



Neutral Citation Number: [2011] EWHC 1246 (QB)

Case No: HQ08X02815

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Cardiff Crown Court
The Law Courts
Cathays Park
Cardiff
CF10 3PG

Date: 20/05/2011

Before:

MR JUSTICE WYN WILLIAMS

Between:

O.O.O (1)
O.O.A (2)
M.T.K. (3)
R.T.F. (5)

First Claimant
Second Claimant
Third Claimant
Fifth Claimant

- and -

**THE COMMISSIONER OF POLICE FOR
THE METROPOLIS**

Defendant

Phillippa Kaufmann (instructed by **Bhatt Murphy Solicitors**) for the **Claimants**
Lord Faulks QC and Paul Stagg (instructed by **Directorate of Legal Services of the**
Defendant) for the **Defendant**

Hearing dates: 7 – 11 March 2011 & 15 March 2011

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
MR JUSTICE WYN WILLIAMS

Mr Justice Wyn Williams:

Introduction

1. In these proceedings the Claimants, who are young Nigerian women, claim that the Defendant has infringed their rights under Articles 3 and 4 of the European Convention for the Protection for Human Rights and Fundamental Freedoms (ECHR). They each seek a declaration to that effect and damages pursuant to section 8 of the Human Rights Act 1998. Each of the Claimants was brought into the United Kingdom from Nigeria illegally. They each allege that thereafter and over a number of years they were made to work for no pay in households in and around London and subjected to physical and emotional abuse by the householders. They allege that their treatment over these years was such that they were subject to inhuman and degrading treatment and that they were held in slavery or servitude contrary to Articles 3 and 4 respectively of ECHR.
2. There came points in time, say the Claimants, when officers of the Metropolitan Police were asked to investigate the treatment which had been meted out to them. The Claimants' case is that over a significant period of time a number of officers of the Metropolitan Police failed to undertake any such investigation. It is the alleged failure to investigate on the part of these officers which is at the heart of these proceedings.
3. The Defendant does not dispute that the Claimants were subject to treatment over many years which was wholly unacceptable. At the commencement of the hearing before me it was not expressly admitted that the treatment was such that the Claimants had been the victims of inhuman or degrading treatment or that they had been held in slavery or servitude. By the end of the evidence, however, this aspect of the case was not in issue. In his closing submissions, Lord Faulks QC openly acknowledged that each of the Claimants had been the victims of treatment which was in breach of their human rights under Articles 3 and 4 of ECHR. However, although the Defendant accepts that the treatment meted out to the Claimants breached their rights under Articles 3 and 4 of ECHR he does not accept that any of his officers also breached those rights as a consequence of a failure to investigate the Claimants' complaints. There is no dispute that an investigative duty may arise under Articles 3 and 4. The Defendant maintains, however, that when the scope of that duty is properly identified and the relevant facts analysed closely and objectively the proper conclusion is that there was no breach of duty on the part of any police officer.
4. When these proceedings were commenced there were five Claimants. Shortly before the hearing before me commenced the Fourth Claimant (known as FAF) decided to withdraw her claim. Consequently, this judgment is concerned only with the claims brought by the First, Second, Third and Fifth Claimant. The word "claimants" in this judgment refers to those four individuals.

The Claimants' accounts of their ill-treatment

5. The First Claimant (OOO) was born on 18 May 1987 in Nigeria. She was brought to England from Nigeria on 18 June 2002 when she was 15 years old. She was brought to this country by a man to whom she had been introduced a week before her arrival. The First Claimant's parents had been persuaded to permit her to come to England to

live with a woman called Mrs A so that the First Claimant could receive a better education.

6. On arrival in the United Kingdom the First Claimant was met by Mrs A and taken to her home in Edmonton, north London. Mrs A lived in a house with her husband, Mr A and their two children. Mrs A's sister was also living at her home at this time.
7. The First Claimant was required to care for the A's children who were then aged about 3 and 18 months. In addition the First Claimant was required to do all the housework including cooking, cleaning, ironing and washing. She worked between about 6.00am and 11.00pm and was required to tend to the children's needs if they woke in the night. The First Claimant was never paid for the work she did.
8. As time went on Mrs A displayed violence to the First Claimant. Mrs A would strike her with shoes, rulers, wooden ladles and other objects. There came a point in time when she was striking the First Claimant on a daily basis.
9. Both Mr and Mrs A constantly undermined the First Claimant. They also made her afraid of the police in the United Kingdom. They would tell the First Claimant that if she went to the police that she would be locked up and that she would not see either her own family or them again. The First Claimant understood that she had been brought to the United Kingdom illegally and, in consequence, she readily accepted that the police might be antagonistic towards her.
10. Such was the conduct of Mr and Mrs A that the First Claimant left their home in March 2004. She was then nearly 17.
11. The Second Claimant (OOA) was born in Nigeria on 9 July 1986. She arrived in the United Kingdom on or about 22 December 1997 when she was aged just 11. An arrangement had been made with her aunt in Nigeria and another woman that she should come to the United Kingdom in order to complete her education. Shortly after her arrival in the United Kingdom she was collected by Mrs Lucy Adeniji who took her to her family home. Mrs Adeniji lived at the family home with her husband and their 4 children whose ages then ranged from 10 years to 6 months.
12. The Second Claimant was required to look after the 3 youngest children. In addition she was required to carry out all the domestic chores including washing up, cleaning and cooking for the family. Every day she worked between about 5.00am and 6.00am and about midnight. Further, it was not uncommon for the Claimant to be told to assist with one of Mrs Adeniji's children, who was disabled, during the night.
13. The Second Claimant was also the victim of very significant violence. Mrs Adeniji regularly beat her with a stick, a belt or any other implement that was close to hand. On occasions the beatings would be carried out in front of the Adeniji children and after the Second Claimant had been ordered to remove her clothing. On an occasion in 1999 Mrs Adeniji stabbed the Second Claimant to the head with a heavy meat cleaver.
14. In about 2000 the Second Claimant was taken to live with a woman called Bumi Rochford. The Second Claimant lived with Ms Rochford for approximately 3 years during which time she was required to work for her and care for her 2 children.

Initially the Second Claimant's life was easier; however after a period of time Bumi Rochford also became violent towards her, regularly beating her with a stick.

15. In November 2003 the Second Claimant returned to live with the Adeniji family. By this time Mr and Mrs Adeniji had 5 children; another Nigerian girl, DO, was living in the household. It soon became apparent to the Second Claimant that DO was in an identical position to her own. Between late 2003 and 24 April 2006 the Second Claimant remained at the Adeniji family home. She was treated in exactly the same way in that period as she had been treated during her earlier period living with that family.
16. On 20 April 2006 Mrs Adeniji beat the Second Claimant so severely that she rendered her unconscious. On 24 April 2006 the Second Claimant, then aged nearly 20, escaped and went to stay with her friend, YT.
17. The Third Claimant was born in Nigeria on 7 April 1986. She was brought to the United Kingdom on 10 September 2000 when she was 14 years old. Upon arrival in England the Third Claimant was taken to the house of Mrs B; that woman lived alone with her young baby having separated from her husband.
18. Mrs B immediately set the Third Claimant to work. She was required to look after the baby while Mrs B went out to study. She was also required to carry out all the household tasks. The Third Claimant began work at approximately 6.30am every morning and often worked into the early hours of the next morning.
19. After approximately 6 months Mrs B moved to a two-bedroomed flat. That day was almost the first day that the Third Claimant had left the confines of Mrs B's home.
20. Approximately 4 months later Mrs B moved to live with her sister. At this point the Third Claimant's workload increased as she was required to look after the sister's 3 children in addition to looking after Mrs B's child and doing all the usual household tasks. In late 2001 or early 2002 Mrs B moved to a three-bedroomed house in Enfield. From that time onwards Mrs B frequently invited her friends to leave their young children with the Third Claimant so that she could look after them. On many occasions the Third Claimant would be required to look after a total of 5 children.
21. Throughout the period in which the Third Claimant lived with Mrs B she was subjected to violence. On a number of occasions Mrs B struck the Third Claimant with the back of her hand when wearing a ring. Further, she often slapped and pinched the Third Claimant.
22. In November 2003 the Third Claimant began to develop severe migraines. Mrs B took her to a GP but registered her as if the Third Claimant was her relative giving a false date of birth. The doctor advised the Third Claimant to rest but Mrs B continued to require the Third Claimant to do all the household chores and child care tasks.
23. In August 2006 the Third Claimant suffered a very severe migraine. At the time Mrs B was travelling in the United States. When Mrs B returned she took the Claimant to hospital and on 6 September 2006 the Third Claimant underwent some kind of operation. Following the operation the Third Claimant was advised to recuperate but Mrs B instead required her to work. When it became clear that the Third Claimant

was unfit to work Mrs B instructed her to leave her home since the Third Claimant was no longer of use to her. The Third Claimant left Mrs B's home on 6 December 2006. She was then aged 20.

24. The Fifth Claimant was born in Nigeria on 25 January 1984. She arrived in the United Kingdom on 23 February 1999 when she was 15 years old. She travelled with an agent who had been paid the sum of £2000 by Mr and Mrs C to arrange the Fifth Claimant's passage to the United Kingdom.
25. Upon arrival in the United Kingdom the Fifth Claimant was taken to the home of Mr and Mrs C. They soon required her to undertake a very significant work load within the home.
26. When the Fifth Claimant first began living with Mrs C they had one child. A second child was born in June 1999 and a third child in 2001. Following the arrival of the third child, in particular, Mr and Mrs C became increasingly aggressive and violent towards the Fifth Claimant. They both slapped and smacked her frequently.
27. The Fifth Claimant was isolated as much as was compatible with her serving the family's needs. She was not permitted to speak to her mother in Nigeria; she was not allowed out of the family home of Mr and Mrs C during school hours to avoid any possibility that her absence from the school would be observed.
28. By 2004 the Fifth Claimant had become desperate. On or about 25 March she set about escaping. She was taken by a friend, Lovina Hall to Southgate Police Station. I will deal with what transpired at that visit and, thereafter, in the next section of this judgment. In short, however, no action was taken against Mr and Mrs C. Accordingly, on 1 April 2004 the Fifth Claimant returned to live with them since she had nowhere else to go. The Fifth Claimant remained with family C until 5 July 2005. She then left, fearing what might happen if she remained. She was 21 years old.
29. All four Claimants gave evidence before me. The accounts set out above are a summary of their allegations of ill-treatment as described in witness statements taken for the purpose of pursuing the right to remain in this country and for the purpose of these proceedings. The Claimants were not challenged about these accounts when they were cross-examined. Throughout, the hearing proceeded on the basis that the accounts were true and I find that to be the case without hesitation.

Contact between the Claimants, other Nigerian women, their lawyers and other representatives and officers of social services departments and the Metropolitan Police.

30. I will deal with this section of my judgment chronologically. It is intended to catalogue all the important contacts. Where disputes of fact exist about the contact in question I will state my conclusion upon it in this section of my judgment.
31. The Fifth claimant was the first of the Claimants to come to the notice of what can loosely be termed the authorities. On 20 April 2001 an anonymous letter was written about her to the Social Services Department of the London Borough of Enfield. The relevant part reads:-

“Why is the little girl....not attending school? Is it not the law of the land that children of “school-age” attend school?”

I have often passed the house during the day, to see the little girl, ‘fetching and carrying’, and the thought occurs to me the little girl may be here illegally, and is being used as a servant.”

