 9 July).
- viii) On 13 June 2025, the Defendant filed her Detailed Grounds of Defence and her witness statement. These documents set out, in greater detail, the Defendant's approach to the 2025 March. Plainly, that approach is significantly different to her approach in the previous year and the involvement of officers will be considerably more limited.
- ix) The Claimant has not sought to amend her Statement of Facts and Grounds and has not pleaded any challenge to the Defendant's decisions in relation to the 2025 March, albeit she expressly does not concede that those decisions were lawful. Her case remains limited to a challenge to what happened in relation to the 2024 Event.

- 81. Against this background Mr Waite argued that the stated purpose of the Claim was that it would inform the exercise of discretion by the Defendant in relation to the 2025 Event and future events. If it was not to address the 2025 Event then there was no reason for Hill J to order expedition or to list the hearing before 19-20 July 2025. The Defendant's approach to the 2025 Event has not been challenged. The Claimant could have applied to amend her Claim Form and Statement of Facts and Grounds to do so – this was what the Defendant expected she would do - and her failure to do so indicates that she recognises that the Defendant's decision in relation to the 2025 March is lawful. In any event, determination of the Claim, based on different facts, will serve no useful purpose.
- 82. As to the question of public interest, Mr Waite submits that there is no lack of clarity in the law: the position is as stated in the *Champion* case (see [63]-[64], above), and the test is one of rationality. Decisions on this type of issue are fact sensitive. The level and nature of police involvement may differ from case to case and societal attitudes change as, potentially, may the nature of Pride events. A review of the Defendant's decisions in June 2024 is therefore likely to be of limited value or assistance in future cases where discretion requires to be exercised. A judgment of this Court would also be in danger of being misconstrued as creating some form of factual precedent. The better course is to await a case where the court is able to determine the matter in advance of the event. Moreover, it would be in the wider public interest for the court to decide a case where the reasoning is more detailed, as in the Defendant's witness statement concerning the 2025 March, than on the basis of her 18 June 2024 letter, which was written to meet a 14 day deadline which had been set by the Claimant.



## Decision

83. I agree with Mr Cross that the Claim is not academic and that, even if it is, I should decide, in the exercise of my discretion, to determine it.
84. Mr Cross rightly accepts that this question falls to be determined on the basis of the pleaded Claim, which relates to the 2024 Event. Permission was granted in respect of that Claim, albeit Hill J went no further than to say that it is arguable that the Claim is not academic. There is no other claim before the Court. There has never been a suggestion from the Claimant's side that she would apply to amend her pleadings when the details of the Defendant's approach to the 2025 March were known, and nor was permission granted on the basis that the Claimant would do so. The Claimant's consistent position has been no more than that the determination of the issues relating to the 2024 Event would inform decision making in relation to the 2025 Event and other similar events in the future, and that it was therefore in the public interest for the Claim to be determined and determined expeditiously.
85. Secondly, the Claim alleges that activities of the Northumbria Police and the decisions of the Defendant in relation to the 2024 March were unlawful and she seeks a declaration to that effect. The Defendant denies any unlawfulness and resists the grant of the remedy which the Claimant seeks. There is therefore clearly a *lis*, or live dispute, between the parties. Moreover, as Mr Cross points out, declaratory relief is not necessarily precluded because it relates to past conduct which has been concluded: see *R (Gardner) v Secretary of State for Health and Social Care* [2022] EWHC 967 (Admin) at [139].
86. Thirdly, Mr Waite's submission is based on a misunderstanding of the Claimant's argument, albeit for reasons which are not his fault as I explain below. Mr Cross argues, amongst other things, that *any* active participation in the 2024 March, whether in uniform or otherwise and whether on or off duty, by the Defendant or her officers, was contrary to their duties of impartiality in that it demonstrated association with the views represented and expressed by that March. It is true that the Claimant's evidence highlights the uniformed contingent, including the Defendant, but there is some evidence that off-duty officers took part. Although there is no pleaded claim in relation to the 2025 March Mr Cross made clear, in answer to a question from the Court, that therefore he would not accept that it is lawful for police officers to wear tee-shirts which identify them as such, as is currently proposed by the Defendant. He also specifically challenges the involvement of the Defendant in the 2024 March which, as I have pointed out, was not addressed in her witness statement. Depending on whether I make rulings on the issues as Mr Cross framed them and/or accept his arguments, then, the Claimant's case has the potential for a direct impact on the decisions which the Defendant says she has made in relation to the 2025 March.
87. Fourthly, in any event, the Claimant's solicitor's statement of 16 April 2025 was made at the same time as a complaint that the Defendant had failed to make clear what her approach would be. It was part of an argument for expedition at a stage when it was being said that the Defendant's approach to the 2025 March was uncertain. On Mr Waite's argument, when the Defendant provided details of her approach on 13 June 2025 the need for expedition no longer applied in the same way, but it has always been the Claimant's position that she sought an adjudication of her claim and that a declaration would inform future conduct in the public interest. On a fair reading of what

she has said in the course of the proceedings, she did not limit that to the 2025 March and the fact that the Defendant's approach to this event is now known does not mean that the issues raised by the Claim have been resolved.

