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Case No: AC-2025-LON-000190
AC-2025-LON-001413

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 26 January 2026

Before:

Ms Justice Obi

Between:

R (Mr Richard James Prior)	**First Claimant**
and	
R (Mr Richard James Cooke)	**Second Claimant**
- and -	
The Police Federation of England and Wales	**Defendant**

- -

Mr Elliot Gold (instructed by **3D Solicitors Ltd**) for the **First Claimant-**
Mr Nick Stanage (instructed by **3D Solicitors Ltd**) for the **Second Claimant**
Mr Alan Payne KC and **Ms Katherine Barnes** (instructed by Trowers & Hamlins LLP) for the **Defendant**

Hearing dates: 25, 26 and 27 November 2025 and 8 December 2025
Further Written Submissions: 16 December 2025 and 19 December 2025

*This judgment was handed down by the Judge remotely by circulation to the parties' representatives by email and release to The National Archives. The date and time for hand down is deemed to be **10:30am** on **26 January 2026.***

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APPROVED JUDGMENT

Ms Justice Obi:

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I. Introduction

1. This expedited rolled-up hearing concerns two claims for judicial review brought by Mr Prior and Mr Cooke ('the Claimants') against the Police Federation of England and Wales ('PFEW'). Both claims challenge decisions taken under PFEW's Ethics, Standards and Performance Procedure ('the Procedure' or 'Appendix 9'). This is the first occasion on which decisions made in accordance with the Procedure have been challenged by way of judicial review.

2. The claims have been listed together as they raise interrelated questions of law under a common framework. However, the underlying events are entirely separate and have no factual connection. The Claimants contend that the decisions were unlawful, procedurally unfair, and disproportionate. They also argue that the decisions amount to an unjustified interference with their rights under Article 10 (freedom of expression) of the European Convention on Human Rights (ECHR). PFEW disputes these claims, asserting that its decisions were lawful, proportionate and aligned with its governance framework to uphold confidence in its processes and membership.

3. Two concessions were made by PFEW during the hearing. First, it acknowledged that its decisions are amenable to judicial review. Although Mr Payne KC initially stated in his skeleton argument that the acknowledgement was confined to these proceedings (reserving PFEW's position for the future), he accepted during the hearing that PFEW decisions under Appendix 9 are amenable to judicial review "*more generally*". That concession reflects established principles on amenability where bodies, though not classic public authorities, perform functions with a public law character which carry practical consequences for individual rights. Second, following withdrawal of the decision to remove Mr Prior from his role, PFEW assured the Court that no further hearing before the Ethics, Standards and Performance Panel ('Ethics Panel') would take place, in respect of Mr Prior, until this judgment has been handed down and considered. These concessions are significant: the first resolves a jurisdictional issue - whether decisions under the statutory framework attract public law duties or fall solely within the realm of internal contractual or employment-type matters; the second provides an important procedural safeguard.

4. The case was originally listed for three days but was later extended as Day 1 and part of Day 2 were taken up with preliminary legal arguments. On Day 4, due to time constraints, Mr Stanage was permitted to submit his Reply in writing in response to the oral submissions of Mr Payne KC and Ms Katherine Barnes, who in turn were allowed to make brief written submissions addressing criticisms raised by Mr Gold that did not amount to a Reply.

5. The following matters were determined during the hearing:

i. Grounds 9-11 of Mr Prior's claim are now academic.

PFEW accepted that the decision to remove Mr Prior as Chair of the Metropolitan Police Federation ('MPF') and bar him from standing for elected office ('the Removal Decision') was unlawful as he was not given the opportunity to respond to the legal advice provided to the Ethics Panel. The Removal Decision was withdrawn. Although it was submitted, on behalf of Mr Prior, that Grounds 9-11 raise issues of wider public interest, the Court considered it neither necessary nor appropriate to determine those matters in the abstract.

ii. Permission to rely on amended grounds.

Permission was granted for Mr Prior to rely on his Amended Statement of Facts and Grounds and his Supplemental Facts and Grounds notwithstanding two procedural irregularities: the absence of a witness statement explaining the delay, and the lack of a formal application for an extension of time. Permission was granted on an exceptional basis because the amendments complied with an earlier direction, were filed before the permission stage, the delay was credibly explained by late disclosure and allowing the amendments avoided unnecessary fragmentation and promoted the overriding objective.

iii. Provisional admission of additional evidence.

The Court provisionally admitted additional evidence filed by PFEW, Mr Prior and Mr Cooke, subject to final determination. The applications relate to the following documents: (i) Second Witness Statement of Mr Mukund Krishna, Chief Executive Officer (CEO) of PFEW; (ii) First Witness Statement of Ms Nicola Ihnatowicz, Employment Law Partner at Trowers & Hamlins LLP ("Trowers & Hamlins"); (iii) First Witness Statement of Ms Vanessa James, Employment law Partner at Trowers & Hamlins and seconded to PFEW as General Counsel since September 2024; (iv) First Witness Statement of Mr Brian Booth, Deputy National Chair of PFEW; (v) Summary of Legal Advice given to Mr Brian Booth; (vi) First Witness Statement of Mr Cooke; (vii) Fifth Witness Statement of Mr Prior; and (viii) Ethics Panel decision in relation to Mr Cooke dated 20 November 2025.

Outcome

6. For the reasons set out in this judgment, all grounds advanced by Mr Prior succeed. Mr Cooke's claim succeeds in part: the decisions imposing and maintaining sanctions on his speech are unlawful insofar as they were reached without the required Article 10 analysis or a proportionate justification for restricting his freedom of expression. No other aspect of the Ethics Panel's decision or the Appeal Panel is affected. For clarity, this judgment determines only those matters necessary to resolve the pleaded grounds and the issues identified for determination; it does not address every argument raised orally or in writing.

7. For the avoidance of doubt the Court confirms that permission, directed to be determined at the rolled-up hearing, was granted and the evidence previously admitted on a provisional basis was admitted in full and taken into account in this judgment.

8. This case is not about whether the Claimants' views were right or wrong, or whether the complaints against them were justified. It concerns whether the decisions made by PFEW were within the powers conferred by the regulatory framework, complied with the requirements of procedural fairness, and were compatible with Article 10. Nothing in this decision endorses or criticises the Claimants' speech, the complaints made against them, or the wider policy debates. The Court's focus is solely on process, legality, and Article 10 compliance.

II. Background

9. The following background is drawn from material that is largely undisputed and sets out the chronology of key actions and decisions concerning each claimant.

PFEW

10. PFEW is a statutory body comprising 43 Branch Boards representing the territorial police forces in England and Wales. It serves as the collective voice for approximately 147,000 officers below the rank of superintendent, addressing matters concerning their welfare, efficiency and professional standards. Membership is voluntary and ordinarily supported by subscription payments. However, PFEW's statutory duty is to represent officers on matters of welfare and efficiency applies irrespective of subscription status.

11. Branch Chairs are elected representatives, normally chosen during triennial elections or, where a vacancy arises mid-term, by the Branch Board. The role attracts an Additional Responsibility Payment in addition to the officer's police salary.

Mr Prior

Role as Chair

12. Mr Prior, a serving officer in the Metropolitan Police Service ('MPS'), was elected Vice-Chair of the MPF on 22 June 2023 and became Chair on 18 April 2024 following his predecessor's retirement.

13. As Chair he represented the interests of rank-and-file MPS officers, participated in national governance discussions, and acted as the public voice of the MPF on policing policy and welfare matters. His tenure came to an end on 24 April 2025 when he was removed from office following complaints arising from comments made during media interviews.

14. Mr Prior has since given notice of his retirement from the MPS and once retired, will no longer be eligible for PFEW membership.

GB News Interview (October 2024)

15. On 8 October 2024, Mr Prior gave a short interview to GB News in his capacity as Chair of the MPF ('the 2024 Interview'). The interview referred to two high-profile incidents:

    i. *The Dos Santos and Williams Stop and Search* (July 2020): Six Metropolitan Police officers stopped and searched Olympic athletes Ricardo dos Santos and Bianca Williams, both of whom are Black. The incident, partly recorded and shared on social media, prompted allegations of racial profiling and led to misconduct proceedings. Although two officers were dismissed for gross misconduct, the Police Appeals Tribunal overturned all findings of race discrimination and quashed the misconduct determinations on 4 October 2024 - just days before Mr Prior's interview.

ii. The *Croydon Bus Incident* (July 2023): A Black woman was arrested and handcuffed for suspected fare evasion. The officer involved was initially cleared of wrongdoing, later convicted of assault in May 2024, and subsequently acquitted on appeal in September 2024.

16. Both cases attracted significant media coverage and became emblematic of concerns about racial bias and policing standards, forming the backdrop to Mr Prior's comments about confidence within the MPS and the operational challenges facing officers. Key extracts from the transcript of Mr Prior's 2024 interview are set out below:

> *"**There's a striking Crisis of Confidence at the moment within policing in general and certainly within the Metropolitan Police, whereby officers are withdrawing from any kind of proactive policing for fear of falling foul of the IOPC, Independent Office of Police Conduct, or a vexatious or malicious complaint.***
>
> ***There seems to be an assumption of racism right from the off, particularly when it's a white police officer and a member of the public from a minority ethnic community, and it almost seems as if the onus is then on the police officer to prove that the interaction wasn't racist, and we've found that in the two recent cases that have been highly publicised, both in the Croydon Bus incident and also the Dos Santos and Bianca Williams stop and search incident*** [emphasis added]*."*

When asked to explain his description of MPS as failing to challenge poor behaviour towards officers, which he characterised as "*racism of low expectations*", Mr Prior stated:

> *"**Yes, that is what I've termed it. When the behaviour of certain individuals clearly falls below that of which society expects, I think it's incumbent on police leaders to support their officers who are charged with dealing with these type of incidents to come out and call out that behaviour**; and I mean that example of which I relate this to was again the recent Croydon Bus incident matter, where it was clear that the lady in question behaved poorly. It's a quite reasonable expectation of society that if you travel on transport, London Transport on the buses, the trains, you know that if you are asked to produce a valid ticket for travel, you show that ticket. Had that happened in this case, there would have been no incident. And so it was the behaviour of the lady in question that instigated the whole matter* [emphasis added]*".*

Complaints, Suspension and Investigation

17. On 9 October 2024, the CEO received three written complaints concerning Mr Prior's GB News interview. Two were initially emailed to the MPF General Secretary, Matthew Cane, and then forwarded to the CEO; the third was sent directly to PFEW under the name 'Paulie Thompson' (later confirmed through correspondence dated 7 April 2025 and witness evidence to be a complaint from Paul Odle - a former PFEW member). Two further complaints followed on 29 October 2024 and 3 November 2024, the first being sent directly to the General Counsel - Ms James. Collectively, these are referred to as the '2024 complaints.'