32. Some investigations were undertaken by officers of the local authority. However, they concentrated on the fact that the Fifth Claimant was not attending school and passed their concerns to the Educational Welfare Officer. Nothing came of the investigations and on 14 May 2001 the file was closed.
33. On 25 March 2004 the Fifth Claimant attended at the Police station at Southgate, North London. Before summarising what occurred on that day and in the days that followed I record, briefly, the Fifth Claimant’s evidence about why she went to the Police. By March 2004 the Fifth Claimant was feeling quite desperate about her plight. On or about 19 March she decided to take an overdose of paracetamol tablets. The dose was not, apparently, life threatening. However, a few hours later she vomited and felt dizzy. She was sent to the GP by Mrs C; however she did not tell the doctor what she had done, preferring to tell the doctor that she had chest pain.
34. By this time the Fifth Claimant had become friendly with Mrs Lovina Hall. They attended a local college together. The Fifth Claimant decided to confide in Mrs Hall and ask her about how she might leave the home of Mr and Mrs C. When she told Mrs Hall of her plight Mrs Hall persuaded her to go to the local police station to seek assistance. So it was that on 25 March 2004 the Fifth Claimant left the home of Mr and Mrs C and went to Southgate Police Station. She was accompanied by Mrs Hall.
35. The Fifth Claimant arrived at the police station in the late afternoon. She was seen by an officer called Michele Taylor. It seems clear that two records were created to record what had transpired between the police officer and the Fifth Claimant. The first record is contained within a document entitled “Crimint Information Report”; the second is contained within a document entitled “Merlin”. The Crimint Information Report contains the following:-

“On 25/03/2004 [the Fifth Claimant] dob 05/05/1988 of address 34 Gilbert Street, Enfield EN3 6PE called into the front office at Southgate Police Station along with her friend Mrs Lovina Hall of to inform police that she was unhappy with where she was living, she lives with a family and had done so since she was 9 years old, she is from Nigeria.

She stated she lived with them as a slave she looked after children and did the housework. Police asked if she was physically abused to which she replied no. She was just unhappy, she was not held against her will she could come and go as she pleased. She left to return home she did not want to report the matter.”

The “Merlin” record is similar but not identical. The relevant part reads:-

“The young female has lived with the family since she was 9 years old she came to live with the family from Nigeria to work for them. She called into the front office of Southgate with a friend to inform police that she was unhappy with where she was living and the way in which she was being treated. Police asked if she was physically being assaulted to which she replied no, she stated she was being called names and was being told in the middle of the night to leave the house she also stated she was not being feed.

She told police she did not want to report the family, police asked if she was being held against her will but she told police she could come and go as she pleases. She did not fear for her life.

The female lives with Mr and Mrs C who have children of their own at the address. A contact number for this address is

The female’s friend who she came into the station with who she attends Southgate College with is Mrs Lovina Hall dob 08/11/1974 address she has a mobile telephone number

The female left to return back to the address on her own accord.”

36. The Fifth Claimant’s account of what was said at the meeting with the police officer at Southgate Police Station is quite different. She says that she told the police officer that she had been brought into this country as a child from Nigeria to work as a slave for the C family. She also told the officer that she had been abused both physically and emotionally. Yet, according to the Fifth Claimant, after recording her details, the officer told her that there was nothing that could be done.
37. Mrs Hall was present throughout the time that the Fifth Claimant spoke to the police officer. Essentially she confirmed the Fifth Claimant’s version of events. Indeed she says that at one point she interjected to remind the police officer of the case of Victoria Climbié at which point the officer suggested that the case should be reported to social services.
38. In her witness statement Mrs Hall says that following the exchange between the officer and the Fifth Claimant the officer took her aside. I quote from Mrs Hall’s witness statement:-

“The officer then took me aside and said there were a lot of people [the Fifth Claimant] who try to use the police to get out of situations that they have got themselves into. The officer appeared to think that [the Fifth Claimant] was partly to blame for coming into the UK illegally even though she was a child and said that the police see a lot of people in [the Fifth Claimant’s] position. The officer said: “If I were you I wouldn’t get involved”.”

39. Both the Fifth Claimant and Mrs Hall were cross-examined about their account of what occurred at the police station. They remained adamant that their account was accurate.
40. Lord Faulks QC submits that I should be slow to doubt the accuracy of a contemporaneous record – especially one compiled by a police officer confronted with a young and apparently vulnerable victim. Notwithstanding the fact that the author of the record was not called before me, so that her accuracy could be tested in cross-examination, he submits that I should accept that the Crimint Information Report and the Merlin Report are accurate records of the conversation between PC Taylor and the Fifth Claimant.
41. I accept that I should start from the premise that a contemporaneous document is likely to be accurate. I am also prepared to accept that it may be that the Fifth Claimant was not as forthcoming about her treatment at the hands of Mr and Mrs C as she now suggests was the case. On any view, however, the Fifth Claimant told the officer that she was being treated as a slave. That is recorded in writing. Further, I find it improbable that the Fifth Claimant would go to the police station with Mrs Hall to seek the protection of the police but yet tell the officer that she did not want to report the family which was responsible for ill-treating her. What was her purpose in going to the police other than to seek their protection and assistance? The Fifth Claimant was willing to name the C family; to repeat, it seems implausible that she wanted no action taken against them.
42. Mrs Hall says that after the visit to the police station she took the Fifth Claimant to her own home and the Fifth Claimant stayed that night with her. There is a record made by a social worker which casts some doubt upon that (see paragraph 49 below). Having thought about it, however, I accept Mrs. Hall's evidence on this issue. I also accept that such evidence is wholly inconsistent with the record made by the police officer to the effect that the Fifth Claimant was to return to the home of Mrs and Mrs C.
43. I accept that PC Taylor's reaction to the Fifth Claimant's complaints was probably couched in negative terms. Despite that there was certainly some activity on the part of the police. The Fifth Claimant's attendance at the police station was reported to Inspector McKay who directed that an officer should attend the address of Mr and Mrs C.
44. The following day, 26 March 2004, an officer attended at their home but received no reply. That same morning, at approximately 11.30am, Mr C contacted the police to report that the Fifth Claimant was missing.
45. As it happened shortly thereafter the Fifth Claimant and Mrs Hall attended at the offices of the Social Services Department of the London Borough of Enfield. The Fifth Claimant saw a social worker Maria Dennis. Ms Dennis created a record of what she was told. The material parts read as follows:-

“...[R] stated that she was brought into the UK at the age of 9 years old as a slave girl. R informed me that she has not accessed school since being in the UK. R also stated that Ms C (adoptive mother) and Mr C (adoptive father) had physically

and verbally abused her since she came into the country. R also stated that she did not go to bed until 2.00 in the morning as she had to complete a number of tasks allocated to her by her adoptive parents.

I asked R about her daily routine, she stated that she had to get the children ready in the morning, collect them from school, tidy the house from top to bottom. Lovina informed me that she had brought R to Southgate police station, who advised her to bring R to Social Services.

Lovina explained that she had met R whilst attending Southgate College, she stated that R always looked unhappy. R had told her about her life style at home with adoptive parents.

Lovina stated that she had become concerned re R's treatment at the hands of her (adoptive) parents.

She stated that she had found R wandering around this morning. R looked unkempt and dirty. Lovina took her to her house to get her cleaned up and, brought R here (SSD)...I therefore asked Lovina to clarify whether R had stayed overnight at her home. Lovina then informed me that she had accompanied R to the police station on 25 March. Lovina was keen to know what SSD would do to protect R from further abuse."

46. On the same day Ms Dennis and a colleague interviewed Mr and Mrs C. They described the Fifth Claimant as their adoptive child and, essentially, they refuted the allegations which had made to Ms Dennis.
47. On 29 March 2004 Ms Dennis met the Fifth Claimant again; on this occasion she was in company with a police officer, DC Amy Trencher. At that time the officer was part of a unit based at the Southgate Police Station involved in the investigation of abusive conduct towards children. The unit was known as CAIT (child abuse investigation team). The police officer's record of what occurred is as follows:-

"I have seen and spoken to R this afternoon at Edmonton Social Services, in the presence of Maria Dennis (social worker). She stated that she had not been physically abused and had been called names by her parents. She looked thin but not to the extent of being undernourished. She stated that she did not want to press any charges against her parents, but did not wish to go home. She is currently going to be living with Lovina Hall....

There are issues as to her apparent age. It appears that when she was adopted by the family they were informed that she was 9 years old (5/5/88), however, the parents have claimed that R has told them that she was born on 25.1.84, making her 20 years old. She does not have any documentation to this

effect and seems only to have a Nigerian passport. She was on her mother's British passport which has expired.

I will attempt to ascertain her passport number and speak to Immigration about this.

Strategy meeting to be held on 30 March 2004 at 3.00pm.”

48. That meeting did not take place. However, on 1 April 2004 Maria Dennis telephoned DC Trencher. In that telephone conversation Ms Dennis was informed that the police were not taking the matter any further “as R had informed them that she did not want to pursue allegations against her adoptive parents.” Thereafter very little, if anything was done to investigate the Fifth's Claimant's allegations. Faced with this impasse, the Fifth Claimant returned to the home of Mr and Mrs C.
49. The Fifth Claimant's involvement with the London Borough of Enfield in 2001 and 2004 and her involvement with the Metropolitan Police in 2004 has been the subject of separate legal proceedings. I have not seen the pleadings in that claim but in her written opening Ms Kaufmann described the ambit of the proceedings as being proceedings to seek a declaration and just satisfaction in respect of a violation of “the Defendants' *operational* duty to take reasonable and practicable steps to protect a person from the actions of a third party when they know or ought to know that there is real and immediate risk that the third party will treat her in a manner that contravenes Articles 3 and 4.” The proceedings were compromised after mediation. The Defendant agreed to pay the Fifth Claimant damages in the sum of £25,000; he has also apologised to her.
50. The terms of the apology are relevant to these proceedings. The relevant part of the letter reads as follows:-
- “I have considered the papers and evidence in connection with your claim. Whilst the MPS continually strives to maintain high standards, incidents occasionally arise when the level of service falls below that standard. On this occasion it is apparent that it did fall below the requisite standard. You contacted the police seeking help. It is clear that further steps should have been taken to investigate the circumstances that gave rise to your attendance at the police station. Accordingly I offer you my sincere and unreserved apology.”
51. It is clear to me that the apology was offered at least in part by reason of a failure to investigate sufficiently. In the light of the letter I am left mystified as to why, in these proceedings, the Defendant continues to maintain that it carried out a sufficient investigation of the complaints of the Fifth Claimant in 2004 and that, essentially, it was hamstrung by her failure to cooperate. Yet that has been its stance, even to the extent of cross-examining the Fifth Claimant on that basis.
52. While it is impossible, in reality, to resolve the detailed differences as to what was said during the meetings with PS Taylor on 25 March 2004 and with DC Trencher on 29 March 2004 I am satisfied that the Fifth Claimant did not tell either officer that she

did not wish to cooperate in any kind of investigation of the conduct of Mr and Mrs C or convey to them an unequivocal suggestion that she did not wish to report them.

53. The Fifth Claimant suggests that her next contact with the police was shortly after she left the C family home on 7 July 2005. She says that she went to a police station at Edmonton. The Defendant has no record to substantiate this alleged contact. It is unnecessary for me to make any finding about it since the Fifth Claimant does not suggest that she went to the police at that stage to ask that they should investigate Mr and Mrs C or to make any formal complaint about them.
54. During 2006, it emerged that other girls had been subject to treatment similar to that which had been meted out to the Claimants. I heard and read a substantial body of evidence about 3 Nigerian nationals referred to as YT, FA and YA. YT was born on 16 April 1986. She was brought to this country when she was 12. FA was born 8 October 1988. She came to this country when she was 9. YA was born on 21 June 1984. She was brought to this country when she was about 16. I have not heard evidence from any of these persons. Nonetheless it seems clear that after their arrival in this country they were treated by Nigerian adults in a very similar way to that described by the Claimants. Those Nigerian adults were, respectively, Mr and Mrs D, Mr and Mrs E and Mr and Mrs F.
55. YT lived in the home of Mr and Mrs D between November 1998 and January 2006. In that month she was required to leave. She sought advice at the Hackney Law Centre. She consulted a solicitor at the Centre, Ms Rebecca Owens, who specialised in immigration and asylum law. Ms Owens prepared a detailed witness statement on behalf of YT which described the ill-treatment she had received at the hands of Mr and Mrs D.
56. On 31 January 2006 YT submitted a claim for asylum and/or humanitarian protection to the Secretary of State for the Home Department; her application was supported by her witness statement. Two days later another solicitor at the Centre, Mr Nathaniel Matthews, a housing specialist, wrote a long letter on behalf of YT to the Social Services Department of the London Borough of Enfield. He raised two specific issues on her behalf; first, the fact that she had been trafficked into the UK; second that she was homeless. He also informed the Department that there were other young women living or previously living in Enfield who “had a shared experience.”
57. On 7 February 2006 a mental health worker employed by the Borough Council went to the Enfield Police Station in order to provide information about YT. In very summary form he told a police officer what was recorded in YT’s witness statement. It is also of some note that he relayed to the police officer the fact that YT had told him that she had not been allowed to go out of the house without wearing a wig and hat “to protect her from the police” and that YT was reluctant to speak with the police “due to the mental abuse provided by both the suspects over the past five years.”
58. It is unnecessary to set out the details of the investigation which followed. It suffices that I record that the only aspect of YT’s complaints which was investigated was an allegation that she was the victim of a sexual assault by the brother of Mr D. The officer asked to investigate the allegation was PC Wendy McCormick who was a “sexual offences investigative technique officer” and part of a unit known as Sapphire. On 10 March 2006 a video recorded interview took place between PC

McCormick and YT in which YT described that allegation. Subsequently, however, YT decided against pursuing it.