88. Fifthly, the issue relating to the application of the duty of impartiality to involvement by officers of the Northumbria Police, and the Defendant herself, in events organised by Northern Pride is a live one and may well arise in relation to future events given the public support for Northern Pride demonstrated by the Defendant and other members of the Force. The Defendant has changed her approach in relation to the 2025 March, and has made a significant concession at [43] of her witness statement (see [57], above), but she does not accept the Claimant's argument that her 2024 decisions were based on flawed reasoning or not open to her. On the contrary, the position which she took in her 18 June 2024 letter was that there was "no sensible basis" on which it could be said that her decisions were unlawful. Nor has she given any undertaking or indication as to her approach to future events other than the 2025 March.
89. As to the public interest if, contrary to my view, the Claim is academic:
- i) The issues raised by the Claim are important, current, controversial and of public interest. This hardly needs to be explained further but the case concerns the application of the duty of impartiality owed by police officers and the role of the chief officer of a police force in this regard in the context of community engagement and/or promoting diversity. It also concerns the role of the PSED in decision-making about these issues, and the questions arise in relation to highly contested views about sex and gender which are a matter of active public debate.
  - ii) In its report dated 10 September 2024 – "An inspection into activism and impartiality in Policing" - HMICFRS identified as a one of three "systemic issues in policing [which] are preventing it from being, or appearing to be, impartial, especially in contentious matters... [the fact that]....There is a near-total absence of any definition, guidance or judicial consideration of impartiality insofar as it relates to policing.". This concern took into account the decision in the *Champion* case.
  - iii) In practice, there has also been an inconsistent approach as between police forces in relation to this issue. Professor Stock gives examples of this but, in summary, in 2024 Greater Manchester Police instructed its officers who were policing Manchester Pride "not to decorate their uniforms with badges or emblems". The Police Service in Northern Ireland has also prohibited officers from taking part in Belfast Pride wearing uniform. The Claimant's evidence is that, on the other hand, last summer Police Scotland and the Merseyside Police were content for their officers to march in uniform. There is further evidence of uncertainty and differences of approach as between police forces in the September 2024 HMICFRS report referred to above. The section of this Report headed "Forces' engagement in some events can have the appearance of bias" specifically focuses on Pride events as the basis for a discussion of "whether public displays of support for certain causes [is] legitimate police activity or political "virtue signalling"."

- iv) Recommendation 5 of the HMICFRS report is that by 31 July 2025 the NPCC – the Interested Party in this case - should publish national guidance for police forces in relation to officers and staff attending and participating at community events. The College of Policing should then reflect this guidance within the relevant authorised professional practice. According to the written submissions of the NPCC, the response to this recommendation is being worked on but “there is no draft currently suitable to assist the Court’s considerations”. The NPCC’s submissions also say that its national guidance will “take into account the finding of the Court in these proceedings”.
- v) There is, with respect, nothing in Mr Waite’s arguments that it would be wrong or unfair to determine the Claimant’s criticisms of the 18 June 2024 letter given that it was written within a short timeframe. The letter itself did not qualify what is said on the basis that there had been insufficient time for a fuller and more considered explanation. On the contrary, it clearly stated that it reflected the Defendant’s thinking, and it was personally approved by her, as noted above. It was also written a month before the 2024 Event took place and the Defendant therefore had ample time to reflect on what she would authorise and why. She also had a good knowledge of the arguments against the course of action which she proposed to take given that these had been clearly set out in the Claimant’s pre action protocol letter of 4 June 2024.
- vi) Mr Waite’s argument that all concerned should await a claim which is brought before the Pride event which is challenged is also unconvincing. There are potential practical difficulties with this course and there would potentially be an argument that the claim was premature given that the facts were not fully known and/or might not come to pass in precisely the way which the claimant anticipates. On the other hand, there are significant advantages to deciding issues of this sort on the basis of the known facts, as is the position in the present case.
- vii) Finally, it does seem to me to be unattractive for a person, such as the Defendant, holding high public office and with responsibility for law enforcement, to argue that her decision should not be subject to any scrutiny at all by the Court in a case such as the present. Serious concerns have been raised by the Claimant about the Defendant’s decision-making and about her understanding and application of the law in relation to a fundamental duty of police officers, the duty of impartiality, in the context of an ongoing and highly contested public debate. It would be one thing if she had accepted that she was in error in relation to the 2024 Event and conceded the Claim, but she has made no concessions and, indeed, Mr Waite continued to argue that the Claimant’s case “made no sense” despite the fact that Hill J had held that it has sufficient merit for permission to be granted. The Defendant’s attempt to keep her options open, and to avoid legal challenge at the same time, has a tactical flavour which does not seem entirely consistent with the public interest.

## The merits

### Irrationality

90. In the light of *Champion*, I gratefully adopt the following passage from the judgment of the Divisional Court (Leggatt LJ and Carr J, as they then were) in *R (Law Society) v Lord Chancellor* [2018] EWHC 2094 (Admin), [2019] 1 WLR 1649 at [98] as an updated statement of *Wednesbury* irrationality:

"This legal basis for judicial review has two aspects. The first is concerned with whether the decision under review is capable of being justified or whether in the classic *Wednesbury* formulation it is "so unreasonable that no reasonable authority could ever have come to it...Another, simpler formulation of the test which avoids tautology is whether the decision is outside the range of reasonable decisions open to the decision-maker...The second aspect of irrationality/unreasonableness is concerned with the process by which the decision was reached. A decision may be challenged on the basis that there is a demonstrable flaw in the reasoning which led to it—for example, that significant reliance was placed on an irrelevant consideration, or that there was no evidence to support an important step in the reasoning, or that the reasoning involved a serious logical or methodological error."