18. The first two complaints were emailed to Mr Cane, on 8 and 9 October 2024. Both emails, which are redacted, addressed him informally as "*Matt*". The first complainant later emailed the CEO stating that "*Matt*" had asked him to send the complaint. That complainant stated that Mr Prior's comments included a "*form of racial discrimination where certain racial groups are held to lower standards because of an implicit belief that they are less capable*." The second complainant asserted that the phrase "*[r]acism of bad behaviour*" (which Mr Prior had not used)

was racist. The CEO forwarded the second complaint to Ms James "*for assessment*" and indicated he would call her.

19. On 9 October 2024, the CEO decided to refer the complaints for investigation under the Procedure by appointing an Independent Investigating Officer (IIO) ('the Investigation Decision') and to suspend Mr Prior pending the outcome of that investigation ('the Initial Suspension Decision'). This decision was communicated by email in an unsigned letter from the CEO. The letter stated that concerns had been raised by "*members, Federation representatives and other concerned parties*" regarding Mr Prior's conduct and behaviour. It alleged that, in his capacity as Chair, Mr Prior had made public comments that were discriminatory or could reasonably be interpreted as such, thereby potentially undermining PFEW's reputation and alienating parts of its membership. The letter further recorded that the comments were made without prior approval from PFEW and stated that suspension was necessary given Mr Prior's senior role, the seriousness of the concerns, reputational impact, and public interest considerations. While suspended, Mr Prior remained bound by PFEW Rules ('the Rules') and was instructed not to make statements to the press about the suspension or allegations. Mr Prior was informed that an investigating officer would engage with him and that he could appeal the suspension decision. The letter did not specify the number of complaints, identify the complainants or explain whether fears of reprisals had been considered, nor did it address whether less intrusive alternatives to suspension had been evaluated.

20. On 10 October 2024, Mr Prior's MPF representative requested further particulars of the allegations but did not seek copies of the complaints or the identities of the complainants. An unsigned letter from the Governance Team, dated 11 October 2024, stated that details would follow by 14 October 2024. No such details were provided. On 15 October 2024, the Free Speech Union submitted representations challenging the Initial Suspension Decision.

21. A further letter from the Governance Team, dated 16 October 2024 (again unsigned), set out the scope of the investigation ('the Scope Decision'). The letter identified seven concerns including whether Mr Prior had: (i) misrepresented the views of a White minority of members as the collective position of the membership; (ii) asserted, without evidence, that leadership was guilty of "*racism of low expectations*"; (iii) adopted a discriminatory narrative by selectively commenting on controversial cases; and (iv) made comments about the Croydon Bus Incident that could reasonably be interpreted as suggesting minority ethnic groups were more likely to exhibit poor behaviour. The letter acknowledged Mr Prior's right to free speech, but expressed concern that he had made "*careless, one-sided comments that failed to provide proportionate representation of those he claimed to be representing*".

22. On 21 October 2024, PC Blake was acquitted of the murder of Chris Kaba, a Black man fatally shot during a police pursuit in South London in September 2022. This was a case that had attracted widespread public attention and debate about race and policing.

23. On 22 October 2024, the Governance Team stated it had assigned an IIO, with whom it was sharing the terms of reference. That same day Ms James informed a complainant that an independent law firm had been appointed to investigate their complaint but asked to speak to them "*directly*". The email has been redacted. On 23 October 2024, the complainant stated that they were unwilling to provide a statement explaining that Mr Prior's comments were already in the public domain and that they did not see any need to be personally associated with a complaint against him. In her reply, Ms James wrote: "…*I completely understand. Unfortunately, as you can imagine there are some quarters of the federation who see this as a free speech issue - obviously at HQ we absolutely don't see it that way…*".

24. On 23 October 2024, Mr Prior lodged an appeal against the Initial Suspension Decision, supported by detailed submissions. He argued: (i) the CEO had no power to suspend him; (ii) the suspension was disproportionate and unnecessary, noting that he knew none of the complainants and was

willing to give undertakings to avoid interference; (iii) there was no requirement to seek permission before giving interviews; (iv) the interpretation of his words was unreasonable; (v) the matter concerned a difference of judgment; and (vi) nothing he said could in good faith be construed as racist. He did not challenge the conditions of suspension.

25. Before reaching its decision, the Appeal Panel, comprising three independent PFEW officers, sought clarification from the Governance Team by way of an undated document containing a series of questions. These questions concerned: the number and nature of complaints, whether complainants feared reprisals, and the rationale for suspension. The responses, prepared by the Governance Team and subsequently reviewed by the CEO, asserted that six complaints had been received, that all complainants expressed "*genuine and real fear of reprisal*," and that suspension was necessary to protect complainants and safeguard the integrity of the investigation. The document also included statements characterising Mr Prior's comments as "*divisive and inflammatory*," suggesting that he anticipated his comments would be taken up by "*extreme. Lives on social media* [sic]" and campaign groups; and describing GB News as "*a news channel dominated by right-wing views*". It further stated that Mr Prior had breached suspension conditions by continuing to engage with journalists and social media. None of this material was disclosed to Mr Prior for comment or rebuttal.

26. On 25 October 2024, PFEW decided to appoint David Regan, partner at the law firm Lewis Silkin LLP, as the IIO. Before finalising instructions, two of the three original complainants requested anonymity for fear of reprisals; these requests were made by telephone. In light of these concerns, PFEW decided to proceed only with the complaint made by Mr Odle who was content for his name to be shared with the IIO. Accordingly, the IIO was provided only with Mr Odle's complaint (submitted on 9 October 2024). In that complaint, Mr Odle described himself as "*deeply offended and outraged*", alleging that Mr Prior's comments were "*racist*" and "*very damaging to the Black community in trust and confidence in policing*". He asserted that Mr Prior had "*tarnished all Black people as troublesome and labelled them as difficult to police*" and concluded: "*[he] should be removed as chair… I am disgusted in his comments*".

27. On 29 October 2024, three weeks after the GB News interview, a complainant emailed Ms James directly (as stated above) and asked for their identity not to be revealed for fear of targeting on social media. This was the first and only complaint concerning the GB News interview that expressed such fear in writing.

28. On 31 October 2024, the Appeal Panel considered Mr Prior's appeal against the Initial Suspension Decision and dismissed it ('the Suspension Appeal Decision'). The decision was communicated by letter dated 4 November 2024. It addressed each of Mr Prior's grounds. On the *ultra vires* challenge, the Appeal Panel held that governance powers, including suspension, were delegated to the CEO under the Memorandum of Understanding (MoU), notwithstanding Rule 11 of Appendix 9. On proportionality and necessity, the Appeal Panel characterised suspension as a "*neutral act*" required to ensure a full and fair investigation, citing uncertainty about interference with witnesses, the seriousness of the allegations and the need to mitigate reputational risk to PFEW. The Appeal Panel emphasised that suspension did not imply guilt but was a protective measure pending investigation. It rejected the contention that a *prime facie* case was required, stating that merits need not be assessed at the investigative stage and observing that Mr Prior's comments were potentially divisive in the context of policing and race relations. Finally, the Appeal Panel confirmed that the original conditions prohibiting press statements and social media activity in Mr Prior's capacity as a PFEW representative would remain in force, warning that any breach could lead to further allegations.

29. On 14 November 2024, PFEW formally instructed David Regan as the IIO. The letter of instruction made no reference to the Chris Kaba trial. It set out five issues for inquiry: (i) whether Mr Prior participated in interviews with GB News without seeking prior approval; (ii) whether he did so knowing the discussion would involve highly sensitive matters concerning allegations of racism in

policing; (iii) the basis for his statements suggesting that MPS leadership had failed to challenge poor behaviour and that officers feared vexatious complaints; (iv) whether the views expressed could properly be regarded as representing the collective interests of MPF members; and (v) whether any of those matters amounted to a breach of the standards set out in Appendix 8 of the Rules. The instruction also recorded that responsibility for contacting complainants would remain with PFEW rather than the investigator.

30. On 26 November 2024, PFEW declined to permit the investigator to consider the suspension stating, "*the suspension process under appendix 9 has concluded*".

31. On 21 January 2025, PFEW confirmed in a letter to the IIO that it had decided to broaden the scope of the investigation to include whether Mr Prior had taken account of the ongoing Chris Kaba trial when making his comments on GB News, given the potential implications for public confidence and members' interests ('the Extended Scope Decision'). PFEW explained that this issue had not been included initially because it wished to avoid any risk of a perceived link between Mr Prior's comments and contemporaneous media coverage of the Kaba verdict. It added that Mr Prior's suspension had already been reported by GB News and the Free Speech Union, which it considered risked creating a "*very dangerous connection*" with the Kaba case at the time. The letter further stated that only the complaint made by Mr Odle would form the basis of the investigation and that all other complaints should be disregarded. The original Scope Decision was not amended.