59. I remind myself, of course, that I heard no evidence from YT. Nonetheless, it seems clear to me that the principal reason why YT did not pursue the allegation of sexual assault was because she did not wish to pursue such a complaint in isolation. Her principal complaint had always been related to the years of ill treatment suffered at the hands of Mr and Mrs D. It is hardly surprising that she did not wish to pursue the complaint of sexual assault in isolation.
60. PC McCormick gave evidence. She had no recollection of her involvement with YT. She was entirely reliant upon the documentation as to what had occurred. From the documentation it was apparent that she had been tasked with the duty of investigating the allegation of sexual assault. She conducted a video recorded interview with YT in relation to that allegation. When it became clear that YT did not wish to pursue the allegation she made a number of attempts to meet with YT in order to take a statement from her setting out the reasons why she no longer wished to pursue that complaint and it was no reflection upon the officer that she did not succeed in obtaining such a statement.
61. There was another solicitor at the Hackney Law Centre who specialised in immigration and asylum law; that was Ms Fiona Lindsley. In early 2006, Ms Lindsley was consulted by FA who had decided to go to the Law Centre after discussions with YT who was her friend. In due course Ms Lindsley took a detailed witness statement in order to support claims for asylum and/or humanitarian protection. In her statement, FA set out the treatment she received at the hands of Mr and Mrs E between late 1997 and 2004. FA signed her statement on 9 March 2006. On 16 March 2006 her case was referred to the Social Services Department of the London Borough of Enfield and to the Police. That day, Ms Linda Helliard of Social Services met with a police officer, DS Randall, to discuss FA's case. They decided that further police enquiries were necessary.
62. A police record for 24 March 2006 contains a summary of FA's allegations. The record is in the following terms:-

“Enfield Social Services received a referral from the Hackney Law Centre. [FA] is alleging that she was trafficked into the UK at the age of 9 years in 1997 to be used as a quasi slave in the E household.

During the time she was with them (1997 to 2004) [FA] describes a catalogue of physical abuse and emotional abuse, perpetrated in the main by the adult female within the household.

[FA] further alleges that she was sexually assaulted by a teenage nephew of the ... family named ... when she was aged 12-13.

The adult male within the household in which FA lived until 2004 is TE who is the husband of AE. It is understood that this couple have a number of children of their own.

[FA] has made a statement which has been forwarded to the police.

This case appears to be connected to another referral that Social Services received which indicates there are a number of children in the Enfield area who have been trafficked into the UK and are being used as servants and are subject to abuse in the households in which they live.”

That same record shows that officers from Paladin had been consulted. Paladin was probably set up in 2005. It was (and is) a specialised unit consisting of police and immigration officers. Its primary task certainly in 2005 was to safeguard children arriving at ports in London. Obviously, therefore, the trafficking of children into the UK through ports in London became part of its remit. The significance of Paladin to these proceedings will become clear in due course.

63. On 26 April 2006 a strategy meeting took place at the offices of the London Borough of Enfield. A number of persons were present including a police officer, DC Beg who was by now charged with investigating FA’s complaints. DC Beg was part of CAIT based at Enfield. After a full discussion, which included a discussion of the complaints made by YT, a number of decisions were made as to the future progress of an investigation.
64. On 4 May 2006 DC Beg made contact with FA for the first time. He made an arrangement to visit her at home the following day. His record of what occurred at the visit is as follows:-

“spoke to the victim and explained the process to her. She was unsure what she wanted to do and was unsure whether she was willing to provide an ABE.”

An ABE is a reference to a video recorded interview conducted by a police officer with an alleged victim in accordance with certain procedural standards.

65. DC Beg next spoke to FA on 12 May. He says that on this occasion she told him that she was not willing to provide an ABE interview as she was still on speaking terms with Mrs E and her children. She also told the officer that “she wanted to look after herself now and not be in any way involved with the Es in any way.”
66. On 25 May 2006 DC Beg spoke to PC McCormick. He did so, quite deliberately, because of the link between the cases of YT and FA. The record of his conversation with PC McCormick suggests that PC McCormick “confirmed that YT had not been illegally trafficked into the UK.”
67. On 30 May 2006 a further strategy meeting took place. Those present were representatives of the London Borough of Enfield, including Mr Trevor Adams a

mental health worker involved with YT, Mr Matthews, the solicitor from Hackney Law Centre, PC McCormick and DC Beg.

68. There are two separate records of this strategy meeting; one appears at Trial Bundle D, pages 243 to 245 and was made by a member of the social service department; the other appears within the same Trial Bundle but at pages 253 to 255 and was made by Mr Matthews. Parts of these records are important.
69. I deal first with the record at pages 243 to 245. The record discloses the following. First, Mr Matthews informed the meeting that the centre had been formally approached by two more young people. Second, he expressed the view that YT and FA “appeared to have been gang trafficked.” Third, all of the young people appeared very frightened of authority figures. Fourth, YT had said that she did not wish to proceed in pressing charges but fifth, Trevor Adams’ understanding was that although YT did not want to proceed with the allegation of sexual abuse she did want to proceed with an allegation of physical abuse.
70. The record at pages 253 to 255 (Mr Matthews’s attendance note) contains an important elaboration upon YT’s views as to an investigation and prosecution. The following appears:-
- “PC McCormick said that YT had said she did not wish to proceed with the sexual assault allegation and that effectively she would therefore have to close her case. Trevor Adams clarified YT had told him that if the family she had been staying with contradicted her larger version of events (the trafficking, the abuse) then she said she would be prepared to give evidence in the context of a prosecution.”
71. This same record shows that DC Beg reported that FA was refusing to cooperate. He told the meeting that she did not want to be involved with the police because she was afraid that her abuser’s children would be taken away from their parents.
72. It is important to take stock at this stage. As at the end of May 2006, YT obviously did not want an investigation of the isolated allegation of sexual assault. However, there is no reason to doubt that she was prepared to co-operate in a wider investigation. At this time, however, FA was unwilling to involve herself in an investigation and possible prosecution.
73. In reaching the conclusion that FA was unwilling to involve herself in an investigation I do not rely solely upon the available documentation. I heard oral evidence from DC Beg. I accept his evidence as reliable and accurate. He accepted without hesitation that he needed to rely upon the documentation to remind himself of his involvement in the case. That said, he was satisfied that his records of his conversations with FA were accurate. I accept that is the case. Further, and importantly, however, as of May 2006, DC Beg did not easily accept that FA would always be unwilling to co-operate in an investigation of the abuse perpetrated upon her. My reasons for reaching that conclusion will become clear shortly.
74. By the end of May 2006, as I have said, YT and FA had made witness statements respectively to Ms Owens and Ms Lindsley. This is a convenient moment to describe

in summary what those statements contained. In the main, as was to be expected, they focussed upon the ill-treatment which the girls had suffered and upon those matters which were most relevant to support a claim for asylum or humanitarian protection. To a limited extent, however, they also made reference to other girls who had been subjected to similar treatment. In her statement YT said that she had a “few friends here who [were] in a similar situation ...” She also spoke of meeting those friends at parties where they would be serving guests, washing up and looking after the young children of the guests at the parties. YT spoke of attending a church in Tottenham called the New Covenant Church. In her statement FA said that she, too, attended the New Covenant Church. She described how there was a crèche at the Church and how she met other girls who were looking after very young children at the crèche. They soon began to talk and she discovered that these girls were enduring a similar lifestyle to her own. It was at the New Covenant Church that FA met YT. FA discovered that YT had left the family with whom she had been living and she had made an application for asylum/humanitarian protection.

75. Ms Lynne Chitty is an independent social work consultant who has considerable expertise in child trafficking. At some stage in the spring of 2006 Ms Lindsley instructed Ms Chitty to assist with the cases of YT and FA. As it happened, Ms Chitty had good links to Paladin. On 2 June 2006 Ms Chitty met with two officers from Paladin. They were a police officer, DC Simpson and an immigration officer Ms Rosanna Noad. In advance of that meeting Ms Chitty had prepared statements relating to FA and YT. Those statements, essentially, were a summary of the statements taken to support the claims for asylum/humanitarian protection and which had been provided to her by that date. Ms Chitty’s summaries, however, made reference to the fact that there might be girls other than FA and YT who had been subject to abusive treatment; one of Ms Chitty’s summaries also mentioned the New Covenant Church.
76. Ms Noad gave evidence before me. Her witness statement describes how she was told by DC Simpson, in advance of the meeting with Ms Chitty, that Ms Chitty had “some immigration statements.” At the meeting statements were given to DC Simpson and Ms Noad. The probability is that the statements handed over were from YT and FA. Following the meeting, Ms Noad discussed these statements with her supervisor Chief Immigration Officer Samantha Rigler.
77. Some days after the meeting Ms Chitty sent an email to DC Simpson. The subject of the email was FA and YT. The email was in the following terms:-

“I have been contacted by the girls’ solicitors and they said that they’re having a meeting with both girls on 19 June and will do all they can to encourage/persuade them to talk to you. They will let me know a.s.a.p. after their meeting.”

The next day DC Simpson emailed Ms Noad to keep her up to date.

78. In mid June 2006 there was further contact between DC Beg and FA. That came about because DC Beg had made contact with a friend of FA. This provoked an angry response from FA who wanted to know why the officer had contacted her friend. His response was to tell her that he was “duty bound to make efforts to further

the investigation due to the possible wider implications of her allegations.” Nonetheless FA affirmed again that she did not wish to assist.

79. On 27 June 2006 DC Beg agreed with a DS Humphries, another CAIT officer, that the investigation would continue notwithstanding the stance adopted by FA. Accordingly, he made an arrangement to interview Mr. E. That interview took place on 4 July 2006 and, essentially, Mr. E denied any wrongdoing. Shortly after this interview had taken place a further strategy meeting was arranged for 1 August 2006.
80. It is against the background of events which had occurred during 2006 that I turn to a meeting which took place at the Hackney Law Centre on 24 July 2006. It is now common ground that the meeting was attended by the following persons, DC Golder, Samantha Rigler and Rosanna Noad (representatives of Paladin), Ms Lindsley, Ms Owen, YT, FA and YA. Ms Owen took a note of what was discussed; Ms Noad also took a note but her note has been lost.
81. There are differences of recollection as to what occurred at this meeting as between Ms Lindsley and Ms Owen, on the one hand, and DC Golder, Samantha Rigler and Rosanna Noad on the other. Ms Lindsley was present for part of the meeting only; I am quite satisfied that she left before the meeting finished as she told me.
82. Inevitably, my starting point in seeking to ascertain what was discussed is the contemporaneous note made by Ms Owen. It is headed ‘Attendance Note’. It records that the meeting took place on 24 July 2006 and lasted between 2.05pm and 3.30pm. The persons present are then recorded. It is necessary to set out the remainder of the note in full:-

“1. Operation Paladin interviewed the girls and asked them lots of questions about their experiences. They explained that under the Trafficking Act 2004 it was difficult to prosecute in respect of people who had been trafficked before that date because there were additional evidential requirements. There are also difficulties because the girls are over 18 now.

2. There was a long discussion about protection issues and what the girls are frightened of in the UK and Nigeria. The girls were clear that they did not want to participate in any prosecutions unless there was going to be protection for them and ideally obtaining their stay in the UK. The immigration officers stated they were a separate dept from the main IND and could not make decisions on cases or guarantee that they would be offered status in this country.