91. In *R (KP) v Secretary of State for Foreign, Commonwealth and Development Affairs* [2025] EWHC 370 (Admin) at [55]-[63] and [75]-[78] Chamberlain J provided a characteristically helpful account of the concept of irrationality in public law so far as relevant to the case before him. Drawing on the distinction identified in the passage from the *Law Society* case set out above he said:

"56. Process rationality includes the requirement that the decision maker must have regard to all mandatorily relevant considerations and no irrelevant ones, but is not limited to that. In addition, the process of reasoning should contain no logical error or critical gap...

57. Outcome rationality, on the other hand, is concerned with whether – even where the process of reasoning leading to the challenged decision is not materially flawed – the outcome is "so unreasonable that no reasonable authority could ever have come to it".. or, in simpler and less question-begging terms, outside the "range of reasonable decisions open to a decision-maker".

92. He went on to note key authorities which demonstrate that "rationality is a flexible standard" [61]. One of these is *R v Department for Education and Employment ex parte Begbie* [2000] 1 WLR 115, 1130 where Laws LJ said that the *Wednesbury* principle was itself "a sliding scale of review, more or less intrusive according to the nature and gravity of what is at stake". Another is *Pham v Secretary of State for the Home Department* [2015] UKSC 19, [2015] 1 WLR 1591 where Lord Sumption JSC said this at [107]:

"It is for the court to assess how broad the range of rational decisions is in the circumstances of any given case. That must necessarily depend on the significance of the right interfered with, the degree of interference involved, and notably the extent to which, even on a statutory appeal, the court is competent to reassess the balance which the decision-maker was called on to make given the subject

matter...In some cases, the range of rational decisions is so narrow as to determine the outcome."

The submissions of the parties

*On behalf of the Claimant*

93. I accept much of Mr Cross' analysis and therefore need not repeat the detail of his argument here but, in short, his case was put on the basis of irrationality although he submitted that the scope of the Defendant's discretion in relation to whether a given activity was or was not contrary to the duty of impartiality was narrow given the nature of the issue. His skeleton argument referred to the possibility of looking at the matter in terms of whether the Defendant had a power to authorise an officer to engage in an activity which, looking at the matter reasonably, was contrary to the duty of impartiality. But he did not develop a vires or improper purpose arguments.
94. Mr Cross' contention was that on any view the active participation of officers of the Force in the 2024 March was contrary to the duty of impartiality because it involved association with the gender ideological views of Northen Pride and the participants in the March. This, therefore, was a case of outcome irrationality: no reasonable chief constable could come to the conclusion that participation in this way was consistent with the officers' duties. As I have noted, his argument was that any participation in the March was necessarily contrary to duty of impartiality because the duty was owed by each individual officer and because active participation amounted to association with gender ideological views. It did not matter what rank the officer was or whether they were on or off duty. But he submitted, in effect, that the position in the present case was *a fortiori* given that the officers were in uniform and given that one of them was the chief officer of the Force. Similarly, Mr Cross submitted that on any view the static display and the presence of the relevant police vehicle also demonstrated the Force associating itself with gender ideology given that they were displaying the colours of the transgender flag.
95. Mr Cross also submitted that the Defendant's letter of 18 June 2024 did not provide a rational basis for the decision which she reached and that it disclosed fundamental flaws in her reasoning i.e. there was process irrationality as well. These flaws included a misunderstanding of the PSED amounting to an error of law, and a failure to address the issues raised in the Claimant's pre action protocol letter of 4 June 2024, including the fundamental question whether the participation which she intended to authorise was consistent with the officers', and her, duties of impartiality.

*On behalf of the Defendant*

96. Mr Waite emphasised that the question whether participation by officers in the 2024 March was consistent with the duty of impartiality is a matter for the discretion of the Defendant and only susceptible to challenge on irrationality grounds. He relied on the Defendant's witness statement, which I have summarised and commented on at [49]-[60] above, and submitted that it is apparent from the central reasoning in that statement that it is relevant to both the 2024 and the 2025 Marches. In particular, he relied on the Defendant's evidence, at [26]-[34] of her statement, about her understanding of the central purpose of the Pride events and he said that this and other parts of her evidence were "the result of a more in depth analysis of that issue which the Defendant had

carried out since last year's event...with reference to material which was not available to her in respect of [that] event", albeit what she said in her statement was consistent with what she said at [5] of the 18 June 2024 letter. Again, the new material referred to was not specifically identified, nor how it made a difference.