32. On 12 February 2025, the Governance Team conducted a formal review of Mr Prior's suspension and decided to maintain both the suspension and the conditions imposed ('the Suspension Review Decision'). The decision letter recorded that suspension remained necessary and proportionate given the seriousness of the allegations, reputational risk to PFEW, and the need to safeguard the integrity of the investigation. It noted concerns that Mr Prior had failed to comply with his conditions of suspension by engaging with the press, which reinforced the rationale for continued suspension. The letter emphasised that suspension did not imply guilt but was a protective measure pending completion of the investigation.

33. On 11 March 2025, Mr Prior was notified for the first time that Mr Odle was the sole remaining complainant. In the same letter, he was informed that the Chris Kaba issue had been added to the terms of reference, the justification given being the "*passage of time*" since the trial. The letter enclosed Mr Odle's complaint and stated that all other complaints had been disregarded.

34. On 17 March 2025, Mr Prior gave further interviews to GB News and the Telegraph newspaper (the "2025 Interviews"). He said:

> *"Freedom of speech is the bedrock of a democratic society. But it is not just the right to express one's views or opinions, it is also as much the right for others to listen and to hear what that person has to say.*
>
> *Every time someone is cancelled or silenced, it isn't just that individual's rights that have been trampled on, it is everyone else's right to listen and hear what that person has to say that has been impinged.*
>
> *I was suspended by the Police Federation of England and Wales because I dared to speak the truth of what members I represent have been telling me for months. This truth was unpalatable for some, as it went against the accepted orthodoxy.*
>
> *However, instead of engaging in a reasoned debate or challenging my views by way of offering an alternative perspective, they chose to cancel me by way of full suspension and an attempt to ruin my career that I have worked so hard to build."*

35. On 20 March 2025, the CEO received a written complaint via email about the further interviews ('the 2025 Complaint'). The complainant requested anonymity "*due to sensitivities*" and stated

that their attention had been drawn to the Telegraph article, during the National Council meeting. They expressed the view that it was inappropriate for a suspended PFEW representative to speak to the media about an ongoing investigation. The email has been redacted.

36. On 24 March 2025, the CEO decided to refer the matter directly to the Ethics Panel. In his letter to Mr Prior, the CEO explained that he considered there to be an immediate risk of ongoing harm to PFEW and a possibility of further reputational damage if Mr Prior gave additional media interviews. For that reason, the matter would proceed directly to a hearing under paragraph 9.2, where Mr Prior's explanation could be considered and any risk re-assessed.

Sanction and Subsequent Events

37. On 24 April 2025, following a disciplinary hearing before the Ethics Panel on 17 April 2025, Mr Prior was found to have breached Appendix 8 of the Rules. Two sanctions were imposed: (i) removal from office as Chair; and (ii) a permanent bar on standing for any PFEW position in future. On 30 April 2025, Mr Prior applied for interim relief to set aside the Removal Decision which was refused. On 2 May 2025, the Governance Team informed him that, before seeking judicial review, he should first pursue the internal appeal mechanism. Mr Prior lodged his appeal, on or around 12 May 2025, after an extension was granted.

38. At the time of the hearing in these proceedings that appeal remained pending. However, as noted above, the Removal Decision has been withdrawn and is no longer a live issue. The amended grounds concerning the Removal Decision (procedural fairness, apparent bias, proportionality, and interference with rights under Article 10) do not require determination. Accordingly, there will be no further substantive reference to the Removal Decision in this judgment, save where a brief mention is required for contextual clarity.

Mr Cooke

Role as Chair

39. Mr Cooke, a serving officer in West Midlands Police ('WMP'), was elected Chair of the West Midlands Police Federation ('WMPF'), one of 43 Branch Boards of PFEW, in June 2018 and held that role until March 2025. As an elected representative, he acted as the principal voice for rank-and-file officers, liaising with force leadership on operational and welfare issues, and overseeing member support. His role focused on governance and coordination rather than direct involvement in individual casework and he regularly represented members' concerns in public forums, including media engagements on policing policy and officer welfare.

Social Media Posts (December 2024)

40. On 4 December 2024, Channel 4 News posted the following statement on X (formerly Twitter):

> "*West Midlands Police accused of failing to act on racism in its ranks. West Midlands police stands accused tonight of failing to act on damning evidence of widespread racism in its ranks*."

The post directed readers to a news feature alleging that WMP had failed to act on evidence of systemic racism within its ranks, based on claims made by a former police officer, Ms Khizra Bano. The coverage raised serious concerns about discriminatory practices and the handling of complaints, prompting significant public debate on race and policing.

41. On 5 December 2024, Mr Cooke posted two comments on X in response to the Channel 4 post:

> *"Brave Spaces conversations were supposed to be 'safe spaces' where perceptions could be discussed. Turns out a 'fishing trip' to collect hearsay & innuendo to smear colleagues. I don't recognise these attitudes. They do not represent us - we are an anti-racist organisation."*
>
> *"Nonsense - and so was the report but these reporters rarely bother checking their sources."*

Complaints, Suspension and Investigation

42. On 10 and 11 December 2024, PFEW received two complaints arising from Mr Cooke's social media posts. The first, from Ms Khizra Bano, alleged that the posts were dismissive of discrimination concerns, and amounted to victim-blaming, thereby undermining efforts to address racism and alienating members who had experienced discriminatory treatment. The second, from Mr Rocky Kalam (husband of PS Rebecca Kalam, who had succeeded in a sex discrimination claim against the Force) asserted that the comments demonstrated a lack of support for victims of discrimination and risked undermining ongoing litigation. Both complainants contended that the posts were inappropriate for a WMPF Chair and contrary to the obligation to act in the interests of all members, including those from underrepresented or protected groups.

43. On 13 December 2024, Mr Cooke was suspended as branch Chair pending investigation. The suspension letter stated:

> "*This is about your social media posts excluding and alienating those of our members who might be the victims of discriminatory treatment - effectively leaving them with nowhere to turn for support and representation*."

44. Louise Hogarty, an experienced Human Resources professional, was appointed by the Governance Team as an IIO on 7 January 2025. The investigation was framed around four principal issues: (i) *Issue 1: Social Media Posts* - whether Mr Cooke's posts, presented as statements on behalf of the WMPF, amounted to victim-blaming, dismissed concerns about racism, and undermined the credibility of officers reporting discrimination; (ii) *Issue 2: Protected Disclosure* - whether the Channel 4 report involved allegations likely to meet the legal test for protected disclosures, such that Mr Cooke's comments could constitute detriment or victimisation under the Equality Act.; (iii) *Issue 3: Impact on Litigation* - whether the posts jeopardised ongoing discrimination claims by the complainants, compelling them to seek representation outside WMPF; and (iv) *Issue 4: Breach of Suspension Conditions* - whether Mr Cooke continued to use his Force email to undertake WMPF duties while suspended.

45. On 9 January 2025, Mr Cooke appealed against the suspension.

46. On 18 February 2025, following receipt of a further complaint from PS Kalam, the scope of the investigation was broadened to include *Issue 5*: whether Mr Cooke's public statements were neutral and balanced or indicated bias or preference towards any particular group; whether they demonstrated a lack of support for PS Kalam's case or undermined her in any way; whether

they reflected insufficient sympathy for female members or other protected groups; and whether they revealed a common theme between these comments and those relating to Ms Bano's case.

47. On 19 February 2025, Mr Cooke's appeal against his suspension was dismissed.

48. The IIO's report, completed on 14 March 2025, stated as follows:

> *"1. [Mr Cooke's]* ***public comments regarding 'brave spaces' conversations could reasonably be interpreted as dismissive or discrimination concerns and be seen as 'victim blaming'*** *by any person who saw it.* ***His characterisation of these forums as "fishing trips" demonstrates a failure to properly understand their purpose and function****, particularly as he never attended any sessions despite their prominence in the force and the support of senior officers who attended the groups.*
>
> *2.* ***These comments could constitute detriment to individuals who made protected disclosures, potentially breaching whistleblower protections and the Equality Act.***
>
> *3. The evidence shows a pattern where members raising discrimination and/or victimisation concerns received inadequate support from WMPF and had to seek representation elsewhere.*
>
> *4. [Mr Cooke's] use of his force email after suspension breached the terms of his suspension demonstrating disregard for proper protocols and potentially conflicting with the commitment in Appendix 8 to "maintain exemplary standards of conduct, integrity and professionalism".*
>
> *5.* ***RC's approach to member representation is based on supporting what he considers to be 'the majority view', even at the expense of individual members who are seeking to raise discrimination, victimisation and/or detriment concerns****.*
>
> *6.* ***RC has demonstrated a repeated pattern of making public statements that minimise or dismiss discrimination and victimisation concerns, despite previous criticism for similar behaviour.*** *This suggests an inability or unwillingness to learn from past mistakes* [emphasis added]*."*

Panel Decision and Sanction

49. On 27 March 2025, the Ethics Panel convened to consider the IIO's report. Mr Cooke attended the hearing with his PFEW representative who made written and oral submissions. Later that evening, the CEO telephoned the Panel Chair, requesting that in determining any sanction the Ethics Panel take account of the impact of Mr Cooke's conduct on the complainants. The Panel Chair noted the point and the matter was left with him.

50. On 28 March 2025, the Ethics Panel unanimously upheld Issue 1, finding that Mr Cooke's posts breached Appendix 8 of the Rules (the 'Initial Decision'). All other issues (Issues 2-5) were dismissed. The reasoning in respect of Issue 1 was as follows:

> *"1. You were posting on X as the Chair of the West Midlands federation;*
>
> *2.* ***Whether you intended to or not, the posts were taken as victim-blaming by the two complainants****;*

3. Although we accept that your intention was to respond to what you perceived to be inaccurate reports in the media about your force suffering from pervasive racism, ***responding with the word "nonsense" on such a sensitive and high-profile topic, was perceived by the complainants to be critical of those raising discrimination allegations, and we consider that perception to be valid and reasonable****.*

4. ***We also agree that your post about the brave spaces initiative was dismissive, and again it was reasonable and valid for the complainants to have considered that to be victim-blaming****.*

5. You acknowledged that discrimination including racism and misogyny is still an issue in your force, although you dispute that it is pervasive.