3. Operation Paladin agreed to go away and think about what they could do and if there were any other depts of the Home Office who would be interested. They advised the girls to contact the police in respect of the other offences, e.g. assault, false imprisonment etc although it was explained to them that in the case of YT a full statement had already been made to the police on several occasions.

4. Operation Paladin to come back to FL later in the week to explain what they could do. RO and FL stated that what would be helpful would be a quick decision on this case. Operation Paladin said they could not provide a letter to us in that respect but could contact IMD casework internally.

5. At the last meeting immigration officers indicated that she would think about contacting one of her colleagues in the casework section possibly in respect of asking the cases to be dealt with together and put pressure on them to make a quick decision on the case. We must wait to hear from Operation Paladin and contact the police.”

83. In her witness statement Ms Lindsley says that the whole purpose of the meeting was to see whether the police could investigate what had happened to YT, FA and YA. Yet, according to her, the officers from Paladin were reluctant to instigate an investigation. Ms Lindsley says that the officers explained that there would be difficulties in prosecuting – as the attendance note records. They also appeared to consider that the fact that the abuse had occurred at a time when the young women were girls but that now the women had reached adulthood created some kind of difficulty.
84. Essentially, to repeat, during the time that Ms Lindsley was at the meeting she gained the distinct impression that the officers were reluctant to instigate an investigation. Her impression was shared by Ms Owen who remained at the meeting throughout.
85. All three of the Paladin officers deny that they were reluctant to instigate an investigation. They maintain that it was the stance taken by the young women and their lawyers which was a bar to an investigation. Ms Rigler says that Fiona Lindsley indicated during the course of the meeting that before any progress on a criminal investigation could take place the “victims needed assurance that they could stay in the country....” Ms Rigler went so far as to say that the girls were asked how they wished to proceed and if they wished to report the matters as crimes and their answer was ‘No’.
86. Ms Noad’s recollection was somewhat different. She says that during the meeting one of the girls said that they would only assist the police with a criminal investigation if it could be guaranteed that she could stay in the UK. Her recollection was that it was left that the girls would think about whether they were willing to assist the police with their investigations and that if they were they would make further contact with Paladin. According to Ms Noad when the meeting was concluded she was quite clear in her mind that Fiona Lindsley and the young women were aware that if they wished an investigation to commence they should contact Paladin and say so expressly.
87. DC Golder’s recollection differed from those of his two colleagues. His witness statement describes how it was apparent, reasonably early on in the meeting, “that the victims wished us to assist in their applications to stay in the country and that such assistance was a pre-requisite for assisting with a criminal investigation.” His next sentence, however, reveals the extent of the assistance which was sought, namely a

letter from the Metropolitan Police Service to the Home Office making a request to expedite the claims for asylum.

88. As was to be expected, the advocates tested the recollections of the participants at this meeting. Each of the witnesses was subjected to detailed cross-examination about what transpired. Ms Lindsley was prepared to accept that FA probably raised the issue of her status within the UK but she would not accept that FA sought to make it a condition of her willingness to help with an investigation that she be granted leave to remain in the UK. Ms Owens, too, remembered one of the three women raising the issue of status but she would not accept that any of the three sought to make it a condition of helping with an investigation that they would be permitted to remain in the UK.
89. I bear in mind the contact between police officers and YT and FA in the previous months and the declared unwillingness of FA to assist in an investigation. I accept that it might appear improbable that FA, in particular, would have had a change of heart about her willingness to participate in an investigation between June and July. However, I was impressed by the evidence given by Ms Lindsley and Ms Owens. I do not accept that YA, FA or YT sought to make it a pre-condition of assistance in an investigation that they should be granted the right to remain in the United Kingdom. Further, I do not believe that any of them said, unequivocally, that they would not participate in an investigation. In my judgment such a scenario is wholly improbable. No useful purpose was to be served by convening the meeting if the mindset was that there would be no co-operation in any circumstances.
90. I am also satisfied, however, that the prospect that the young women would be granted the right to remain in the United Kingdom was discussed at some length at the meeting. Indeed, Ms Owen's attendance note makes that clear. I have no doubt, at all, that the young women and their lawyers sought to elicit as much support for their applications to remain in the United Kingdom as they reasonably could.
91. Having reflected upon it and having considered the evidence of the witnesses with care it seems to me to be very likely that the gist of what was discussed at this meeting was accurately recorded by Ms Owen. She was, at the time, an experienced solicitor. I can think of no convincing reason why I should treat her attendance note as other than accurate. It does not pretend to be a verbatim account of what occurred. Equally, in my judgment, it probably records the salient point of the discussion.
92. That being so, I am satisfied that the officers of Paladin advised the women and their lawyers that there were significant difficulties in the way of bringing criminal proceedings in relation to "trafficking" (about which the officers were, of course, correct). I am also satisfied that the officers suggested that if the women wished to make complaints about more traditional types of offences such as assault or false imprisonment they should make complaints to their local police force. The three women expressed reservations about co-operating but those reservations related, essentially, to their fear of the process and their fear that they might somehow be harmed if they assisted the police. Importantly, in my judgment, the understanding was that the Paladin Officers would think about the appropriate next step and make contact again with Ms Lindsley.

93. I accept that in the aftermath of this meeting Samantha Rigler did make contact with a caseworker to see whether or not the asylum/humanitarian protection claims could be dealt with together and expeditiously. I am further satisfied that she either told Ms Lindsley that she had taken this step, or at the very least, telephoned to tell her but failed to make contact. However, on any view that was the extent of contact between Ms Lindsley and Paladin officers after this meeting.
94. There was also a dispute between the parties about whether or not the Paladin officers sought to “test” the veracity of the women’s accounts of abuse at the meeting. Ms Owen’s attendance note suggests that they did but the officers did not accept that this had happened, at least to any extent. I am satisfied that the officers did test the accounts of YT, FA and YA and that this helps to explain documents to which I will turn shortly.
95. First, however, I should make a specific point about YA. The evidence adduced before me does not establish when it was that she first went to the Hackney Law Centre. The witness statement she provided to Ms Lindsley is not dated. However, a friend, Ms Gbemisola Adelaja, made a statement which is dated 30 June 2006. Given that Ms Chitty produced summary statements in early June which related only to YT and FA it seems reasonable to infer that YA instructed Ms Lindsley in mid to late June 2006. I ask myself why it should be that she was willing to instruct Ms Lindsley in June, willing to attend the meeting on 24 July but unwilling to co-operate with the police. On the evidence adduced before, I can think of no obvious answer to that question. It seems to me to be much more likely that YA expressed a willingness to assist the police provided she was protected as Ms Owen’s attendance note suggests occurred.
96. What happened after the meeting? Ms Lindsley expected that officers of Paladin would take the initiative in deciding upon the next step. However, no one at Hackney Law Centre heard from any of the officers. It seems clear that the Paladin officers had decided that they would undertake no further investigation following the meeting. That is the inevitable conclusion to be drawn from the record of what transpired at the strategy meeting which took place on for 1 August 2006.
97. This meeting was attended by seven persons including DC Beg, DS Humphries and Trevor Adams. As before, the meeting was chaired by Linda Helliari. A long and detailed record of what was discussed exists. Much of the discussion focused on FA’s complaints. However, the concluding paragraphs of the record of the meeting throw considerable light upon the attitude of some, at least, of the police officers who had been involved with YT and FA to this point. I quote:-

“[FA] and her friend [YT], were seen by Paladin officers and immigration officers at the Hackney Law Centre last week. One other young persons alleging that they had been trafficked did not turn up for the interview. All three young people seen that day refused to provide assistance to the police unless documentation was given to them by the police which would assist them with their immigration status. Paladin have foresaid that they do not consider them to be credible victims. Either way, FA and YA do not come under the current Immigration Act 2004 and their story is almost impossible to prove.

The Paladin unit and Mel Humphries have done checks on Mr E with the organised trafficking unit. This is called Operation Maxim (it is the joint Immigration and Police Unit dealing with child trafficking). They have no information to suggest that Mr E is in any way involved with the trafficking of children.

With regards to FA's immigration status, which means that she has been illegally in the UK, Mr E acknowledged that he was aware of this but said that he only realised that FA was illegally in the UK when he tried to get a passport to take her on holiday.

The police are of the firm view that there is no evidence of organised child trafficking in Enfield and particularly not in connection with Mr E's church."

98. DC Beg was at this meeting. After he had given his evidence the potential significance of this record became clear and he was asked to provide a further witness statement to provide his own recollection of what had been said at the meeting. In fact DC Beg had no independent recollection of what had been said but he had made his own notes of the meeting which he had retained. He recorded in his notes:-

"Paladin have seen YT, FA + one other last week at Hackney Law Centre. Would not assist police without police letters 2 assist their immigration status."

99. When they gave their evidence the Paladin officers were at pains to point out that they regarded the complaints of YT, FA and YA as credible. They sought to give the impression that they had formed that view at the meeting of 24 July 2006. However, I regret to say that I do not accept that part of their evidence. The contemporaneous documents demonstrate that the three officers instead reached a superficial and probably incorrect conclusion that the accounts of the women were incredible largely because, in the minds of the officers, the women had sought to link their willingness to assist in an investigation to obtaining some kind of advantage in relation to their applications to remain in this country.
100. In my judgment the most likely reason why no progress was made to investigate the complaints of YT, FA and YA following the meeting of 24 July 2006 was that the officers had concluded that their complaints were not well-founded.
101. This view is reinforced when consideration is given to documents which came into existence in October 2006. On 2 October 2006 DC Beg wrote an internal memorandum to his superior relating to the investigation of FA's complaints. He recorded in his memorandum that FA had refused to make a statement to CAIT officers and that when she was approached by Paladin officers she again refused to make a statement to police "unless police would assist with her immigration application."
102. On 9 October 2006 DS Humphries wrote to Ms Weekes-Lowe of the legal department of the London Borough of Enfield. In his letter he said that officers from Paladin visited Hackney Law Centre in July 2006 and spoke with FA and another person. FA

declined to speak to them unless they provided a letter to assist with her immigration application. According to DS Humphries, FA was not considered to be a credible witness “given this demand”.

103. That letter was forwarded to the Hackney Law Centre. It provoked a swift reply from Mr Matthews. The relevant parts are as follows:-

“All three of the young people including FA discussed their cases with the Paladin officers (not “declined to speak to them unless they provided a letter to assist with the immigration application”).

While all parties were very clear that Paladin were not in a position to secure some improper advantage in relation to the outstanding IND applications of two of the young people, the IND officer present did indicate that she could contact a colleague for the applications to be considered as soon as possible. The context in which this arose was that all three young people expressed themselves to be frightened to take part in a formal prosecution while their status was undermined undetermined, because they feared victimisation from what appears to be a well organised trafficking network.

We had been expecting to hear further from Paladin and from the IND, and do not understand why an inference has been taken that our client’s account lacks credibility.

....

[FA] stands by her story, but is concerned about the effect on the children of her host family if a prosecution ensued, as she would not want to see them suffer or taken into care.”

On 19 October 2006 Mr Matthews’ letter was forwarded to DS Humphries. However, it did not provoke any kind of change of heart on the part of the police.

104. As of October 2006 none of the Claimants were clients of the solicitors at Hackney Law Centre. Indeed, so far as I am aware, Ms Lindsley, Ms Owens and Mr Matthews did not know the Claimants by name. It is clear that what they did know was that there were other young women living in the same area as YT, FA and YA who, allegedly, had been subject to the same sort of treatment. However, they were not aware of their identities or their precise whereabouts.
105. It is not entirely clear from the evidence when it was that the Claimants first went to the Hackney Law Centre. On any view all four had instructed Ms Lindsley by 5 July 2007 since it is clear from the documentary evidence available that by that date all four Claimants had made witness statements in support of their claim to be entitled to remain in this country.
106. The probability is that the First Claimant instructed Ms Lindsley shortly after 16 May 2007. Between November 2006 and 16 May 2007 she had been a client of a firm of

solicitors known as Afrifa and Partners; that firm had made an application on her behalf for leave to remain in the UK. The application was refused on 16 May 2007 and shortly afterwards, encouraged by FA, the First Claimant consulted Ms Lindsley.