97. Mr Waite also argued that [35]-[42] of the Defendant's statement, albeit referring to off-duty officers, are also applicable to the 2024 March and he relied on the reasons and arguments set out there. He also relied on the Defendant's explanation for her change of approach in relation to the 2025 March at [43] of her statement and submitted that the fact that the discretion has been exercised differently having taken account of material which was not available to the Defendant when she authorised the challenged activities in relation to the 2024 March does not mean that her exercise of discretion in relation to that event was unlawful "and the Defendant rejects any such suggestion".
98. Responding to two of Mr Cross' criticisms of the reasoning in the 18 June letter, Mr Waite stated that it had never been the position of the Defendant that the PSED obliged her to decide as she did in relation to the 2024 March. But the PSED was relevant because of the equality objectives of Pride and because these objectives lend support to the proposition that the central purpose of Pride should be regarded as uncontroversial. The advancement of the PSED is also one of the reasons why the Defendant considers that participation in Pride is not merely permissible but of positive value. Secondly, the Defendant had not left out of account the question whether Pride as an event is socially or politically controversial. She had considered that point but had concluded that the central purpose of the event remained uncontroversial.
99. Mr Waite went on to submit that even if, which is denied, there was an error in the reasoning in the 18 June 2024 letter this has been rendered immaterial by the contents of the Defendant's witness statement of 13 June 2025 which demonstrates that fuller reasoning would have led to the same result. In fact, her statement tends to demonstrate the opposite: on Mr Waite's own argument, fuller reasoning (albeit in the light of unspecified additional information) has led to a materially different result in terms of what the Defendant proposes to permit in relation to the 2025 March.
100. I asked Mr Waite about whether the fact that the Defendant is the chief officer of the Force makes any difference to the analysis and whether any distinction could be drawn between her position and that of "ordinary" officers. As noted above, he said that he did not read the Claimant's pleaded case as drawing particular attention to the fact that the Defendant took part in the 2024 March and he submitted that, in any event, there was no material distinction between her position and that of the other officers who participated.

*On behalf of the Interested Party*

101. In its written submissions, the NPCC emphasises the importance for local chief constables to retain operational discretion and flexibility in determining the extent and nature of police involvement in what might be described as community events "based on a risk led, intelligence informed assessment of local context". The range of factors which may be relevant to these decisions is also pointed out.

## Analysis

102. The starting point of any rationality analysis is to consider the statutory context in which the impugned decision was taken. This context informs the decision maker and the court about the scope and/or limitations of the discretion and the considerations which are relevant to its exercise.
103. It was not suggested that, in making the decisions about the 2024 Event, the Defendant was exercising any power other than her general power of direction and control under section 2 of the Police Reform and Social Responsibility Act 2011. However, nor was it in dispute that her general power was constrained by her and her officers' specific duties of impartiality. It seemed to me that there would be a respectable vires argument in this case i.e. that, as a matter of construction, her general power would not include a power to instruct or authorise an officer to act in a manner which was in fact inconsistent with their duty of impartiality as set out in the various statutory obligations of impartiality referred to at [61] - [67] above, and/or her general power would not include a power to do so knowingly or for an improper purpose. But the argument was not developed in that way by Mr Cross, possibly for pragmatic reasons and/or because it is not clear that the Defendant gave any positive instruction in relation to the 2024 Event: she may merely have failed to prohibit the activities in question. It is also unclear whether she appreciated that her decision was contrary to the duty of impartiality. Her position is that she did not, and still does not, consider that her decision was unlawful. I will therefore confine my decision to the question whether her decision was irrational.
104. Nevertheless, even in the context of a rationality challenge, it is important to note that the requirements on a police officer, including the Defendant, as to impartiality are fundamental. Intrusive state powers are vested in them on the basis that those powers will be exercised impartially. As the Defendant herself notes in her witness statement, the principles of policing by consent on which she relies, at least as explained on GOV.UK include:
- “To recognise always that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour and on their ability to secure and maintain public respect.
- .....
- To seek and preserve public favour, not by pandering to public opinion; but by constantly demonstrating absolutely impartial service to law, in complete independence of policy, and without regard to the justice or injustice of the substance of individual laws.....”
105. The importance of the duty of impartiality is also reflected in the facts that, at the outset of their appointment as constables, police officers undertake to serve with fairness and impartiality, that it is a key aspect of the Code of Ethics and that failure to comply with the duty of impartiality is a conduct issue under Police (Conduct) Regulations 2020.
106. The duty of impartiality is also rigorous. For ease of reference [1] of Schedule 1 to the Police Regulations 2003, which deals with officer's private life, states that:

“A member of a police force shall at all times abstain from any activity which is likely to interfere with the impartial discharge of his duties or which is likely to give rise to the impression amongst members of the public that it may so interfere.”

107. Mr Cross submitted, and Mr Waite agreed, that the duty on an officer cannot be any lower in their public life or when they are working or on duty. Where, for example, a constable takes an oath or affirmation, or is required by the Standards of Professional Behaviour or the Code of Ethics, to serve with fairness and impartiality they undertake, at the very least, not to act in a way which is contrary to [1] of Schedule 1 for as long as they are a serving officer and whether or not they are on duty or in uniform. I agree. In fact, as noted above, the Code of Ethics positively requires or expects them to be “actively aware of” the need for impartiality and to *challenge* “any activity that undermines the impartiality of policing”: see [66]-[67] above. The duty applies “at all times”, although activities in an officer’s private life may, depending on the circumstances, be less likely to interfere with the impartial discharge of their duties or the perception of their ability to do so impartially, than the same activities when on duty or in uniform.
108. As to the interpretation of [1] of Schedule 1 by the courts or the Defendant as a decision maker:
- i) The focus of the prohibition is on the activity in question, its impact on the officer’s ability to discharge their duties impartially and the impression which the activity is likely to give to members of the public as to their ability to do so.
  - ii) The activity will be prohibited not only if, looked at objectively:
    - a) Limb (a): it is “likely” to interfere with the officer’s impartial discharge of their duties;
    - b) But also if, limb (b): if it is “likely to give rise to the impression amongst members of the public that it may so interfere”. (emphasis added)
  - iii) Considerable assistance in answering both questions may be derived from what Lord Griffiths said in *Champion* (cited at [63], above) and in particular his observations that;
    - a) “Impartiality means favouring neither one side nor the other but dealing with people fairly and even-handedly.
    - b) It is activities that are likely to be seen in a similar light to taking part in politics that are aimed at by the provision: “activities that identify those taking part with a particular interest or point of view in a way which will, or may be thought, make it difficult for them to deal fairly with those with whom they disagree....”
  - iv) The standard is therefore an exacting one which encourages officers and decision makers to be cautious about the activities which they undertake or authorise. Limb (a) of the duty asks whether the activities are likely to have an actual effect on the officer’s discharge of their duties, which may be an easier test to pass. But limb (b) asks whether it is likely that there will be a *perceived*