6. We accept that you did not expressly comment on any individual case and consequently, we do not find that you were calling in to question the honesty of any particular officer.

We find that this conduct was a breach of paragraphs 2 and 3 of Appendix 8 and specifically find that you failed to:

Maintain exemplary standards of conduct, integrity and professionalism; and Act in the interests of the members and the public, seeking to build public confidence in the police service.

In particular, we find that you failed to act in the interests of members who have experienced or are experiencing discrimination of any kind, or who are underrepresented in the force or in the branch. In reaching this conclusion, we accept that you wanted to respond on behalf of the rank and file officers who are not racist or other discriminatory, but in doing so, you inadvertently dismissed the experiences of officers who have suffered and are suffering discrimination [emphasis added]*."*

51. The Panel, by a majority, decided to impose two sanctions: (i) removal from office; and (ii) a prohibition on standing for re-election for eight months, which would remain in effect until completion of Equity Diversity and Inclusion (EDI) training to the satisfaction of the trainer.

Appeal and Variation of Sanction

52. Mr Cooke appealed. On 17 April 2025, the Appeal Chair telephoned Mr Cooke's representative to confirm that the appeal would be dismissed. The decision was formally communicated on 30 April 2025, ('the Appeal Decision') and recorded the following reasons:

"*…Appendix 9 is an internal process and not a judicial process akin to a Court hearing*"

"*…PFEW deals with your conduct and suitability to serve as an elected Federation representative, whereas the Force (PSD) assess your suitability to serve as a police officer" and, as such, "The implications of being sanctioned under the Police Regulations and being sanctioned under Appendix 9 are fundamentally different.*"

"*Appendix 9 is drafted broadly….it was drafted broadly to allow PFEW a degree of flexibility in managing conduct issues*."

"*Following the implementation of appendix 9 there were issues with outcomes being inconsistent and attracted negative criticism about whether decisions were proportionate*

> *or justified. Since the pension decision and the following reflection within PFEW it was determined that more transparency was needed*."
>
> "*However, regardless of what test that ESPC* [Ethics, Standards and Performance Committee] *may have applied, I have as part of this appeal considered the tweets from an '**objective person**' **perspective** and I consider them to have been inappropriate…* [emphasis added]"

53. The sanction was varied to require completion of EDI training to the satisfaction of the trainer, together with additional social media training.

III. Procedural History

54. The following summary sets out the key procedural steps in each claim.

Mr Prior's Claim

55. The claim for judicial review was filed on 17 January 2025, challenging both the Initial Suspension Decision and the Suspension Appeal Decision. PFEW filed an Acknowledgment of Service and Summary Grounds of Defence on 17 February 2025.

56. On 11 April 2025, Mr Prior applied for interim relief to prevent the disciplinary hearing, which was scheduled for 17 April from proceeding. That application was refused by Marcus Pilgerstorfer KC (sitting as a Deputy High Court Judge) on 16 April 2025. On 30 April 2025, Mr Prior made a second application for interim relief, seeking to set aside the Removal Decision. At the same time, he applied to amend his claim to add challenges to the Investigation Decision, Scope Decision, Extended Scope Decision, Suspension Review Decision and Removal Decision. This second application for interim relief was refused by Lavender J on 6 May 2025; the amendment application was not determined.

57. On 12 September 2025, Lang J declined to decide the amendment application at that stage. She directed that Mr Cooke's claim be heard together with Mr Prior's at an expedited rolled-up hearing, observing that both claims raised arguable grounds, that expedition was necessary given the impact of the decisions under challenge, and that there was clear overlap between the issues. Her order further provided that the rolled-up hearing would address permission, amendment, and whether any grounds had become academic.

Mr Cooke's Claim

58. Mr Cooke issued his claim for judicial review on 6 May 2025, together with an application for urgent consideration and interim relief challenging the Initial Decision and the Appeal Decision. That application was refused by Sweeting J on 7 May 2025, the Court holding that the balance of convenience lay against intervention and that Mr Cooke had not demonstrated the strong *prima face* case required for mandatory relief.

59. PFEW filed its Acknowledgment of Service and Summary Grounds of Defence on 28 May 2025, setting out its objections to the claim and resisting permission.

60. On 12 September 2025, Lang J issued directions providing that Mr Cooke's claim should be heard alongside Mr Prior's at an expedited rolled-up hearing, for the reasons set out in paragraph 47 above. Following that order, the two claims were case managed together, including directions for the filing of evidence and the preparation of a joint bundle. PFEW subsequently filed a Detailed Grounds of Defence on 21 October 2025.

IV. Procedural Considerations: Duty of Candour, Disclosure and Scope of Review

61. This section outlines procedural matters raised during the hearing - namely, compliance with the duty of candour, adequacy of disclosure, and the scope of review. These issues do not require separate determination but provide essential context for the Court's approach.

The Claimants' Position

62. Mr Gold, on behalf of Mr Prior, submits that PFEW's extensive use of redactions is unjustified and invites the Court to place no weight on any factual assertions that depend on redacted material. He contends that PFEW failed to comply with its duty of candour by withholding, delaying or incompletely disclosing relevant documents, and argues that these deficiencies justify a broader approach to the issues before the Court, rather than a strict confinement to the pleaded grounds. These criticisms are advanced against what he characterises as wider governance concerns within PFEW. In that regard, he relies on the findings in *Broadbent v Police Federation of England and Wales* (ET 3207780/2020) in which the Employment Tribunal concluded that PFEW had discriminated against and victimised officers who opposed its national board's policy on police pension reforms. Mr Prior was himself a claimant in *Broadbent*, and Mr Gold submits that the patterns identified in that case provide relevant context for assessing candour, disclosure and procedural fairness in the present proceedings.

63. Mr Gold further submits that PFEW has been "*behaving tactically*", in that, it initially took an amenability point in these proceedings on the basis that the relationship between itself and the membership is "*wholly contractual*", while in parallel proceedings in the Employment Tribunal (*Jones v Police Federation of England and Wales* (2025) (ET 1604160/2024)), advanced the opposite position - that the relationship was not contractual. He submits that this inconsistency reinforces the need for heightened scrutiny of PFEW's approach to candour.

64. During oral submissions Mr Gold submitted that there were "*severe breaches*" of candour based on deficiencies in the evidence of Ms James, Ms Ihnatowicz, and Mr Booth. The matters relied upon include: (i) the non-disclosure, prior to the filing of Detailed Grounds of Defence, of an email sent by Ms James to a complainant dated 23 October 2024 (see paragraph 21 above); (ii) the omission of information about Ms James' direct contact with complainants and the lack of transparency about her role in the process; (iii) alleged inaccuracies in statements concerning Ms James' use of Trowers & Hamlins email accounts; (iv) the failure to clarify that Ms James and Ms Ihnatowicz were aware of the Governance Team responses to the Appeal Panel's questions; (v) insufficient effort to locate the original document setting out those Appeal Panel questions; (vi) late clarification of discrepancies in Mr Krishna's witness statement concerning the number of complaints received; (vii) a failure to confirm whether any policy existed requiring legal advice to be obtained before suspension decisions were taken; and (viii) an assertion that PFEW wrongly disputed a finding from a 2022 complaint that Mr Odle had lied.

65. Mr Stanage, for Mr Cooke, raises no separate complaint about candour and disclosure. His oral submissions focused on Article 10, and he confirms that his position remains as set out in his skeleton argument.

PFEW's Position

66. Mr Payne KC rejects the criticisms, maintaining that disclosure was adequate, proportionate, and guided by relevance. He emphasises that the duty of candour is not a general duty of disclosure but a duty to draw relevant material to the Court's attention; disclosure before permission was neither required nor proportionate.

67. Mr Payne KC, in his 'Note in Response to Reply' dated 16 December 2025, argues that the email from Ms James and her contact with complainants were immaterial to the pleaded issues and were disclosed later for completeness. He maintains that her statement regarding ceasing use of her Trowers & Hamlins email account was accurate; with any exceptions explained and peripheral. He submits that awareness by Ms James and Ms Ihnatowicz of Governance Team responses did not affect fairness or the outcome. Searches for the original Appeal Panel question document were proportionate, and the combined version was disclosed at an early stage. The discrepancy in Mr Krishna's statement about complaint numbers was corrected and is said to be immaterial since only one complaint was needed to justify suspension. He further submits that PFEW had no policy (written or otherwise) requiring legal advice before suspension decisions. Finally, PFEW denies that it ever decided Mr Odle lied; the letter relied on by Mr Gold merely recorded an investigator's findings, not a formal decision. Mr Payne KC also submits that criticism of PFEW's stance on amenability is unfounded. He argues that, as there is no authority on this difficult and unsettled question of law, PFEW was entitled to raise the issue. He acknowledges that in separate employment proceedings PFEW asserted that no contractual framework existed but invites the Court to note that those cases were handled by different legal teams within Trowers & Hamlins and arose in different contexts.

68. Mr Payne KC invites the Court to exercise procedural rigour by confining its review to the pleaded grounds and declining to consider matters raised outside those grounds.