107. There is no evidence before me which helps to pinpoint when it was that the Second Claimant first consulted Ms Lindsley. The Third Claimant says she first consulted Ms Lindsley at or about the end of 2006 or in early 2007. The Fifth Claimant made her first contact with the Hackney Law Centre in or about April 2007 – she, too, was encouraged to go to the Law Centre by FA.
108. No Claimant, other than the Fifth Claimant, had been in direct contact with the police prior to the end of 2006. In early 2007, however, there was contact between the police and the Second Claimant.
109. On 29 December 2006 DO left the home of Mr and Mrs Adeniji after receiving a beating. She went to the home of her uncle and then to the police. There is no doubt that DO attended a police station on 29 December 2006 and reported the fact of her beating. An investigation ensued although it ultimately foundered because DO would not make a statement against Mr and Mrs Adeniji. As I have said earlier in this judgement, the Second Claimant and DO had lived in the Adeniji household together. They had kept in contact and shortly after DO had gone to live with her uncle the Second Claimant went to see her. It is probable that the Second Claimant met a police officer or police officers outside the home of DO's uncle on this occasion. She says that she did and I have no reason to doubt what she told me on this point. Not surprisingly, however, there is no record of contact and it is very doubtful whether the Second Claimant said anything in the short conversation which took place that should have led to a more thorough investigation than in fact occurred.
110. The next contact between the Second Claimant and the police took place on 18 April 2007. On that date the Second Claimant attended at the Walworth Police Station to make a complaint about the fact that Mrs Adeniji had retained her passport and refused to release it. The Second Claimant is recorded as saying that she had suffered a lot of abuse from Mrs Adeniji and that she was beaten frequently. The Second Claimant also told the officer to whom she spoke that about a year earlier, on 2 April 2006, she had been beaten to unconsciousness and that at some stage the matter had been referred to social services. DS Rashbrook began an investigation. On 24 April 2007 he spoke to Mrs Adeniji. She denied taking or retaining the Second Claimant's passport. DS Rashbrook concluded that the matter should be classified as "no crime and the passport treated as missing or lost." There was, apparently, no attempt to investigate the allegation that the Second Claimant had been beaten by Mrs Adeniji. Certainly when DS Rashbrook spoke to Mrs Adeniji he did not ask her about the allegation that she had beaten the Second Claimant.
111. There is no evidence, one way or the other which indicates whether the Second Claimant had sought advice at the Hackney Law Centre at this point. Certainly, however, there is nothing to suggest that Ms Lindsley or any other solicitor was aware of the Second Claimant's contact with the police at this stage.
112. In July 2007, almost a year after the meeting with the officers from Paladin, Ms Lindsley contributed to an article which appeared in the Guardian. The article was written about "the UK's child slaves" and the histories of FA and YA were used as

examples. By this time Ms Lindsley had made contact with a non-governmental organisation known as “Africans Unite Against Child Abuse” (AFRUCA).

113. On 5 July 2007 Ms Lindsley received a telephone call from Andrew Kearney who was then a member of an organisation known as United Kingdom Human Trafficking Centre (UKHTC). UKHTC was then an organisation funded by the Association of Chief Police Officers and administered by South Yorkshire Constabulary. It was intended to be a specialist referral centre in relation to trafficking issues for police forces nationwide. Mr Kearney’s telephone call was a direct response to the article published in the Guardian and he indicated that UKHTC was keen to know more about cases with which Ms Lindsley was involved. That same day Ms Lindsley emailed nine statements to Mr Kearney. They included the statements which had been taken by Ms Lindsley (and Ms Owens) relating to the Claimants, YT, FA and YA.
114. Ms Lindsley received no reply from Mr Kearney. Until disclosure by the Defendant in this case she had assumed that UKHTC had done nothing in response to the receipt of those statements. In fact, on 6 July 2007 Mr Gary Clarke, of UKHTC, sent an email to a police officer called Chris Joslin to the following effect:-

“Chris

As discussed, the UKHTC has received intelligence in respect of a number of Nigerian female children of varying ages being trafficked into the UK to be held in ‘Domestic Servitude’ by Nigerian nationals with residences in the London area. The girls were aged between 8-16 years of age when trafficked and this dates back to 1998 in certain instances. The list of girls’ names is shown below. Can these names be researched by your unit to ascertain if these have come to notice before and if they are subject of any development by yourselves.”

It is common ground that Chris Joslin was a Paladin officer.

115. Meanwhile, as I have said, Ms Lindsley also sought to involve AFRUCA. On 5 July 2007 Ms Lindsley and Ms Debbie Ariyo (the founder and an executive director of AFRUCA) held a meeting at which all of the Claimants attended. According to Ms Ariyo the Claimants provided detailed and reliable accounts of their ill treatment and she became convinced that they were telling the truth. Accordingly, the following day, Ms Ariyo sent an email to Commander Alastair Jeffrey in order to request a personal meeting in order to discuss an investigation. The email is a model of clarity and is worth quoting in full.

“Dear Alastair

I wonder if I’m able to meet with you personally to discuss some child trafficking cases we’ve come across at AFRUCA. Some of the young women (about 7 of them) we are working with have contacted the police at different stages but unfortunately have not received any form of support or help or assistance. Traffickers and exploiters are believed and their

version of stories of events are taken as truth over those of these young people.

I am hoping that these cases can be examined at the higher level so that what is obviously a criminal activity can be so detected. Also, these young girls have a lot of intelligence which I feel you and your team would find useful in your genuine efforts to combat child trafficking across London.

I hope to hear from you soon.”

116. Commander Jeffrey acted with commendable promptness. He referred Ms Ariyo’s email to Detective Superintendent Sue Knight. On 11 July the Superintendent sent an email to Ms Ariyo in the following terms:-

“Dear Debbie

I have taken on responsibility for the Child Trafficking within the MPS (Op Paladin Team).

I am happy to discuss this issue further with you. In fact, it would be good to make the connections in any event.

I am at the Capita Conference Thursday – possibly see you there? Otherwise – please call me to make a diary appointment – ideally I would want to involve the Paladin team, Det Insp Gordon Valentine too.....”

117. Ms Ariyo gave evidence before me. In her witness statement she says that she contacted Commander Alastair Jeffrey in direct response to a request that she should contact the Metropolitan Police and ask it to investigate. Paragraph 10 of Ms Ariyo's witness statement (which was not challenged) reads as follows:-

“The victims therefore decided that I should contact the MPS and ask it to investigate their abusers. I remember the Claimants had a particular strength of feeling in this regard. [The Second Claimant] for example was adamant that justice demanded a prosecution. The victims spoke of their abusers “ruining their lives” and “not getting away with it”.

118. As I have said Ms Lindsley was unaware that the information she had provided to UKHTC had been forwarded to the Metropolitan Police. On 20 July 2007 Ms Lindsley sent a long letter to Mr Kearney detailing her involvement in the case. In it, she complained that the police had been “insensitive” with the young women and, further, that nothing had been heard from the officers of Paladin following the meeting of 24 July 2006.
119. Mr Kearney did not reply; a possible explanation, at least, is that he believed that the Metropolitan Police would be instigating an investigation.

120. In the following weeks nothing of significance occurred. That was to change on 20 September 2007. On that date Immigration Judge Herbert heard appeals by YT and FA against immigration decisions which had been made by the Secretary of State for the Home Department. In summary Immigration Judge Herbert decided in respect of both women that their removal from the United Kingdom would place the UK in breach of its obligations under Articles 2, 3, 4 and 8 of ECHR and in respect of YT he found that should she be removed from the United Kingdom the UK would be in breach of its obligation under the International Protection (Qualifications) Regulations 2006.
121. YT and FA gave evidence before District Judge Herbert during the course of their appeals. He accepted, unreservedly, the account which they gave as to their mistreatment. Indeed it was not challenged at all by the representative of the SSHD.
122. As of September 2007 Immigration Judge Herbert was a member of the Metropolitan Police Authority. On 21 September 2007 he spoke to Detective Superintendent Knight about the cases which he had heard. At that stage he had not promulgated his determination of the appeals but, obviously, he was seriously concerned about what he had heard. On the same date the Immigration Judge sent a long email to the Superintendent which detailed essential features of the cases of YT and FA and also provided details of 6 other cases of which the judge was aware – those cases included each of the cases of the Claimants. The conclusion to the email was as follows:-

“I am unable to comment on the two cases I heard but will forward the two decisions as soon as they are ready to be promulgated in about a week’s time. The totality of the 8 cases is highly disturbing and represents a serious embarrassment to the Home Office in my view. This represents the tip of the iceberg of trafficked children estimated to be some 40,000 Nigerian women alone each year across Europe.

If we continue to deport are to combat trafficking, slavery and the abuse of children that will not occur if we seek to demonstrate an enthusiasm to deport the victims whilst leaving the perpetrators free to come and go as they please. The cycle of deception and abuse will continue and we as a society will fail those children and undermine our immigration system as a whole. At present we deport far more victims of trafficking and abuse than we prosecute traffickers. In this climate victims will simply not come forward.

The absence of a holistic approach and the willingness to deport undermines the international obligation of the UK Government and encourages child abuse and exploitation.

I would recommend that the remaining 6 cases are reconsidered in the light of all available information from the women, their witnesses and from their representatives. The only country guidance case is from 2004 and looks badly outdated in my view.

I would also suggest that a multi-disciplinary approach Pan-London is adopted as a matter of urgency taking some learning from the Climbie enquiry recommendations and the practice of the London Race Hate Crime Forum (LRHCF). There would appear to be many children that remain in slavery in London, and in abusive conditions who are simply unaccounted for by any agency voluntary or otherwise.

I would be grateful if this communication could be forwarded as a matter of urgency to

1. The Commissioner of the MPS
2. HO Minister Liam Byrne
3. The Director of the LB Enfield Social Services
4. HO Minister Vernon Coker
5. The Director of UKHTC”

123. That same day Detective Superintendent Knight emailed a reply. She said that she had tasked a member of her staff to research the background of the 8 cases.
124. On 23 September 2007 Immigration Judge Herbert emailed Detective Superintendent Knight to tell her that he had completed dictating the decisions in the appeals and expected to have them ready to be sent out to YT and FA within days. He informed her that he intended to make the decisions available to her on a confidential basis once he had obtained agreement to that course of action from Ms Lindsley.
125. Shortly thereafter Detective Superintendent Knight tasked Detective Inspector Valentine with preparing a briefing note on the topic.
126. I will return to the briefing note prepared by DI Valentine shortly. First, however, I should record that on 3 October 2007 a meeting took place between Detective Superintendent Knight, DI Valentine, Debbie Ariyo and another representative of AFRUCA, Afua Viana. No notes of the meeting took place but following the meeting Superintendent Knight sent an email to a number of her colleagues. It reads:-

“Gordon Valentine and I met with the AFRUCA team today. They wanted to discuss the 8 womens’ cases too. I outlined police action and the difficulties involved to date.

I have agreed that Gordon will meet with AFRUCA to gain more details from the 8 women – for investigation/intelligence as appropriate. (As we had scant details on 3 and no details on the remaining 5 women). We also discussed methods for AFRUCA and other concerned agencies to pass information on further cases they suspect to involve domestic servitude.”

127. In his witness statement DI Valentine accepts that there was an agreement at the meeting that Paladin would review the cases which had been brought to its attention,

including the cases of the Claimants. However, according to DI Valentine this was dependent upon the 8 women indicating their willingness to become involved with the investigation. Paragraph 28 of his witness statement reads:-

“Naturally I had in mind meeting with the victims in order to obtain suitable statements to progress an investigation. Again I understand that nothing further was heard.”