effect. Obviously, it is no answer, in a case where there will be the relevant perceived effect, to say that an officer will in fact act professionally and impartially.

- v) Moreover, under limb (b) the effect perceived need be no more than an “impression” that the activity “may” interfere with the impartial discharge of the officer’s duties. This feature of the definition encourages officers and decision makers to adopt a cautious approach.
  - vi) In another case, it might be necessary to ask: “how many members of the public who would be likely to form the impression referred to must there be for the duty to be breached?” Or, perhaps: “what if the views of the putative members of the public are offensive, irrational or unpopular?” But in this case, neither question requires to be explored. Mr Cross submitted, and Mr Waite did not disagree, that there is a sufficient number of people who hold gender critical beliefs for the duty to be engaged. No doubt in the light of the decision in *Forstater* that gender critical beliefs are protected by the Equality Act 2010 and the Human Rights Act 1998, Mr Waite did not submit that the nature of these views is such that an impression which gender critical members of the public are likely to form can be disregarded.
  - vii) The only questions in the present case, given that the Claimant has confined her case to the impact on gender critical people, are therefore whether, on the evidence, the impugned activities are such as to interfere with the impartial discharge of their duties by the officers or the Force in their dealings with gender critical people or are likely to give rise to the impression amongst gender critical members of the public that the activities may so interfere.
109. Next, in terms of the scope of the Defendant’s discretion, it does seem to me that her statutory role as Chief Constable of the Force, including the duty to have regard to her express responsibility under [23(a)] of the Policing Protocol to lead the Force “in a way that is consistent with the Code of Ethics and Oath of Attestation and ensuring that it acts with impartiality (including political impartiality)” (emphasis added) gives further emphasis to the need for a chief constable to consider impartiality issues with considerable care. So do the facts that the issue is one of conduct for the officer in question and that it is for the Chief Constable to decide, under the Police (Conduct) Regulations 2020, whether there has been a breach in a given case and, if so, whether the matter should be the subject of misconduct proceedings.
110. Finally, whilst I will assume that Mr Waite is right to submit that some allowance should be made by the Court for the “local knowledge” of a chief constable, and accept (on the authority of *Champion*) that she enjoys a margin for judgment, the issue of impartiality is one which a court is likely to be in a good position to assess in most cases. The present case is not concerned, for example, with the Defendant’s decisions as to the policing of the 2024 Event: with an operational decision of that nature, where the Defendant necessarily has significantly greater expertise and her constitutional role also requires that the court is slow to interfere. Issues in relation to actual or apparent bias are commonly required to be decided by the courts which, themselves, are also required to act fairly and impartially.

Process irrationality?

111. In contrast to Mr Cross' approach I propose to start with process irrationality. Drawing on the analysis of the duty of impartiality set out above, where a question arises as to whether a given activity will be contrary to the duty of impartiality, one would expect a rational officer or decision maker to:
- i) Identify the proposed activity;
  - ii) Ask whether it is "likely" to interfere with the officer's impartial discharge of their duties: paraphrasing Lord Griffiths in *Champion*, will the activity identify those taking part with a particular interest or point of view in a way which is likely to make it difficult for them to deal fairly with those with whom they disagree?
  - iii) If it will not, ask whether the proposed activity is "likely to give rise to the impression amongst members of the public that it may so interfere". Again paraphrasing the words of Lord Griffiths, will the activity identify those taking part with a particular interest or point of view in a way which is likely to be thought by members of the public to make it more difficult for them to deal fairly with those with whom they disagree?
  - iv) Only proceed with, or authorise, the activity if the answer to both (ii) and (iii) is in the negative.
112. Moreover, one would expect a rational officer or decision maker to proceed with caution in deciding whether to take an active part in a public event and, in discharging their *Thameside* duty to make reasonable inquiries, to consider the nature of the event, and the implications of taking part in it, with care. They should also have firmly in mind that their own views as to what is or is not political or controversial may not necessarily be shared by all members of the public. It is easy to fall into the trap of thinking that views with which one agrees are or must be uncontroversial.
113. Turning to the Defendant's letter of 18 June 2024, explaining her thinking in relation to the 2024 Event, it is immediately apparent that she proceeded on the basis of an error of law. It is clear from [11] of that letter (cited at [40] above) that she considered that the duty of impartiality was not breached because it had to be "*read compatibly with her Equality Act duties and responsibilities*". The opposite is the case: the public sector equality duty has to be read subject to compliance with the duty of impartiality. Whilst the latter is a substantive duty of all police officers, as noted above, the PSED "*is not a duty to achieve a result...It is a duty to have due regard to the need to achieve*" the goals identified in section 149 of the Equality Act 2010. The PSED does not, and cannot, qualify or compromise a police officer's duty of impartiality.
114. It is also a matter of concern that this misunderstanding on the part of the Defendant may persist in relation to her decisions about the 2025 March. As noted above, at [40] of her witness statement she goes as far as to say that it would be "contrary to" her public sector equality duty to prevent officers from attending the March "due to the wider value of such attendance". This appears to imply that the Defendant's understanding is that the perceived beneficial aspects of participating in the 2025 March are capable of trumping or outweighing the duty of impartiality and/or that the PSED