The Court's Approach

69. The Court's role in judicial review is supervisory. It does not substitute its own judgment on the merits but assesses lawfulness by reference to material properly before it, applying principles of relevance, rationality and proportionality. Where Articles 8 and 10 ECHR are engaged and a decision affects an elected representative's ability to hold office and participate in organisational democracy, the intensity of review is heightened. This reflects the principle that restrictions on political speech and elected office require rigorous justification. In such cases, the Court examines whether the interference was justified and whether less intrusive measures were available, while giving appropriate weight to the primary decision-maker (see *R (Crompton) v PCC South Yorkshire* [2017] EWHC 1349 (Admin), [2018] 1 WLR 131 at [95]-[98]; *KP v Secretary of State for Foreign, Commonwealth and Development Affairs* [2025] EWHC 370 (Admin) at [55]-[63]; *Lombardo v Malta* (2009) 48 EHRR 23 at [60]; *Selahattin Demirtaş v Turkey (No. 2)* (2020) 14305/17 (GC) at [242]-[243]).

70. The duty of candour is a continuing obligation requiring a public body to draw all material facts to the Court's attention; it is not a conventional disclosure exercise. Where assertions rest on redacted, late-disclosed, or opaque documents, the Court may proceed with caution, and such material may be given limited or no weight unless supported by the contemporaneous record (see - Administrative Court Guide 2025, s.15). Complaints of 'drip-fed' disclosure and unexplained redactions inform the intensity of review but do not expand the pleaded issues; the duty affects scrutiny, not scope (see *AB v Chief Constable of Hampshire Constabulary* [2019]

EWHC 3461 at [113]-[114) with regard to procedural rigour and expanding scope beyond pleaded grounds).

71. Fairness requires that a person facing a coercive restraint, such as suspension, is told the substance of the case so they can answer it. Even if the instrument does not mandate disclosure at that stage, fairness requires disclosure of the substance of the adverse material relied upon (see *Ridge v Baldwin* [1964] AC 40); *Doody* [1994] 1 AC 531. As Lord Denning explained in *Kanda v Government of Malaya* [1962] AC 322 at [337]:

> *"If the right to be heard is to be a real right which is worth anything, it must carry with it a right in the accused man to know the case which is made against him. He must know what evidence has been given and what statements have been made affecting him: and then he must be given a fair opportunity to correct or contradict them."*

That principle applies with particular force where suspension affects an elected officeholder and engages Article 10 rights.

72. Apparent bias is assessed from the perspective of the fair-minded and informed observer, applying the "*real possibility*" test (*Porter v Magill* [2002] 2 AC 256; *Locobail (UK) Ltd v Bayfield Properties Ltd* [2000] QB 451). Decisions resting on rights-sensitive foundations require contemporaneous reasons of adequate quality. Generalised assertions without analysis, or failure to consider obvious alternatives, may fall outside the range of reasonable responses (see *Associated Provincial Picture Houses v Wednesbury Corporation* [1948] 1 KB 223; cf. adequacy of reasons in *South Bucks DC v Porter* (No. 2) [2004] UKHL 33).

73. The principles set out above govern the Court's approach to the issues that follow. The Court confines its determination to the pleaded grounds, while recognising that candour and governance context may inform intensity of review and the assessment of fairness, legality, and proportionality. Collateral issues will not be considered unless necessary to resolve lawfulness or prevent procedural unfairness. Where defects are established, materiality is tested under s.31(2A) Senior Courts Act 1981: relief will be refused only if it is highly likely the outcome would not have been substantially different but for the error. Contentious expression must be assessed objectively by reference to the words actually used and any necessary implications rather than subjective meanings others may choose to infer. As Underhill LJ explained in *Higgs v Farmor's School [2025]* EWCA Civ 109 at [62] and [63], Article 10 protects speech that may *"shock and offend*" and that protection is particularly important where the speech is political - expression of opinion on matters of public and political interest. That approach accords with the text of Article 10, which permits restrictions only where "*prescribed by law*" and "*necessary in a democratic society*", and with Strasbourg authority emphasising the narrow scope for limiting political speech (see, for example, *Lombardo*).

74. Finally, the Court acknowledges that the decisions under challenge were drafted by non-lawyers and should not be read with the precision expected of a judicial determination. Therefore, the Court adopts a pragmatic approach, focusing on substance rather than form when assessing adequacy of reasons and procedural compliance.

V. Legal Framework

75. This section outlines the governance and statutory framework underpinning PFEW's complaint procedure. The Desborough Report (1919) provides the historical foundation for a statutory representative body, while the Normington Review (2014) sets out the modern reform context. Taken together with the Police Act 1996 ('the 1996 Act') and the regulatory scheme approved

by the Secretary of State ('SoS'), these sources form the interpretation backdrop for Appendix 9.

Governance Context: The Desborough Report and Normington Review

76. The governance framework of PFEW originates in the post war settlement that followed the prohibition on police strikes and the reaffirmation of policing by consent. In 1919 the Desborough Report recommended the creation of a statutory representative body for rank-and-file officers, distinct from a trade union model, focused on promoting welfare, efficiency and sustaining public confidence. Parliament gave effect to these recommendations through the Police Act 1919, which established the Police Federation as a statutory body acting through local and central representative structures to provide a professional voice for officers and a safeguard for public confidence. The statutory framework was later reinforced by the Police Federations Act 1962, which empowered the SoS to prescribe the Federation's constitution and proceedings by regulation, ensuring ministerial oversight and parliamentary accountability.

77. In 2013, a century after the Desborough Report, concerns about governance, culture and public confidence led the PFEW to commission an independent review by Sir David Normington, a former Home Office permanent secretary. The Normington Review (published in 2014) identified systemic weaknesses and recommended more transparent standards of conduct and integrity together with the creation of a formal procedure intended to function as a "*fallback*" mechanism, reserved for serious breaches posing reputational risk, with the expectation that most complaints would be resolved informally.

78. These recommendations guided the formulation of the Rules subsequently approved by the SoS.

Statutory Basis of PFEW

79. As stated above, PFEW was established as a regulatory body under the Police Act 1919. Its continued existence is now provided for by s.59 of the 1996 Act. Section 59(1) confirms that its purpose is to represent members of police forces below the rank of superintendent in all matters affecting their welfare and efficiency, while section 59(1A) imposes duties to protect the public interest, maintain high standards of conduct, and uphold high standards of transparency.

Regulatory Framework

80. Section 60(1) of the 1996 Act authorises the SoS to prescribe the constitution and proceedings of PFEW or to authorise PFEW to make rules concerning such matters. Pursuant to that power, the Police Federation (England and Wales) Regulations 2017 ("2017 Regulations") were enacted. Regulation 22 confers broad rule-making powers including authority to set standards of ethics, conduct and performance expected of members and officers; to provide for removal from office; to determine the consequences of breach of the Rules; and to make any other provisions reasonably required to fulfil PFEW's statutory purpose.

81. Regulation 22(3) provides that the Rules have no effect unless approved by the SoS. Attendance at branch board meetings is treated as police duty (Schedule 1, paragraph 3; Police Regulations 2003, Regulation 23(1)).

PFEW Rules

82. The Rules, which came into force on 18 January 2018 (Rule 1.6), apply to all representatives (Rule 1). Rule 1.3 confirms that the Rules and any amendments have no effect unless approved by the SoS, while Rule 1.4 stipulates that, in the event of any conflict between the Rules and the Regulations, the latter prevail.

83. Rule 52 introduces Appendix 9, which applies to all representatives, while Rule 17.2.5 provides cessation of office where removal is imposed under that Procedure.

84. Appendix 8 sets out the core Standards and Performance criteria, including obligations to uphold PFEW's principles, maintain exemplary standards of conduct, integrity and professionalism; and seek to build public confidence in the police service. These standards form the benchmark against which conduct is assessed. Appendix 9 prescribes the Procedure for investigating alleged breaches and imposing sanctions where appropriate, including removal from office and prohibitions on standing for election.

Memorandum of Understanding

85. On 1 February 2024, PFEW adopted a MoU between its National Board and National Council. The MoU was signed by senior officers including the National Secretary. The MoU's stated purpose is *"to provide clarity […] in support of efficient and timely decisions at this critical time in PFEW's history, agreeing parameters for where key matters will fall, and who will be involved in what elements."*

86. Paragraphs 2(e) (Policy & Decision Matters) and 3(e) (Business Operation Matters) of the MoU confirm that, in the absence of any rule defining the role, responsibility for the day-to-day running of PFEW lies with the CEO in accordance with the Rules. Paragraph 3(f) further specifies that delegated responsibilities include, but are not limited to, *"Standards and Governance matters relating to Appendix 8 and Appendix 9."*

Appendix 9 - Key Provisions

87. The relevant provisions of Appendix 9 of the Rules (approved by the SoS under Regulation 22 of the 2017 Regulations) are set out below. The headings below are inserted for convenience and do not form part of the original text.

Purpose

> *"2. This procedure is intended to:*
> *2.1. support the application of the Federation's ethics, standards and performance standards; and*
> *2.2. protect the reputation and public standing of the Federation. …"*

Complaints

> *"4. A member (including a retired member and another representative ("the complainant") who considers that a representative has, or may have, committed a* ***serious breach*** *of the*

Federation's expectations in relation to ethics, standards or performance which falls sufficiently below what should be expected that it places the reputation and public standing of the Federation at risk may raise a complaint ("the Complaint"). ...

5. The complainant must:
5.1. Set out the Complaint in writing;...

7. A Complaint should be raised:
7.1. with the ***National Secretary or such other person as the National Secretary may direct****; ..."*

Investigation

"*9. On receipt of a Complaint, the Recipient will determine:*
9.1. whether, in all the circumstances, the matter should be investigated under this Rule;
9.2. whether other steps should be taken to resolve the matter; or
9.3. whether no steps should be taken. ...