128. I am not sure what DI Valentine intended to convey by suggesting that “nothing further was heard.” I say that since on any view of Superintendent Knight’s email there was to be a further meeting.
129. The meeting took place in November or December 2007. It took place at the offices of AFRUCA and it was attended by DI Valentine and Mr Matthews. Neither Ms Ariyo nor Ms Lindsley was able to attend.
130. Both Mr Matthews and DI Valentine give an account of what occurred at the meeting in their witness statements. DI Valentine's account is short. He says that Mr Matthews told him of the difficulties of persuading people to come forward in order to facilitate prosecutions and that that YT (who coincidentally was present at the offices of AFRUCA that day) would not come forward because of the bond she had developed with the children of the family with whom she had lived. DI Valentine says that he spoke to YT to reassure her that the parents would not necessarily be sent to jail and the children put into care but that was a matter for the courts.
131. Mr Matthews’ account is a more detailed one. He accepts, however, that there came a point in time when DI Valentine spoke to YT. His evidence is that YT told DI Valentine in terms that she would be interested in cooperating with a prosecution. Mr Matthews gained the impression that DI Valentine was not enthusiastic about pushing for convictions or taking the matter further as they were stale. According to Mr Matthews DI Valentine's goal seemed to be to learn more about the work of the Hackney Law Centre and AFRUCA.
132. This meeting must be viewed against the context of what was occurring between DI Valentine and Detective Superintendent Knight. As I have said DI Valentine was asked to produce a briefing note. The purpose of the briefing note was to address the issues and concerns which had been raised by Immigration Judge Herbert. As cross-examination of Superintendent Knight established a number of drafts of the briefing note were produced. Ultimately a briefing note was finalised. Under the heading “Way Forward” a number of points were stressed. The second bullet point was that

“Paladin Team to review all 8 cases, incorporating information from Hackney Law Centre, AFRUCA etc.”
133. On 15 November 2007 there was a flurry of activity between Detective Superintendent Knight and DI Valentine. At 11.13 that day Superintendent Knight asked DI Valentine to prepare contact details and an update on the 8 women so she could send the same to Immigration Judge Herbert. At 12.13 DI Valentine replied that he had one contact number for Hackney Law Centre and that there were “still no developments on speaking to the 8 victims.” Later that afternoon there was further email correspondence including an email from Superintendent Knight to Immigration

Judge Herbert which informed him that DI Valentine was still trying to make contact with the 8 women through AFRUCA and the Hackney Law Centre. At 17.28 that afternoon Superintendent Knight emailed DI Valentine as follows:-

“Thanks for the contacts – can you send a letter to the Law Centre and AFRUCA? I want to ensure that we are seen to try everything we can to make this happen.”

134. When she gave her evidence Detective Superintendent Knight accepted that she had no real idea what, if anything, happened after 15 November 2007. When he gave his evidence, DI Valentine could not explain how it was that, apparently, he had failed to comply with an express instruction from his superior to the effect that he should do all that he could to ensure that an investigation of the complaints of the 8 women was undertaken.
135. Months went by. At some stage during 2008 the Claimants instructed their present solicitors, Bhatt Murphy. On 14 November 2008 those solicitors wrote a long and detailed letter of claim on behalf of the 5 Claimants who ultimately commenced these proceedings. At paragraph 25 of the letter the solicitors set out the remedies which were being sought on behalf of the Claimants. The remedies sought included a criminal investigation against the Claimants’ abusers. At paragraph 27 of the letter the solicitors made it clear that in the event that the Defendant declined to conduct such an investigation the Claimants would have resort to public law remedies. The letter suggested to the Defendant that the criminal investigation sought should focus “in the first instance on the abusers of the Second Claimant and the Fifth Claimant.”
136. Under cover of a separate letter dated 14 November 2008 the Claimants’ solicitors served the claim form and particulars of claim. On 26 November 2008 the Defendant acknowledged service and sought a stay of the proceedings for 3 months so as to investigate the Claimants’ complaints. Correspondence ensued about that aspect of the case. In summary the Claimants were prepared to afford a period of 3 months for a detailed appraisal of their complaints to be undertaken but they were not prepared to afford such a lengthy period of time (as they saw it) before any meaningful investigation commenced. There followed correspondence on this topic.
137. At a comparatively early stage in this exchange of letters, in December 2008 the Defendant indicated a willingness to investigate and inquired whether or not the Claimants would be prepared to provide witness statements. This suggestion did not immediately meet with an unequivocal affirmative answer. That was because it was anticipated that the investigation would be undertaken by officers from Paladin. Ultimately, however, in February 2009 Bhatt Murphy indicated to the Defendant’s solicitors that the Second Claimant would be prepared to provide a witness statement and that an investigation should follow.
138. In due course the Second Claimant provided a witness statement. As a consequence Mrs Adeniji was prosecuted successfully. At the time of the hearing before me Mrs Adeniji’s trial had ended quite recently and she had been convicted of a number of offences against the Second Claimant.
139. In summary, therefore, the position is as follows. No investigation of the abuse perpetrated upon the Claimants, YT, FA and YA had been undertaken by 14

November 2008. In December 2008 the Defendant expressed himself to be willing to undertake an investigation of the Claimants' complaints. In or about February 2009 an investigation of the Second Claimant's complaints began. The other Claimants are now willing to cooperate with the Defendant in an investigation of their complaints. No doubt their willingness to participate has been fortified by the successful outcome of the investigation relating to the Second Claimant.

The Law

140. It is unlawful for a public authority to act in a way which is incompatible with rights which arise under ECHR (section 6(1) of the Human Rights Act 1998). The victim of such an alleged unlawful act may bring proceedings against the relevant public authority (section 7 of the 1998 Act). A court of the United Kingdom which is called upon to determine a question which has arisen in connection with a Convention right must take into account any relevant judgment of the European Court of Human Rights (section 2 of the 1998 Act). If the court finds that a public authority has acted unlawfully under section 6 of the 1998 Act the court may grant such relief or remedy as it considers just and appropriate. However, no award of damages is to be made unless, taking account of all the circumstances of the case, the court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made (section 8 of the 1998 Act).
141. The Defendant accepts that the Metropolitan Police Service is a public body within the 1998 Act. He also accepts that he is liable for the acts or omissions of the officers within that Force.
142. As I have said the Defendant does not dispute that each of the rights of the Claimants under Articles 3 and 4 of ECHR were infringed. The Claimants' rights were infringed by the persons who are identified earlier in this judgment (see paragraphs 6 to 30 above).
143. The Defendant also accepts that the scope of Articles 3 and 4 is not limited to a negative obligation to refrain from subjecting a person to inhuman or degrading treatment or holding them in slavery or servitude or requiring them to perform forced or compulsory labour. It is common ground that Articles 3 and 4 impose positive obligations upon the police.
144. One of the positive obligations imposed upon the police is the obligation to prevent a person from being subject to treatment falling within Articles 3 or 4. The scope of this preventive duty, however, is restricted; it is common ground that it is to be defined by reference to the decision of the European Court of Human Rights in Osman v United Kingdom [2000] 29 EHRR 245.
145. The relevant passages in the judgment in Osman are to be found in paragraphs 115 and 116. Those passages are concerned with the preventive duty which arises under Article 2(1) of the Convention. However, both Ms Kaufman and Lord Faulks QC accept that the passages are equally applicable to the preventive duty which arises under Article 3 and 4. Paragraphs 115 and 116 read:-

“115. The Court notes that the first sentence of Article 2(1) enjoins the State not only to refrain from the intentional and

unlawful taking of life but also to take appropriate steps to safeguard the lives of those within its jurisdiction. It is common ground that the State's obligation in this respect extends beyond its primary duty to secure the right to life by putting in place effective criminal law provisions to deter the commission of offences against the person backed up by law enforcement machinery for the prevention, suppression and sanctioning of breaches of such provisions. It is thus accepted by those appearing before the Court that Article 2 of the Convention may also imply in certain well-defined circumstances a positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual. The scope of this obligation is a matter of dispute between the parties.

116. For the Court, and bearing in mind the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, such an obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities. Accordingly, not every claimed risk to life can entail for the authorities a Convention requirement to take operational measures to prevent that risk from materialising. Another relevant consideration is the need to ensure that the police exercise their powers to control and prevent crime in a manner which fully respects the due process and other guarantees which legitimately place restraints on the scope of their action to investigate crime and bring offenders to justice, including the guarantees contained in Articles 5 and 8 of the Convention.

In the opinion of the Court where there is an allegation that the authorities have violated their positive obligation to protect the right to life in the context of their above-mentioned duty to prevent and suppress offences against the person, it must be established to its satisfaction that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk. The Court does not accept the Government's view that the failure to perceive the risk to life in the circumstances known at the time or take preventive measures to avoid that risk must be tantamount to gross negligence or wilful disregard of the duty to protect life. Such a rigid standard must be considered to be incompatible with the requirement of Article 1 of the Convention and the obligations of Contracting States under that Article to secure the practical and effective protection of the

rights and freedoms laid down therein, including Article 2. For the Court, and having regard to the nature of the right protected by Article 2, a right fundamental in the scheme of the Convention, it is sufficient for an Applicant to show that the authorities did not do all that could be reasonably expected of them to avoid a real and immediate risk to life of which they have or ought to have knowledge. This is a question which can only be answered in the light of all the circumstances of any particular case.”

146. In Van Colle v Chief Constable of Hertfordshire; Smith v Chief Constable of Sussex [2009] 1 AC 225 the House of Lords unanimously and unequivocally accepted that the test formulated in the above paragraphs in Osman was the test to be applied by the Courts of the United Kingdom when determining whether or not a public authority was in breach of its positive duty to take preventive action under Article 2 ECHR.
147. The Osman test is not applicable, directly, in the present case. The complaint in the instant case is of a failure to investigate alleged breaches of Articles 3 and 4 which had already occurred and which had come to an end. Nonetheless, as will become apparent, Lord Faulks QC invites me to pay particular attention to what was said in paragraphs 115 and 116 in Osman. That said, he does not dissent from the view that an investigative duty can arise under Articles 3 and 4. The issue which arises for determination in this case is the scope of such a duty.
148. The duty to investigate alleged breaches of Articles 3 and 4 has been considered on more than one occasion by the European Court of Human Rights. However, I am told and accept that this will be the first decision of a court in England and Wales on the scope of such a duty. Section 2 of the 1998 Act demands that in reaching my conclusion upon the scope of the duty I am bound to take account of relevant decisions of the European Court of Human Rights. It is with the jurisprudence of the court, therefore, that I begin my search for the scope of the duty.
149. In my judgment, the view of the European Court upon the scope of the investigative duty arising under Articles 3 and 4 of the Convention is sufficiently explained by reference to the recent decision in Rantsev v Cyprus and Russia [2010] 51 EHRR 1. The facts in Rantsev were as follows. The daughter of the Applicant, Ms Rantseva, was a Russian national who arrived in Cyprus in March 2001. Ms Rantseva was granted a permit to work as an “artiste” in a cabaret managed by MA. Shortly after her arrival, MA was informed by other women living with Ms Rantseva that she had left the apartment in which they lived and left a note saying that she wanted to return to Russia. MA informed the Cypriot authorities but Ms Rantseva’s name was not entered on the list of persons wanted by the police. On March 28 2001 Ms Rantseva was seen in a discotheque. Upon hearing of this, MA called the police seeking her arrest. He then went to the discotheque, apprehended Ms Rantseva and took her to the local police station. It was decided that as Ms Rantseva’s name did not appear in the database of wanted persons she was not to be detained and that her employer was to collect her and then return her to the police station for further investigation. MA collected Ms Rantseva and took her to the apartment of another man, MP. Ms Rantseva was placed in a room on the second floor. Some time later she was found dead on the street below the apartment. An autopsy carried out by the Cypriot authorities found a number of injuries on Ms Rantseva’s body and to her internal

organs. It was concluded that a fall was the cause of her death. Subsequently an inquest was held which found that Ms Rantseva had jumped from the apartment in an attempt to escape and it was the jump which had caused her fatal injuries. However, the inquest also concluded that there was no evidence to suggest the criminal liability of a third person for her death. In due course Ms Rantseva's body was taken to Russia and a further autopsy was carried out in that country. That autopsy determined that Ms Rantseva had sustained some of her injuries while she was still alive but probably shortly before her death. The Applicant and the Russian authorities on his behalf made numerous requests of the Cypriot authorities; in particular, he requested further investigation of the circumstances of Ms Rantseva's death. He suggested a number of courses of action which the Cypriot authorities should undertake. Although a dialogue ensued between the Cypriot and Russian authorities the majority of the Applicant's requests were dismissed or did not receive a response.