is capable of requiring her to authorise an officer to engage in activities even if this would breach their duty of impartiality (though I make clear that I am not deciding whether the proposed activities in 2025 would do so: see further below). If this is her understanding, it is incorrect.

115. Section 149 of the Equality Act 2010 sets out statutory relevant considerations to which public bodies are required to have “due regard” in exercising their functions and making decisions in that context. But they have “due regard” to these considerations subject to the requirement to act lawfully. The section does not authorise unlawful conduct in order to achieve the equality objectives specified in section 149. Indeed, section 149(6) itself makes clear that, for example, compliance with the PSED does not permit “conduct that would otherwise be prohibited by or under this Act”. It would be no answer to a discrimination claim to argue that the discrimination was permitted because it promoted the equality goals identified in section 149. Similarly, if there is a breach of the duty of impartiality, it is no answer to say that the breach was for laudable reasons or to achieve equality related objectives.
116. Secondly, leaving aside the Defendant’s error of law in relation to the PSED, her overall approach is to emphasise the objectives of her decision but not to grapple with the requirements of the duty of impartiality. The reasoning barely addresses the Claimant’s arguments, set out in detail in the pre action letter of 4 June 2024, that participation in the 2024 March would breach the duty of impartiality. She refers to “participation in Pride” and says that this may take the form of participating in the event and pride colours being exhibited on a small proportion of police equipment, but she does not focus on the specifics of the activities involved. Indeed, it is a feature of the 18 June letter and her 13 June witness statement that she elides the march which forms part of a Pride event with the event as a whole without recognising that the march has a particular purpose and particular features, which I discuss below.
117. Nor, in the 18 June letter, does the Defendant analyse whether the relevant activities “are likely to interfere with the impartial discharge of [the officer’s] duties” or are “likely to give rise to the impression amongst members of the public that it may so interfere”. At [7] she simply asserts, having referred to the PSED and the principle of policing by consent that “She is satisfied that participation in Pride does not display bias or partiality of any description”. The basis for this conclusion seems to be that one of the purposes of the Pride Festival is to combat stigma and discrimination etc, that it does so by celebrating the individuality and dignity of the LGBT+ community and that participation by the police serves laudable aims. But these considerations do not address the question whether participation would be consistent with the duty of impartiality.
118. [8] of the 18 June letter is both symptomatic of the Defendant’s reasoning and problematic for similar reasons. For ease of reference the paragraph states:

“8. The basis of your objection to police participation in Pride appears to be that the event celebrates/supports the status of members of the trans community. You do not suggest or imply that such participation would be wrong if the event related solely to the LGB community. The Chief Constable is satisfied that it would be both wrong and contrary to her duties under the Equality Act to differentiate (on the one hand) between members of the LGB community and those who are undergoing gender reassignment (including those proposing to undergo such reassignment). Both groups are entitled to equal treatment under that Act.”

119. The opening sentence does not do justice to the Claimant's argument in her pre action letter, which is perfectly clearly set out and detailed. And, in any event, [8] does not then address the Claimant's objection. The response is, instead, a form of "whataboutery" in that it addresses an argument which was not being made. The Claimant was not asking the Defendant to differentiate in the way suggested. Rather, she was asking the Defendant not to take sides by her and officers in her force associating with the views which Northern Pride events reflect and amplify. Nor was the Claimant asking the Defendant to differentiate between sexual orientation and gender reassignment. Her argument was about biological or natal sex versus gender.
120. For reasons which I have touched on I do not accept Mr Waite's argument that the 18 June letter cannot be fairly criticised given that the Defendant was set a 14 day deadline to respond to the Claimant's pre action letter. There is no indication in her letter that she had any concerns about her ability to explain her thinking and, of course, she responded more than a month before the 2024 Event. She could have taken longer if she needed it, albeit at the risk of proceedings being issued before she responded, and she had a good deal of time to reflect before the Event took place.
121. Mr Waite's connected argument that, in effect, she is now aware of (largely unspecified) considerations of which she was not aware in 2024, and that her understanding as at 13 June 2025 should be taken into account in considering the lawfulness of her decisions of a year before is, with respect, illogical and unconvincing. If he or she are to be taken as saying that the Defendant was not aware of key considerations which were relevant to her decision and which caused her to change her approach – the views of Northern Pride, the nature of the proposed 2024 March or the views of gender critical people, for example – this is a further indication that her 2024 decision-making was irrational. If the Defendant was not aware of key relevant matters before she received the Claimant's letter of 4 June 2024, which would be surprising if it were the case, she could not have failed to become aware of them in the light of the contents of that letter. Given the sensitivity and importance of the issue, she or someone on her behalf could be expected to make reasonable inquiries in relation to anything about which she was uncertain, as a result of which she would then have become aware of the true position.
122. Finally, and without determining the matter, I should not be taken to be accepting that the reasoning in the Defendant's statement of 13 June 2025 is adequate. I have identified concerns about her understanding of the PSED and the Defendant will no doubt also wish to consider, in the light of this judgment whether she has sufficiently analysed the application of the duty of impartiality to the particular activity of taking part in a march, the evidence about the views of Northern Pride and the participants in such a march, and the likely nature of the 2025 March itself. As will also be clear, this is not a comment on the outcome – what the Defendant says she has decided to permit in 2025 – it is a comment on the reasoning in her statement.