15. Where the Recipient decides that the Complaint should be investigated, the Recipient will notify the representative against whom the Complaint is made of the investigation and, unless in ***exceptional circumstances*** *it is inappropriate to do so, a copy of the Complaint.*

18. The conduct of any investigation under this Rule ("the Investigation") will be as is appropriate having regard to:
18.1. the purpose of this procedure;
18.2. the nature of the allegation;
18.3. the interests of the complainant, of the representative against whom the Complaint is made and of any other person affected;
18.4. ***the rules of natural justice****;...*

Delegation

"*17. Where the Recipient determines that the Complaint should be investigated, he or she* ***may delegate*** *conduct of the investigation. ...*

6. If, for ***exceptional reasons****, it is not possible or appropriate for a person or body identified in this procedure to carry out a function or exercise a power under this procedure, then that function can be carried out or that power can be exercised by another appropriate official or, as the case may be, body. ..."*

Suspension

"11. The National Secretary may ***suspend a representative or impose restrictions on the Federation duties which the representative can undertake*** *if s/he considers:*

11.1. the effective investigation of the case may be prejudiced unless the representative is suspended, or such restrictions imposed; or
11.2. in all the circumstances it is appropriate to do so.

> *12. A representative who is suspended or has restrictions imposed on the Federation duties which s/he can undertake in accordance with paragraph 11 may appeal to the National Board's Ethics, Standards and Performance Committee ("ESPC")."*

Hearing and Sanctions

> *"23. The ESPC will conduct the hearing as is appropriate having regard to:*
> *23.1. the purpose of this procedure;*
> *23.2. the nature of the allegation;*
> *23.3. the interests of the complainant. of the representative against whom the Complaint is made and of any other person affected;*
> *23.4.* ***the rules of natural justice****; and*
> *23.5. the resources available*.
>
> *24. If the ESPC determines that the Complaint is upheld, then it will determine whether one or both of the following should apply:*
> *24.1. the representative should be removed from his or her position;*
> *24.2. the representative should be unable to stand for election to a Federation position, either permanently or for a defined period of up to 3 years.*

Appeals

> *"27. In the event of an appeal under paragraph 25, the person or body to whom the appeal is referred:*
> *27.1. shall consider the appeal in such a manner as it considers appropriate; and*
> *27.2. may reverse, endorse or vary the decision which is being appealed.* [emphasis added]*"*

VI. Decisions Under Challenge and Summary Grounds

Part A: Mr Prior's Claim

88. The decisions challenged in Mr Prior's claim are as follows:

- the Initial Suspension Decision (9 October 2024);
- the Suspension Appeal Decision (31 October 2024);
- the Suspension Review Decision (12 February 2025);
- the Investigation Decision (9 October 2024);
- the Scope Decision (16 October 2024);
- the Extended Scope Decision (21 January 2025).

89. Mr Prior challenges the lawfulness of the suspension decisions and the linked investigative and scope-setting decisions under Appendix 9. The live grounds may be summarised as follows:

- *Ground 1* - the Initial Suspension Decision was *ultra vires*.
- *Ground 2* - the suspension appeal was procedurally unfair.
- *Grounds 3 and 8* - misdirection and procedural unfairness in both the appeal and subsequent review.
- *Grounds 4 and 8* - irrationality and disproportionality in maintaining suspension.
- *Ground 5* - unreasonableness in escalating the matter to a formal investigation.

- *Grounds 6 and 7* - unlawfulness in setting and expanding the scope of investigation.

Part B: Mr Cooke's Claim

90. The decisions challenged in Mr Cooke's claim are the Initial Decision of 28 March 2025 and the Appeal Decision of 30 April 2025.

91. Mr Cooke's six grounds may be summarised as follows.

- *Ground 1* - Admission and reliance on opinion evidence for which Appendix 9 makes no provision, contrary to paragraph 18.4 requiring adherence to natural justice.

- *Ground 2* - Material errors of law and fact in the Panel's reasoning and the Appeal Decision, including misapplication of the term "*nonsense*" and reliance on subjective perceptions without objective analysis.

- *Ground 3* - Defective legal advice; the gist disclosed was opaque and unreliable, revealing arguable bias and errors of law, including advice promoting an illegitimate purpose and failing to address detailed legal submissions.

- *Ground 4* - Improper reliance on complainants' feelings as determinative of breach, undermining the requirement for objective assessment; compounded by unreasonable reasoning in the Appeal Decision.

- *Ground 5* - Failure to address Article 10 and inadequate reasons; the Appeal Decision relied on ex post facto interpretations and imposed an unjustified and disproportionate interference with freedom of expression.

- *Ground 6* - Unreasonableness and disproportionality of the sanction imposed, including failure to consider less intrusive measures and apparent bias.

VII. Issues for Determination

92. Following the concessions recorded and the withdrawal of certain grounds, the Court confines its analysis to the live issues necessary to resolve these claims. The principal issues for determination are:

For Mr Prior

- Whether the suspension decisions (including the Initial Suspension Decision, the Suspension Appeal Decision and the Suspension Review Decision) were lawful, procedurally fair, and proportionate under Appendix 9; and

- Whether the investigation decisions — including scope-setting and subsequent amendments — complied with the Rules and the requirements of natural justice.

For Mr Cooke

- Whether the Ethics Panel's Initial Decision to remove him from office and impose a prohibition on re-election lawful, rational and proportionate; and

- Whether the Ethics Panel and subsequent appeal process complied with natural justice and properly addressed his Article 10 rights.

93. A number of the grounds raised in each claim concern overlapping subject matter, resulting in a degree of inevitable repetition in the Court's analysis. Questions of materiality under section 31(2A) of the Senior Courts Act 1981 are considered globally in respect of Mr Prior's claim and at the conclusion of the relevant grounds in relation to Mr Cooke's claim.

VIII. Part A Analysis: Mr Prior's Claim

Preliminary Issue*: Are Grounds 1 and 2 Academic?*

94. Before turning to the substance of Mr Prior's challenge, the Court addresses a preliminary issue. In his skeleton argument, Mr Payne KC submitted that Grounds 3-8 (concerning the suspension, investigation and scope-setting decisions) were academic. That argument proceeded on the assumption that the Removal Decision remains in place. As the Removal Decision has been withdrawn, that premise has fallen away and Grounds 3-8 therefore remain live.

95. The remaining question is whether Grounds 1 and 2, challenging the Initial Suspension Decision and the Suspension Appeal Decision, have become academic. Mr Payne KC submits that these challenges serve no legitimate purpose because they have been superseded by the later Suspension Review Decision, which he characterises as a fresh determination curing any alleged flaws. Mr Gold disputes that characterisation. He submits that the Suspension Review Decision was not a *de novo* determination as no representations were invited, no new right of appeal was conferred, and the review maintained the suspension and conditions while expressly relying on the original rationale. He further submits that both the Suspension Appeal Decision and the Suspension Review Decision assume that the original power to suspend existed; if that power was absent, both decisions are vitiated.

Analysis

96. A later decision can cure an earlier defect only if it is a genuine *de novo* determination, incorporating the essential safeguards of notice, an opportunity to make representations, and a reconsideration of the merits in light of the circumstances as they stand at the time of the decision (see *Ridge* at [65-66]; *Doody* at [560-561]).

97. Neither the Suspension Appeal Decision, nor the Suspension Review Decision satisfied those requirements. No further representations were invited, no new right of appeal was created, and no reassessment occurred to reflect material developments since the suspension was first imposed such as the narrowing to a single complaint or the passage of time. Each decision maintained the suspension, on the original rationale that the initial suspension had been lawfully imposed. If that premise was flawed, neither decision could cure the defect or render Grounds 1 and 2 academic.

98. This conclusion is reinforced by Appendix 9 which expressly vests the power to suspend in the National Secretary. Substitution under paragraph 6 is permissible only for "*exceptional*

reasons", a threshold to be construed narrowly and applied strictly to its purpose. Whether that threshold was met is central to Grounds 1 and 2.

99. Accordingly, the Court rejects the argument that Grounds 1 and 2 are academic.

Ground 1 *- Initial Suspension Decision was Ultra Vires*

100. Ground 1 concerns the lawfulness of the Initial Suspension Decision. The issue is whether, on a proper construction of Appendix 9, the power to suspend is vested exclusively in the National Secretary, or whether it could lawfully be exercised by the CEO under the MoU or pursuant to paragraph 6 of Appendix 9, which permits substitution only for "*exceptional reasons*." Appendix 9 is properly characterised as a complaint-handling procedure with disciplinary consequences, rather than a comprehensive disciplinary code. This distinction is important: Appendix 9 does not confer broad, free-standing disciplinary powers; it prescribes a structured, complaint-led process comprising specific, limited steps anchored to "*the Complaint*" and the safeguards it triggers. The validity of any decision must therefore be tested against that framework, not by reference to any broader free-standing disciplinary model.

Submissions on behalf of Mr Prior

101. Mr Gold submits that the Initial Suspension Decision was unlawful. Appendix 9 vests the power to suspend in the National Secretary (para 11) and contains no provision permitting delegation. He contrasts this with paragraph 7.1, which expressly authorises delegation for receiving complaints, observing that paragraph 11 contains no such language. Suspension, he submits, is a significant decision with serious consequences for an elected representative's office, status and remuneration; it is not a neutral act but one that inevitably casts a shadow over competence and reputation. Reliance on the MoU to confer governance powers on the CEO cannot override the Rules, which have statutory force, require strict construction, and cannot be varied without the approval of the SoS. The Rules are not an internal policy document but operate as a form of delegated legislation. Any implied power to delegate is expressly negated by paragraph 6, which permits substitution only in exceptional circumstances. No such circumstances were identified or recorded.

102. Concerns are said to be heightened because the CEO is not a police officer and holds no democratic mandate yet exercised a power that directly affecting the tenure of an elected representative. This, Mr Gold submits, is constitutionally objectionable and contrary to the principles of accountability underpinning PFEW's governance. He further relies on concerns about governance and culture in the Independent Review of April 2025, which reported a '*climate of fear*' regarding disciplinary procedures. Against that backdrop, strict adherence to the Rules is said to be essential to safeguard fairness and prevent misuse of disciplinary powers.