150. The Applicant lodged complaints under Articles 2, 3, 4, 5 and 8 of ECHR. Essentially, all his complaints against the Cypriot authorities centred upon the lack of a sufficient investigation into the death of his daughter and the lack of adequate protection of his daughter. The Applicant also complained under Articles 2 and 4 about the failure of the Russian authorities to investigate. The Applicant complained that his daughter had been trafficked from Russia to Cyprus and the complaint against the Russian authorities centred upon the alleged failure to investigate this alleged trafficking.
151. The court's consideration of Article 4 of ECHR begins at paragraph 253 of its judgment and ends at paragraph 289. It is unnecessary to quote the whole of that passage. Paragraphs 253 to 271 summarise the submissions of the parties. Paragraphs 272 to 282 consider whether trafficking, of itself, constitutes a violation of Article 4; (in paragraph 282 the court concludes, unequivocally, that it does). Paragraphs 283 to 289 are as follows:-

“2. General principles of article 4

283. The Court reiterates that, together with arts 2 and 3, art.4 enshrines one of the basic values of the democratic societies making up the Council of Europe. Unlike most of the substantive clauses of the Convention, art.4 makes no provision for exceptions and no derogation from it is permissible under art.15(2) even in the event of a public emergency threatening the life of the nation.

284. In assessing whether there has been a violation of art.4, the relevant legal or regulatory framework in place must be taken into account. The Court considers that the spectrum of safeguards set out in national legislation must be adequate to ensure the practical and effective protection of the rights of victims or potential victims of trafficking. Accordingly, in addition to criminal law measures to punish traffickers, art.4 requires Member States to put in place adequate measures regulating businesses often used as a cover for human trafficking. Furthermore, a state's Immigration Rules must

address relevant concerns relating to encouragement, facilitation or tolerance of trafficking.

285. In its *Siliadin* judgment, the Court confirmed that art.4 entailed a specific positive obligation on Member States to penalise and prosecute effectively any act aimed at maintaining a person in a situation of slavery, servitude or forced or compulsory labour. In order to comply with this obligation Member States are required to put in place a legislative and administrative framework to prohibit and punish trafficking. The Court observes that the Palermo Protocol and the Anti-Trafficking Convention refer to the need for a comprehensive approach to combat trafficking which includes measures to prevent trafficking and to protect victims, in addition to measures to punish traffickers. It is clear from the provisions of these two instruments that the contracting states, including almost all of the Member States of the Council of Europe, have formed the view that only a combination of measures addressing all three aspects can be effective in the fight against trafficking. Accordingly, the duty to penalise and prosecute trafficking is only one aspect of Member States' general undertaking to combat trafficking. The extent of the positive obligations arising under art.4 must be considered within this broader context.

286. As with arts 2 and 3 of the Convention, art.4 may, in certain circumstances, require a state to take operational measures to protect victims, or potential victims, of trafficking. In order for a positive obligation to take operational measures to arise in the circumstances of a particular case, it must be demonstrated that the state authorities were aware, or ought to have been aware, of circumstances giving rise to a credible suspicion that an identified individual had been, or was at real and immediate risk of being, trafficked or exploited within the meaning of art.3(a) of the Palermo Protocol and art.4)a) of the Anti-Trafficking Convention. In the case of an answer in the affirmative, there will be a violation of art.4 of the Convention where the authorities fail to take appropriate measures within the scope of their powers to remove the individual from that situation or risk.

287. Bearing in mind the difficulties involved in policing modern societies and the operational choices which must be made in terms of priorities and resources, the obligation to take operational measures must, however, be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities. It is relevant to the consideration of the proportionality of any positive obligation arising in the present case that the Palermo

Protocol, signed by both Cyprus and the Russian Federation in 2000, requires states to endeavour to provide for the physical safety of victims of trafficking while in their territories and to establish comprehensive policies and programmes to prevent and combat trafficking. States are also required to provide relevant training for law enforcement and immigration officials.

288. Like arts 2 and 3, art.4 also entails a procedural obligation to investigate situations of potential trafficking. The requirement to investigate does not depend on a complaint from the victim or next-of-kin: once the matter has come to the attention of the authorities they must act of their own motion. For an investigation to be effective, it must be independent from those implicated in the events. It must also be capable of leading to the identification and punishment of individuals responsible, an obligation not of result but of means. A requirement of promptness and reasonable expedition is implicit in all cases but where the possibility of removing the individual from the harmful situation is available, the investigation must be undertaken as a matter of urgency. The victim or the next-of-kin must be involved in the procedure to the extent necessary to safeguard their legitimate interests.

289. Finally, the Court reiterates that trafficking is a problem which is often not confined to the domestic arena. When a person is trafficked from one state to another, trafficking offences may occur in the state of origin, any state of transit and the state of destination. Relevant evidence and witnesses may be located in all states. Although the Palermo Protocol is silent on the question of jurisdiction, the Anti-Trafficking Convention explicitly requires each Member State to establish jurisdiction over any trafficking offence committed in its territory. Such an approach is, in the Court's view, only logical in light of the general obligation, outlined above, incumbent on all states under art.4 of the Convention to investigate alleged trafficking offences. In addition to the obligation to conduct a domestic investigation into events occurring on their own territories, Member States are also subject to a duty in cross-border trafficking cases to co-operate effectively with the relevant authorities of other states concerned in the investigation of events which occurred outside their territories. Such a duty is in keeping with the objectives of the Member States, as expressed in the preamble to the Palermo Protocol, to adopt a comprehensive international approach to trafficking in the countries of origin, transit and destination. It is also consistent with international agreements on mutual legal assistance in which the respondent states participate in the present case."

152. Ms Kaufmann submits that these paragraphs confirm the following features as necessary components of the duty to investigate. First, once a credible allegation of an infringement of Article 4 has come to the attention of the police, there is a duty upon the police to act of its own motion. The existence of a duty to investigate does not depend upon an actual complaint from a victim or next-of-kin. Second, the duty to investigate carries with it a requirement to investigate promptly and/or with reasonable expedition. Third, once the duty has been triggered the investigation must be effective. It must be capable of leading to the identification and punishment of the individual or individuals responsible. This is “*an obligation not of result but of means.*” I accept that the paragraphs from Rantsev quoted above and in particular paragraph 288 support these propositions.
153. Is there a distinction to be drawn between the duty to investigate promptly and the duty to act with reasonable expedition? I do not consider that there is. In my judgment the European Court is not intending to draw some fine distinction between a duty to investigate promptly and a duty to investigate with reasonable expedition. I am fortified in that view since the court clearly distinguishes between the concepts of promptness and reasonable expedition on the one hand and urgency on the other. A duty to investigate urgently will arise if the alleged victim is still in a harmful situation. Otherwise the duty is to act promptly or with reasonable expedition.
154. If the principles identified from Rantsev are incorporated into the domestic law of England and Wales it would follow that the police would be under a duty to carry out an effective investigation of an allegation of a breach of Article 4 once a credible account of an alleged infringement had been brought to its attention. The trigger for the duty would not depend upon an actual complaint from a victim or near relative of a victim. The investigation, once triggered, would have to be undertaken promptly.
155. Lord Faulks QC does not accept that the investigative duty arising under Article 4 should be interpreted in this way. He submits that the duty is more limited in its scope. He suggests that the scope of the duty should be informed by the decision in Osman and the common law of England and Wales. He further submits, almost as a discrete point, that the duty to investigate is triggered only when a victim is identified, if not by name then certainly by other reliable means.
156. Osman lays down the test for determining whether a public authority has failed in its duty to prevent a person suffering treatment, which would, if enacted, amount to an infringement of Articles 2, 3 and 4. However, I accept that some of the strands of the reasoning in Osman are relevant to the interpretation of the investigative duty which arises under Article 4. I accept, for example, that the duty to investigate in a particular case may have to take account of priorities and resources. In any individual case a police officer’s decision about the manner, scope or timing of an investigation may be informed by available resources; priorities as between different investigations may also be a relevant matter. I accept, too, that the obligation to investigate must be interpreted in a way which does not impose an impossible or disproportionate burden upon the authorities. Further, when exercising their investigative powers the police must fully respect the due process and other guarantees which legitimately place restraints on the scope of their action, including the guarantees contained in Article 5 and 8 of the Convention. This approach ought not to be considered controversial. Indeed, support for much of this approach can be gained from paragraph 287 in Rantsev itself.

157. However, ultimately, Osman is concerned to lay down the test for determining whether a public authority has failed in its duty to prevent a person from suffering treatment which amounts to an infringement of Articles 2, 3 and 4 ECHR. The specific test formulated in the second paragraph of paragraph 116 of Osman cannot be used to determine the scope of the duty to investigate alleged infringements of those Articles when the infringements alleged have taken place i.e. when they are historical.
158. I turn next to the submission of Lord Faulks QC that the duty to investigate ought to be defined by reference to the common law of England and Wales. I cannot accept what he says about that. An actionable duty to investigate alleged breaches of Articles 2, 3 and 4 arises only by virtue of the Convention. For all practical purposes no actionable duty to investigate crime, even crime amounting to breaches of those Articles, exists in the common law of England and Wales. That state of affairs is dictated, essentially, by policy reasons. I simply do not see why policy reasons which dictate that no actionable duty to investigate crime should exist in the common law of England and Wales can be used to justify the emasculating of the investigative duty which arises under Articles 2, 3 and 4 of ECHR.
159. I am fortified in that view by the speeches of their lordships in Van Colle. There is not a hint in any of their speeches that the law lords considered that the scope of the operational duty arising under Article 2 ECHR and which was under consideration in that case should be informed or defined by the common law of England and Wales as it related to an actionable duty to prevent the commission of crime. As I have said, in Van Colle the House accepted that the appropriate formulation of the test was that which had been laid down by the European Court in Osman.
160. I appreciate, of course, that my duty is to take account of the jurisprudence of the European Court. I am not obliged by the Human Rights Act 1998 to adhere to it come what may. Recently, the Court of Appeal and the Supreme Court declined to follow the decision of the European Court of Human Rights in Al-Khawaja and Tahery v United Kingdom (2009) 49 EHRR1 – see R v Horncastle and others [2010] 2 AC 373. However, our courts in Horncastle recognised that the circumstances would be rare in which the domestic court declined to follow the lead of the European Court when the principles in question had been clearly established in that court. In my judgment the principles relating to the scope of the investigative duty arising under Article 4 are settled in the European Court. There is no reason, and certainly no sufficient reason, for me to define the scope of the investigative duty which arises under Article 4 in any way which is different from the definition of the scope of the duty provided by the European Court.
161. Accordingly I propose to proceed on the basis that the investigative duty under Article 4 is as specified in Rantsev as interpreted above.
162. For all practical purposes, Rantsev also determines that the scope of the investigative duty arising under Article 3 is identical to the scope of the duty under Article 4. In any event neither Ms Kaufmann nor Lord Faulks QC sought to suggest that the scope of the investigative duty arising under Article 3 should be defined in any way differently from the scope of the duty arising under Article 4.
163. It is an inevitable consequence from my analysis thus far that I cannot accept that the duty to investigate alleged breaches of Articles 3 and 4 is triggered only when the

police receive a complaint from an alleged victim. The duty to investigate will be triggered once the police receive a credible allegation that Articles 3 and/or 4 (as the case may be) have been infringed however that information comes to their attention.