#### Outcome irrationality?

123. As noted above, in addition to his arguments about the static display and the police vehicle, Mr Cross submitted that any participation of the Defendant and her officers in the 2024 March was necessarily contrary to the duty of impartiality, particularly if they were identifiable as such. It followed that the Defendant's decisions were necessarily

unlawful. In the alternative, the particular forms of participation in this case which occurred were contrary to the duty to act impartially.

124. It was unfortunate that, because of the abridged timetable, Counsel had not filed an agreed list of issues as required by CPR Practice Direction 54A at [15.7]. This meant that, despite reading into the case, I had not appreciated that Mr Cross was putting his case as widely as this and, it appeared, nor had Mr Waite. My understanding from the pleadings, the evidence in support of the Claim, and Mr Cross's skeleton argument was that the complaint was about the fact that, as Mr Miller put it "Uniformed officers, led by [the] Chief Constable...marched with Pride flags that proclaimed gender ideology slogans". The passages from the Claimant's evidence which I have cited above referred to uniformed officers, and the photograph of the officers participating in the 2024 March on which the Claimant relied showed the uniformed contingent.
125. Having considered the pleadings and the Claimant's evidence again, I can see that it is arguable that Mr Cross' "greater includes the lesser" approach to his legal argument is consistent with a literal interpretation of parts of the Claim Form and the Statement of Facts and Grounds. However, the real issue is whether, in the light of his pleaded case, it would be fair or advisable for me to rule on his wider proposition. I have concluded that it would not be and I decline to do so for the following reasons.
126. In my view the fair interpretation of the Claimant's pleadings and evidence as a whole is that the issue is as to the participation of the Defendant and other *uniformed* officers in the 2024 March. Whilst the introduction and summary at the beginning of the Statement of Facts and Grounds is stated in wider or less specific terms, the pleading about the Event specifically relies, at [21], on the evidence of the Claimant and Mr Miller and refers, at [24], to "a marching contingent of uniformed officers from the Force" (emphasis added) before citing Mr Miller's evidence. At [25] the Claimant's evidence is referred to and says of the marching police officers "some wore uniforms with the word "Police" in Pride colours" (emphasis added). There is no specific complaint or evidence about officers who were not in uniform. It is in this context that the impression which this gave to the Claimant and Mr Miller is pleaded, and the specific activities objected to are pleaded. In my view, they are fairly understood as referring to what actually happened on the day and, in particular, the fact that the contingent of officers were in uniform.
127. In addition to this, the implications of Mr Cross' wider submission are significant, whichever way it is determined. The question whether it would be consistent with a police officer's duty of impartiality to take part in the 2025 March wearing a "LGBT+ Network: Police with Pride" tee-shirt is deliberately not before me as a result of the Claimant's decision not to bring a claim, at least at this stage, which challenges the Defendant's decision in relation to that March. Mr Cross' argument therefore invites a more wide-ranging ruling on whether a serving police officer could ever participate in a Pride march and, indeed, he argues that the answer to this is "no". His argument also potentially entails consideration of circumstances in which the answer might be "yes": could they do so as long as they were not readily identifiable as a serving police officer, for example; would it matter whether they were part of the local force or from a different part of the country, and so on. He raises these questions (at least implicitly) in a case in which there is reference to off-duty officers marching but very little evidence about this, and no real focus on this group in the Defendant's pleaded case for reasons which are understandable given the way in which the Claim has been pleaded.