Submissions on behalf of PFEW

103. Mr Payne KC submits that the Initial Suspension Decision was lawful and within the powers conferred by Appendix 9. He advances two principal arguments.

104. First, Mr Payne KC argues that the CEO's authority to act was derived from the MoU, which was signed by the National Secretary. The MoU delegates responsibility for the day-to-day running of PFEW to the CEO, including "*Standards and Governance matters relating to*

Appendix 8 and 9". This delegation, he submits, was intended to professionalise the complaints process, ensure efficient and timely decision-making where action was required to protect PFEW's reputation, and enhance accountability to its members.

105. Second, in the alternative, Mr Payne KC relies on paragraph 6 of Appendix 9, which permits substitution where "*exceptional reasons*" make it impossible or inappropriate for the person identified in the Procedure to act. He submits that such reasons existed because the complaints received on 9 October 2024 raised serious concerns about discriminatory comments made by Mr Prior and that swift intervention was necessary to safeguard confidence in PFEW's governance. He further submits that the pleaded grounds do not challenge the reasonableness of the CEO's assessment of those "*exceptional reasons*" and, had it been pleaded, steps could have been taken to provide evidence. On that basis, he argues this aspect of the challenge should not be entertained.

Analysis

106. The Rules derive their statutory force from Regulation 22 of the 2017 Regulations made under section 60 of the 1996 Act. Regulation 22(3) provides that the Rules "*have no effect unless approved by the* [SoS]". Approval by the SoS is therefore the sole mechanism through which functions may lawfully be conferred, displaced, or reallocated. Two questions therefore arise: (i) whether that statutory allocation of power remains binding unless or until modified through the mechanism prescribed by Regulation 22(3); and (ii) whether the circumstances relied upon by PFEW satisfied the narrow threshold of "*exceptional reasons*" in paragraph 6 of Appendix 9, so as to permit substitution for the National Secretary.

107. Before turning to those issues, it is necessary to address Mr Payne KC's submission that the pleaded grounds do not challenge the reasonableness of the CEO's assessment of "*exceptional circumstances*" and that, had such a challenge been pleaded, evidence could have been provided. That objection is misconceived. Ground 1 asserts that substitution under paragraph 6 required "*exceptional reasons*" which were neither established nor contemporaneously recorded. The existence and contemporaneous recording of such reasons is a condition precedent to the valid exercise of the power. This is a *vires* challenge, not a *Wednesbury*-reasonableness challenge, and falls squarely within the pleaded case.

108. Delegated legislation must be construed strictly and applied within the limits of its enabling provision. As the House of Lords explained in *Padfield v Minister of Agriculture* [1968] AC 997 at [1030-1033] and [1052-1053] and reaffirmed in *Doody* at [557-558] and [560-561], statutory powers must be exercised for their intended purpose and within boundaries set by Parliament. Where a power is conferred on a named officeholder, the starting point is that it must be exercised personally unless the instrument provides otherwise or delegation arises by necessary implication. Internal agreements or memoranda cannot informally vary a statutory allocation of powers.

109. The *Carltona* principle (see *Carltona Ltd v Commissioners of Works* [1943] 2 All ER 560), which permits ministerial delegation within a department, does not assist PFEW. That principle rests on constitutional accountability to Parliament: Ministers cannot personally discharge every function, so acts performed by responsible officials are treated as those of the Minister because they are carried out under the Minister's authority and control. However, the principle is not unlimited. It applies to central government departments, where constitutional accountability ensures that the Minister remains answerable to Parliament for decisions taken in their name. It does not automatically extend to statutory bodies or officeholders outside that context. For such bodies, any power of delegation must be authorised by the instrument itself or arise by necessary implication. As emphasised in *Regina v Adams* [2020] UKSC 19,

contextual limits on implied delegation weigh strongly against treating powers as delegable in the absence of clear textual warrant. Implied delegation is the exception, not the norm, and arises only where the statutory context compels it. No such compulsion exists here.

110. Judicial caution against reading in powers not expressed by Parliament is further illustrated by *DPP v Haw* [2007] EWHC 1931 (Admin). Appendix 9 is a closed complaint-led process containing only three express powers of delegation: (i) paragraph 7.1 (receipt of complaints); (ii) paragraph 17 (conduct of investigation); and (iii) paragraph 6 (substitution for "*exceptional reasons*"). Suspension is not among them. Paragraph 11 is unequivocal: "*The National Secretary may suspend a representative or impose restrictions on the Federation duties which the representative may undertake*." On a strict construction of Appendix 9, the National Secretary must personally exercise that power unless paragraph 6 is engaged.

111. Suspension is not a neutral administrative step. It is a coercive measure with serious reputational and democratic consequences, as recognised in *Mezey v South West London & St George's Mental Health NHS Trust* [2007] EWCA Civ 106 and *Agoreyo v London Borough of Lambeth* [2017] EWHC 2019 (QB). Under the Rules, suspension also renders a representative ineligible for election. These features underline the need for strict compliance with the statutory allocation of power.

112. The allocation of suspension power to the National Secretary operates as a governance safeguard, ensuring decisions of this gravity are taken by an elected officeholder with democratic legitimacy. Against that background, paragraph 6 must be construed narrowly. The principle of legality requires that fundamental democratic rights—including the right to hold office and to speak as an elected representative—cannot be curtailed or displaced absent clear statutory authorisation. General or ambiguous words cannot affect such a displacement. The phrase "*exceptional reasons*" therefore operates as a tightly circumscribed gateway, directed to situations in which it is genuinely impossible or improper for the designated officeholder to act. It does not confer a general discretion to reallocate powers for reasons of convenience, administrative pressure or reputational concern. Where a statutory instrument permits substitution only where "*exceptional reasons*" exist, the existence of those reasons is a jurisdictional fact, capable of demonstration if later challenged. It must therefore exist and be identifiable at the material time. Public law does not require elaborate minutes or detailed legal analysis, but it does require a contemporaneous record sufficient to show that the decision maker understood and applied the statutory gateway before exercising a substituted power. No such record exists here.

113. Urgency and reputational risk, without more, do not satisfy the narrow threshold of "*exceptional reasons*" under paragraph 6. That provision is directed to circumstances of impossibility or impropriety; it does not confer a general discretion to reallocate powers for convenience or administrative efficiency. Proper-purpose principles require any reliance on paragraph 6 to be contemporaneously recorded. The law does not require elaborate formal minutes or detailed legal reasoning; a short contemporaneous note identifying the statutory basis for substitution would suffice. No such record exists. Later witness evidence cannot cure the absence of contemporaneous reasoning. Public law requires that any justification for exercising a power outside its ordinary allocation be contemporaneously recorded.

114. The Court treats reasons supplied after the event with particular caution particularly where no contemporaneous reasoning exists. Relevant considerations include: (i) whether the new reasons are consistent with those originally given; (ii) whether they were in truth the decision-maker's original reasons; (iii) whether there is a real risk of after-the-event justification; (iv) the delay before such reasons were advanced; and (v) the circumstances in which they were produced. Reasons first advanced after proceedings have begun must be treated with special care. By contrast, clarificatory explanations given promptly in pre-action correspondence may be approached more tolerantly.

115. Applying these principles, the documentary record contains no indication that the CEO considered paragraph 6 at all, still less that he identified "*exceptional reasons*" rendering it impossible or inappropriate for the National Secretary to act. References to urgency, reputational risk or public interest concerns, without more, cannot satisfy this jurisdictional threshold. They are the ordinary stock in trade of organisational decision making and cannot transform administrative inconvenience into statutory exceptionalism. The first appearance of any justification for substitution is found only later, in the Appeal Decision and subsequent correspondence. Those are after the event rationalisations and cannot cure the absence of a contemporaneous basis for the exercise of the power. The same difficulty applies to the CEO's later witness evidence: although it cites urgency and reputational risk, it does not identify any contemporaneous note, instruction, or minute showing that he relied on paragraph 6 or regarded the matter as one of statutory necessity. There is no document whether minute, email, instruction note, or internal governance record prepared at or near the time of the Initial Suspension Decision that states, refers to, or even implies reliance on paragraph 6 of Appendix 9 or identifies any "*exceptional reasons*" justifying substitution for the National Secretary. The Court has reviewed the Governance Team correspondence and CEO communications; they do not contain any contemporaneous articulation of "*exceptional reasons*" or any reference to the statutory gateway in paragraph 6. In a context where paragraph 11 vests suspension power personally in the National Secretary, strict adherence to that allocation is required; the absence of a contemporaneous record is therefore not a matter of form, but a substantive failure to meet a jurisdictional precondition.

116. In these circumstances, little weight can properly be placed on the later accounts in support of the CEO's substitution for the National Secretary. The jurisdictional condition for substitution under paragraph 6 was not met. The CEO therefore lacked lawful authority to exercise the suspension power.

117. Accordingly, Ground 1 is upheld. On a proper construction of Appendix 9, paragraph 11 vests the suspension power exclusively in the National Secretary; paragraph 6 permits substitution only for narrowly construed and contemporaneously demonstrable "*exceptional reasons*". Those conditions were not satisfied. The Initial Suspension Decision was *ultra vires*. The Court expresses no view on the merits of the concerns raised about Mr Prior's interview; the defect lies solely in the absence of lawful authority at the time the decision was taken.

Ground 2 *- Suspension Appeal Decision was Procedurally Unfair*

Submissions on behalf of Mr Prior

118. Mr Gold submits that the appeal process was tainted by material procedural unfairness. His submissions may be summarised as follows.