164. The fact that no victim is identified to the police either by name or by other reliable means may be (and usually will be) a factor for the police to consider in an individual case. The absence of an identified victim may be relevant to the credibility of the complaint; the absence may be relevant to the issue of priorities. The particular facts of each case will be all important. I accept that the fact that no victim is identified or easily identifiable may make an effective investigation difficult to mount in practice. However, the absence of an identified victim does not, as a matter of principle, preclude the duty to investigate from arising. That is the effect of Rantsev; it is also, in my judgment, completely understandable and it accords with common sense.
165. When a duty to investigate has arisen and is alleged to be broken a victim of that breach of duty may make a claim. By virtue of section 7 of the 1998 Act a claim may be brought by a “victim of the unlawful act” which in this case was the alleged failure to investigate the breaches of the human rights of the Claimants. In the hearing before me there was little discussion about whether the Claimants were properly to be categorised as victims. In my judgment a victim is a person who is directly affected by the unlawful failure to investigate the abuse perpetrated upon him. It is not sufficient, in my judgment, that the person who brings a claim demonstrates that he was the victim of ill-treatment amounting to a breach of his rights under Articles 3 and 4; he must also show that he was directly affected by the failure to investigate that ill-treatment. That view accords with the way that the word “victim” has been interpreted both in the European Court and in the courts of England and Wales.
166. Lord Faulks QC submits that I should be slow, indeed very slow, to make a finding that the Defendant broke the Claimants’ Convention rights. He submits that I should do so only if I find that the officers’ failings were egregious. I cannot proceed on that basis. This submission is similar in concept to the submission made in Osman that a breach of the preventive duty should be found only if the public authority in question has acted in a way which could properly be regarded as grossly negligent. That submission was rejected in Osman and I do not consider that it can be resurrected in another guise in the context of the investigative duty arising under Articles 2, 3 and 4. I accept, of course, that the acts or omissions of the public authority must be scrutinised with care; that a court should be slow to criticise positive acts or decisions for which a reasoned justification is advanced and that the judgment of a public authority upon issues such as priorities and resources must be respected and will ordinarily be accepted by a court. To repeat, however, I can find no principled basis to conclude that a breach of Articles 2, 3 and 4 should be found only if the breaches are egregious.
167. One further small point. As I have said at the time when the Claimants were brought into this country there was no criminal offence of “trafficking” in our domestic law. Nonetheless, the treatment of the Claimants in this country was such that it not only amounted to an infringement of their rights under Articles 3 and 4 but it also constituted many criminal offences. I need not provide a list of all those offences; by way of example, however, it is obvious that many offences contrary to the Offences against the Person Act 1861 were committed against the Claimants. Accordingly, on

any view the complaints made to the police in this case were complaints of existing criminal offences as well as breaches of human rights.

168. If the Claimants establish that the Defendant is responsible for breaches of Articles 3 and 4 ECHR on the part of officers of the Metropolitan Police Service the primary remedy to be afforded to the Claimants is a declaration. However, in this case the Claimants also seek damages. I propose to deal with such principles of law as arise in relation to damages in the next section of this judgment.

Discussion and Conclusion

169. The case pleaded on behalf of the Claimants is that the duty to investigate the abuse which they suffered was first triggered by virtue of the meeting at the Hackney Law Centre on 24 July 2006.
170. In the light of my findings of fact concerning this meeting I find without hesitation that a duty to investigate the complaints made by YT, FA and YA arose as a consequence of the information (both written and oral) provided at and before the meeting. In my judgment the Paladin officers received credible complaints of serious breaches of Articles 3 and 4 ECHR from the young women, which complaints were supported by detailed witness statements and the views of experienced solicitors. The Defendant now accepts that the complaints were credible. I reject the suggestion made on his behalf that such was the attitude of YT, FA and YA that no effective investigation could be commenced. I acknowledge that the women had concerns about their status in this country, and indeed, that those concerns might have been a greater priority than an investigation of those who had abused them. Had the officers shown reasonable sensitivity, however, I am satisfied that the women would have cooperated in an investigation. After all, at this stage all that was needed from each woman was a detailed witness statement taken in a form conventional for criminal proceedings. Since each of the women was prepared to make detailed witness statements to their solicitors I find it impossible to accept that they would have refused to make appropriate statements to the police once persuaded of the willingness of the officers to take their complaints seriously and protect them appropriately.
171. I am satisfied that the Paladin officers were in breach of the investigative duty which arose in July 2006. In essence they did nothing to commence an effective investigation. The sole justification for that failure put forward by the Defendant is that the Claimants were unwilling to participate in an investigation. I do not accept that. I stress that the Defendant does not attempt to justify the lack of an investigation on the basis that the complaints made by YT, FA and YA were not credible. Further, he does not attempt to suggest that the absence of an investigation in the latter part of July 2006 was justified by a lack of resources or by other investigations taking priority.
172. Had an investigation commenced in the summer/autumn 2006 and, in particular, had statements been taken from YT, FA and YA the names of each of the Claimants would have emerged. Any police officer with experience of taking statements in a case of this kind, would, inevitably, have asked whether the women knew of others who had been subject to the same predicament.

173. I accept, however, that this process would, inevitably, have taken a significant amount of time. It is impossible to make a precise judgment about it but I am satisfied that the likelihood is that many months would have elapsed before the stage had been reached when the Claimants, themselves, would have been in contact with the police and made detailed statements relating to the abuse against them. Having seen the Claimants for myself I consider that they would have been in need of reassurance from police officers about their safety before they would have committed to helping in an investigation. Further, as of 2006, the primary concerns of each Claimant were their immigration status within the UK and a variety of personal problems which are described in psychiatric reports obtained by their solicitors. I do not consider that as of July 2006 an investigation of their abusers was high on any of the Claimants' list of priorities.
174. YT, FA and YA are not claimants. They were, however, certainly victims of the Paladin officers' failure to commence an effective investigation. Were the Claimants also victims of that failure as from July 24 2006? That issue was not addressed in detailed terms in the submissions before me. That may be because Lord Faulks QC saw no mileage in the point and Ms Kaufmann considered the answer to the point to be obvious. In any event, for reasons which will become clear, the point is academic. That being so I do not propose to offer a view on it.
175. The Claimants pleaded an alternative case. The Second Claimant alleges that a duty to investigate her complaints of abuse was triggered in April 2007. All the Claimants assert that an investigative duty arose in October 2007 and/or in November 2007 (see paragraph 60 (c) of the Amended Particulars of Claim).
176. I have already found that an investigative duty arose in July 2006 and that an effective investigation thereafter would have revealed the complaints of the Claimants albeit that some significant time would likely have elapsed before that point was reached. If I am wrong in that conclusion I have no doubt that a duty to investigate the complaints of all the Claimants was triggered during the summer and autumn of 2007. As of July 2007 Detective Superintendent Knight and the Paladin officers under her command had or should have had access to the detailed witness statements of the Claimants. A reading of those statements was enough, in my judgment, to demonstrate that each was making a credible complaint of breaches of Articles 3 and 4 ECHR and of serious criminal offences. All that occurred in the autumn reinforced the already strong likelihood that there were serious criminal offences amounting to breaches of fundamental human rights which were in need of investigation.
177. There was no investigation. The attempt by DI Valentine to suggest that this was because there was a lack of cooperation from the Claimants is simply untenable. The reality is that the contemporaneous documentary evidence demonstrates unequivocally that first Ms Lindsley, then Ms Aryio and finally Immigration Judge Herbert all pressed for an investigation of complaints of abuse which were well documented. There is no evidence which I accept that any of the Claimants were unwilling to co-operate. It is true that DI Valentine says that YT expressed herself to be unwilling to co-operate when he spoke to her in November or December 2007. I very much doubt if that was the case; even if it was, however, her unwillingness could not justify the conclusion that the Claimants would not co-operate. The reality is that DI Valentine took no effective step to begin an investigation and that was a breach of duty on his part.

178. There can be no doubt that as from this period of 2007 the Claimants were victims of the failure to investigate. Their names were known to the police; they wanted their complaints to be investigated. They were directly affected by the failure to carry out an effective investigation.
179. There is a respectable argument that a duty to investigate was triggered in the case of the Second Claimant when she made her complaints on 18 April 2007 at the Walworth police station. It is very difficult to resolve the disputes of fact which relate to the Second Claimant's contacts with police at this time; however even on the basis of what is recorded in the records made by the police she had made a complaint of significant abuse by Mrs Adeniji and, specifically, that she had been beaten unconscious on 2 April 2006. No useful purpose would be served, however, in making specific and detailed findings about this episode. It can make no possible difference to the remedy to which the Second Claimant is entitled.
180. I turn to the issue of remedies. The Defendant has steadfastly resisted the suggestion that any of the officers under his command acted in such a way so as to be in breach of the investigative duties imposed upon his officers under Articles 3 and 4 ECHR. Further, I have reached the clear conclusion that in the absence of the intervention by the Claimants' present solicitors and, in particular, in the absence of the threat of legal proceedings there would have been no offer to investigate the Claimants' complaints. In my judgment no other interpretation of the chronology and the correspondence placed before the court is tenable. In those circumstances each of the Claimants is entitled to a declaration to the effect that their human rights were breached. I do not think that the offer to carry out an investigation which was made in correspondence as from December 2008, onwards, constitutes an adequate remedy in this case.
181. Are the Claimants entitled to damages? As I have said no award of damages is to be made unless, taking account of all of the circumstances of the case, the court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made.
182. If there had been an offer to investigate which was followed with an effective investigation in the summer or autumn of 2007 I would not have thought it appropriate to award damages to the Claimants on the basis of any actionable failure to investigate during the period 24 July 2006 to the summer of 2007. The Claimants did nothing, during that period, to bring their cases to the attention of the police. Indeed, it was many months after the meeting of 24 July 2006 before any of the Claimants instructed Ms Lindsley. There is nothing within the psychiatric reports of Dr Turner which suggests that any failure on the part of the Paladin officers to investigate after the meeting on 24 July 2006 had any impact upon the Claimants. Dr Turner does not attempt to describe the failure to investigate in 2006 to any medical condition suffered by the Claimants. Further, there is nothing within the Claimants' witness statements which demonstrates that they were affected by any failure to investigate in the period July 2006 to the summer of 2007.
183. That changed in July 2007. From that time, in my judgment, the Claimants were ready, willing and able to participate in an investigation. It must have been very frustrating, at the very least, that no investigation commenced reasonably expeditiously after July 2007. As I have said it took an unequivocal threat of legal

proceedings to galvanise an investigation. Inevitably, the Claimants became more and more frustrated between the autumn of 2007 and December 2008.

184. In R (Greenfield) v The Secretary of State for the Home Department [2005] 1WLR 673 the House of Lords held that in deciding, pursuant to section 8 of the 1998 Act, whether an award of damages was necessary to afford just satisfaction for violation of Article 6, and if so how much, the British Courts had to look to the jurisprudence of the European Court of Human Rights for guidance.
185. It seems clear that the European Court proceeds on the basis that the focus of the Convention is the protection of human rights rather than an award of compensation. That said in cases involving Articles 2, 3 and 4 the court has been ready and willing, in appropriate cases, to award compensation.
186. In the instant case each Claimant claims compensation for non-pecuniary loss. The Claimants do not assert that they were caused to suffer psychiatric illness in the strict sense in consequence of the failure to investigate; they assert, however, that they each suffered distress and frustration on account of that failure.
187. The European Court recognises substantial distress and frustration as being conditions which justify an award of compensation where there has been a failure to investigate breaches of Article 3. I see no reason to suppose that it would take a different approach where the frustration and distress arises from a breach of a duty to investigate an infringement of Article 4. I have reached the conclusion that an award of damages is necessary in this case so as to afford just satisfaction to the Claimants.
188. Ms Kaufmann submits that the appropriate range of damages for non-pecuniary loss in this case is £7,500 to £10,000. She bases that submission on the decision of the European Court of Human Rights in MC v Bulgaria (2005) 40 EHRR 20 where an award of 8,000 euros was made in 2003.
189. I am not persuaded that this decision provides suitable guidance. The facts are very different and the proven breach of Article 3 ECHR went beyond a failure to carry out an effective investigation. Further, the court found, expressly, that MC had suffered psychological trauma as well as frustration and distress.
190. In the instant case each Claimant suffered frustration and anxiety over a period of approximately 12 to 15 months. As I have said there is no reliable evidence that any of the Claimants suffered distress and frustration over the failure to investigate in the period July 2006 to July 2007. By December 2008 the Defendant had made an unequivocal offer to investigate each Claimants' case. The fact is that only one of the Claimants was prepared to go forward with an investigation at that stage and while the attitude adopted by the others was understandable I do not consider that the Defendant should be ordered to pay damages in such a sum that takes account of any distress, frustration, or anxiety suffered beyond December 2008. In any event specific evidence of distress or frustration continuing beyond December 2008 is not available. In all the circumstances, I have reached the conclusion that the appropriate award of damages for each Claimant is £5,000.
191. I should say for completeness that I have considered whether or not a distinction should be drawn between the Fifth Claimant and the other Claimants but given that

my award is based, squarely, on a failure to carry out an effective investigation in the period between the summer or autumn of 2007 and December 2008 I can see no basis for such a distinction.

192. I am extremely grateful for the industry and assistance of the teams of lawyers involved in this case. I was assisted, in particular, by a comprehensive chronology and written submissions which were as concise as could reasonably be expected in a case of this type. I am also grateful to the parties for providing a draft order; the order sealed in this case is an order in the form of that draft.