128. Quite apart from the lack of clear notice to the Defendant of Mr Cross' wider argument, it does seem to me to be important that there have been no submissions from individuals or organisations who might be quite willing to accept that uniformed police officers cannot participate in Pride marches but would be very concerned at the suggestion that a serving police officer could never do so, even in a personal capacity. As noted above, Hill J recognised that there might be other parties which were interested in the issues in this case, including Northern Pride, and she invited urgent consideration of this question. When I asked Mr Waite about this he told me that Northern Pride had not been contacted with a view to seeking their views on the matter. Whilst there is no obligation on the parties to invite applications to join legal proceedings there does seem to me to be a considerable risk that it has not been appreciated by anyone that Mr Cross was contending for a conclusion which is as wide ranging as the broader version of his case.
129. In addition to the issue as to the fairness of deciding the wider issue raised by Mr Cross in the absence of potentially interested parties, there is the need for the Court to reach a robust and well-informed conclusion, one way or the other. I am conscious that the Defendant has chosen to argue the case in a particular way and, quite understandably, with regard to her own interests. But it is quite possible that an individual officer who was affected by the issue or an interested organisation would want to put forward different arguments, including arguments based on Articles 8 (respect for private life) and/or 9 (freedom of thought conscience and religion) and/or 10 (freedom of expression) of the European Convention on Human Rights. No such arguments featured in the submissions to me and this is another reason why it would be ill advised for me to express a view on the wider question raised by Mr Cross.
130. Turning to the specific questions raised by facts of the 2024 Event and the pleaded Claim, I agree with Mr Cross that it was contrary to the uniformed officers' duties of impartiality and, indeed, the Defendant's own duty of impartiality, to participate in the 2024 March in the way that they did. I accept the evidence filed on behalf of the Claimant, summarised in more detail above, that Northern Pride clearly and strongly supports gender ideology and transgender rights and it campaigns accordingly, including for changes in law and policy which reflect its views. The 2024 March was, at the very least, partly organised as part of Northern Pride's campaigning activities and to promote that agenda. Those who do not agree with the position of Northern Pride on transgender rights are not welcome on marches organised by Northern Pride. The participants in the March also appear to share the beliefs of Northern Pride and to support the aims of the transgender community. They marched, at least partly, because they wanted to demonstrate that this was the case and to express their support for the LGBTQIA+ cause. It is not necessary to describe this aspect of the March as "political" for the Claimant to succeed, but that is what it was.
131. If one then asks whether the officers' activity of taking part in the March was likely to give rise to the impression amongst members of the public that it may interfere with their ability to discharge their duties impartially or, to use the words of Lord Griffiths in *Champion*, whether this was an activity which identified "those taking part with a particular interest or point of view in a way which will, or may be thought, make it difficult for them to deal fairly with those with whom they disagree...." the answer seems to me clearly to be "yes". A key reason for taking part in the March was publicly to support the beliefs and aims which the March represented and sought to promote,

and this was as true of the police officers who did so as it was of any other marchers. Moreover, the fact that they wore their uniforms, marched as a contingent, and carried the Police Pride and other flags demonstrated their support for the cause *as police officers*.

132. The Claimant has framed the issue in terms of gender critical beliefs versus gender ideology, although there are others who might not share the viewpoint which the 2024 March represented and promoted, including on religious grounds, or who might disagree with the views of some of the marchers on Gaza or socialism. She gives perfectly plausible reasons why, she says, she formed the impression that these activities may interfere with the officers' ability to discharge their duties impartially in relation to gender critical people, and so do Mr Miller and Professor Stock. Their evidence is also that many gender critical people would be likely to form the same impression.
133. Furthermore, it is not hard to imagine circumstances in which the officers in question might be called on to deal with a clash between gender critical people and supporters of gender ideology, and therefore situations where the former had cause for concern as to whether they were being dealt with impartially. The Claimant gives the example of allegations of harassment and counter harassment on social media and, of course, harassment can take other forms as Professor Stock would no doubt agree. By way of other examples of situations in which the police might be required to deal with a clash between the competing perspectives, there might be an issue for the Force as to whether gender critical people should themselves be permitted to demonstrate and, if so, where and when. There might be an attempted counter demonstration by gender critical people which required the police to deal with it. There might be an attempt to eject a gender critical person from the March. In all of these cases, the fact that the officers had publicly stated their support for transgender rights by taking part in the 2024 March would be likely to give the impression that they may not deal with the matter fairly and impartially.
134. The position is a fortiori when one considers the fact that the Defendant led the contingent. As noted above, she had expressed public support for Northern Pride on a number of occasions in the past. Her participation in the March was likely to be seen, and may well have been intended to be seen, as expressing the support of the head of the Force for the views and the cause which the March sought to promote, and therefore as indicating the position or perspective of the Force as an organisation. It would not automatically follow from this that the impartiality of all officers of the Force was compromised, but a perception that the Force as an organisation supported gender ideology and transgender rights and/or that the aim of the Chief Constable is that the Force should do so, would be capable of lending support to the view that a given officer also supported those beliefs and that agenda.
135. When one adds the fact that the Force's static display, staffed by police officers, was adorned with the Progress Flag and included the Northumbria Police badge and the blue, pink and white of the transgender flag as part of the same display, the impression that there was an expression of institutional support for gender ideology and transgender rights is enhanced further. Similarly, the fact that a police van, which might have been used for law enforcement purposes, was also painted or marked prominently with transgender colours served to add to the impression that the Force as a whole was

associating itself with a particular viewpoint and, as far as gender critical people were concerned, taking sides.

136. Of course, it does not follow, from my view that the Defendant was *wrong* to think that the relevant activities were consistent with the duty of impartiality, that it was therefore *irrational* for her to reach this conclusion. However, I have already explained that the Defendant's reasoning did not provide a rational basis for her decision. After careful consideration I have also concluded that the effect of the activities challenged by the Claimant was sufficiently obvious for the Defendant's decision to be outside the range of reasonable decisions open to her. Leaving aside the question whether the activities in question would be likely to interfere with the relevant officers' impartial discharge of their duties, on any view they would be likely to give rise to the impression amongst members of the public that they may do so. Accordingly, in her capacity as the chief officer of the Force, which was under her direction and control, and with the particular statutory responsibilities which she had as Chief Constable, the Defendant was bound to decide that such activities could not be authorised.

### **Conclusion**

137. I therefore allow the Claim and will make an appropriate declaration accordingly. This will relate only to the 2024 Event. It will be a matter for the Defendant to consider, in the light of what I have said in this judgment, whether her current proposed approach to the 2025 Event should remain as it is.