119. First, Mr Prior was never provided with copies of the complaints said to justify his suspension, nor was he informed that only one valid complaint (that of Mr Odle) remained. That omission, he submits, deprived Mr Prior of any meaningful opportunity to address the allegations, understand their provenance, or make informed representations. Second, the Appeal Panel was given highly prejudicial material—including assertions that all complainants feared reprisals, that Mr Prior's comments were "*divisive and inflammatory*," and that GB News was "*dominated by right-wing views*"—none of which was disclosed to him for comment. Mr Gold submits that this not only deprived Mr Prior of the chance to respond but also risked distorting the Appeal Panel's assessment. Third, Mr Gold submits that independence was compromised because the CEO, whose decision was under challenge, reviewed and influenced the responses to the Appeal Panel's questions. Fourth, Mr Prior was not informed of the earlier adverse finding made against Mr Odle, nor of the

fact that he had been referred to a disciplinary hearing (later discontinued following his retirement). Mr Gold submits that this information was potentially relevant to credibility and could reasonably give rise to a perception of bias. Finally, although Mr Gold initially argued that PFEW failed to follow an internal policy requiring independent legal advice before suspending a representative, he modified that submission once it became clear that the document relied upon was not in force at the relevant time. He maintains, however, that despite repeated requests for clarification, PFEW has not explained what framework governed legal advice at the time of the Suspension Appeal Decision.

120. Mr Gold submits that, taken together, these defects undermined the fairness of the appeal and therefore vitiate the Suspension Appeal Decision.

Submissions on behalf of PFEW

121. Mr Payne KC submits that paragraph 15 of Appendix 9, which requires disclosure of the complaint when an investigation is initiated, applies only to investigations and has no application in the context of suspension decisions. He further submits that no policy requiring legal advice prior to imposing a suspension was in force at the time of the Suspension Appeal Decision.

122. The Appeal Panel, he argues, was entitled to seek clarification from the Governance Team, and the CEO's involvement was confined to factual matters. The allegation that prejudicial material was provided to the Appeal Panel is said to be advanced more widely than pleaded and Mr Prior should not be permitted to expand his case in this way. While accepting that, for reasons that are unclear, Mr Prior was not provided with a copy of the communication between the Governance Team and the Appeal Panel, Mr Payne KC submits that this omission was immaterial: the reference to GB News being "*dominated by right-wing views*" was expressly disregarded, and Mr Prior has not identified any representations that could realistically have altered the outcome. Finally, Mr Payne KC submits that the existence of a single valid complaint was immaterial, as all complaints concerned the same underlying subject matter.

123. Overall, he submits that the Suspension Appeal Decision was reasoned and proportionate, and that any alleged defects were immaterial to the outcome.

Analysis

124. The Court confines its analysis to Ground 2 as pleaded and permitted. Wider criticisms such as predetermination, systemic bias and contrivance fall beyond the amended grounds and have therefore not been considered.

125. Appendix 9 provides an internal appeal mechanism against suspension (para 12), requiring prompt handling by the ESPC. While the appeal provisions are brief, the wider procedure prescribes safeguards (notification, disclosure, and opportunity to respond), reinforced by express requirements that investigations and hearings observe the principles of natural justice (*paras* 18.4 and 23). Paragraph 15 governs disclosure of the complaint and save in exceptional circumstances, the complainant's identity when an investigation is initiated; it does not apply to suspension decisions. However, the common law duty of fairness applies more broadly. As explained in *Kanda* and *Doody* fairness requires disclosure of the substance of the case and a real opportunity to respond where a decision significantly affects rights or interests. Suspension is not a neutral act (see paragraph 101 above). Accordingly, those principles therefore apply equally to decisions imposing suspension and to the appeal process under Appendix 9.

126. In this statutory context, natural justice requires three core elements: timely disclosure; a genuine and informed opportunity to respond; and impartial decision-making. None of those safeguards was observed. At the time of the Suspension Appeal Decision (4 November 2024), Mr Prior was not provided with copies of the complaints, nor was he informed of the complainant's identity. He did not know that the complaint submitted under the name "Paulie Thompson" was in fact from Mr Odle. The Appeal Panel proceeded on an inaccurate narrative that six complaints had been received, and all complainants feared reprisals—assertions never put to Mr Prior for comment.

127. It is immaterial that the formal decision to disregard the other complaints was taken only later. For the purposes of fairness, what matters is the knowledge PFEW in fact had at the time the Appeal Panel acted, and any information it had already received or had chosen to rely upon. Several complainants had refused to engage; anonymity concerns had been raised; and by the time of the IIO's instruction, only one complaint was in fact being provided to him. None of this was disclosed to Mr Prior. Fairness required that he be told the substance of the case as it existed in reality at the moment the Appeal Panel relied upon it. The duty of candour and the obligation of procedural fairness attach not to the moment of formalisation but to the contemporaneous knowledge of the decision-maker. Because PFEW relied on an inflated narrative of multiple complaints and universal fear of reprisals, while knowing that the underlying factual position was materially weaker and contested, its failure to correct that narrative deprived Mr Prior of a meaningful opportunity to answer the real case being advanced against him. This was a breach of the requirements articulated in *Kanda* and *Doody*.

128. PFEW submits that Mr Prior knew the gist of the complaint and that non-disclosure was immaterial. That submission is not accepted. Fairness is not contingent on the appellant demonstrating what he would have said had disclosure been given; the duty is to afford a meaningful opportunity to respond to the case actually considered. Where continuation of a coercive restraint is justified by assertions which include the volume and character of complaints and fears of reprisals, withholding the complaint and the complainant's identity deprives the affected party of any meaningful opportunity to engage with the necessity and proportionality of the measure.

129. The Appeal Panel also received prejudicial assertions—including that all complainants feared reprisals, that Mr Prior's comments were "*divisive and inflammatory*", and that GB News was "*dominated by right-wing views*"— none of which was disclosed for comment, contrary to the principles of natural justice. PFEW is correct that an appellate panel may seek clarification from administrative staff; however, that entitlement does not extend to receiving or relying on adverse material without disclosure to the appellant. Independence was likewise compromised. The CEO, whose decision was under challenge, reviewed and influenced responses to the Appeal Panel's questions. An appellate safeguard must function as a genuinely independent review. Any involvement by the original decision-maker in shaping material for the Appeal Panel creates a real possibility of bias. Even if the information was not determinative, the combination of non-disclosure and the CEO's involvement undermined independence and fairness.

130. Ground 2 succeeds. Taking these elements together—material non-disclosure, consideration of prejudicial assertions without notice, and compromised independence—the Court concludes that the Suspension Appeal Decision was procedurally unfair and materially so under both common-law fairness and the Rules.

Grounds 3 and 8 - Appeal and Review: Misdirection and Procedural Unfairness

Submissions on behalf of Mr Prior

131. Mr Gold submits that both the Suspension Appeal Decision and the subsequent review were vitiated by legal misdirection and procedural unfairness. He argues that the Appeal Panel wrongly treated suspension as a "*neutral act*" rather than a coercive restraint requiring a rigorous assessment of necessity and proportionality, particularly given its impact on Mr Prior's Article 10 rights. Neither decision considered obvious, less intrusive alternatives such as undertakings or targeted restrictions and neither reconsidered necessity and proportionality in light of materially changed circumstances, including the narrowing to a single valid complaint and the passage of time. The review is said to have further compounded these defects by affording no opportunity for representations and by conferring no new right of appeal. Both decisions relied on generalised, unparticularised assertions of reputational risk without any structured analysis and failed to apply Appendix 9 safeguards requiring attention to natural justice and proportionality.

132. Mr Gold further submits that reliance was placed on speculative allegations of breaches of suspension conditions and on unparticularised assertions of safeguarding the investigation without explaining how lifting suspension could prejudice an inquiry into comments already in the public domain. He criticises the panels for treating Mr Prior's failure to consult PFEW (notwithstanding its lack of authority over his role and his extensive consultation with senior colleagues) as relevant when it was immaterial to the statutory test under Appendix 9. He also submits that the panels ignored the inherent weakness of the allegations: Mr Prior's words were a matter of public record and incapable of alteration, the allegations were based on illegitimate inference, and the sole remaining complaint came from Mr Odle whose prior involvement in an abandoned complaint process is said to raise issues of reliability.

Submissions on behalf of PFEW

133. Mr Payne KC submits that both the Suspension Appeal Decision and the subsequent review were lawful and proportionate. He submits that the appeal decision was reasoned and confirmed that suspension was necessary to protect the integrity of the investigation and maintain public confidence.

134. Mr Payne KC further submits that in relation to the alleged irrelevant considerations and asserted omissions the Court should entertain only the grounds pleaded. Without prejudice to that position, he submits that PFEW was entitled to take into account Mr Prior's failure to consult before giving the GB News interview, even though there was no express requirement to do so, as this was a relevant contextual factor. He argues that the review decision did not describe suspension as a "*neutral act*" but correctly emphasised that suspension does not imply guilt. It was not irrational for PFEW to consider that Mr Prior appeared to have breached suspension conditions, although this was a peripheral issue given the seriousness of the underlying concerns.

135. PFEW did not rely on the protection of any complainant as a justification but was entitled to consider the likely length of suspension and the need to safeguard the investigation process, so as to maximise the prospects of obtaining evidence from relevant individuals. As to matters said to have been unlawfully ignored, such as the alleged weakness of the allegations and the complainant's reliability, Mr Payne KC submits these matters were not "*so obviously*" material that rationality compelled their consideration and, in any event, were matters that fell squarely within the broad discretion conferred by Appendix 9 and the bounds of *Wednesbury* reasonableness.

Analysis

136. Grounds 3 and 8 are considered together because both challenge the fairness and legality of the suspension appeal and review processes, raising overlapping issues about misdirection, procedural safeguards, and proportionality. The Court's analysis is confined to the pleaded grounds and the amendments permitted. Wider criticisms and issues concerning suspension conditions and investigation scope are addressed elsewhere. The applicable safeguards are those in Appendix 9 requiring investigations and hearings to be conducted having regard to the principles of natural justice (paras 18.4 and 23.4), together with the common law duty of fairness and a structured Article 10 proportionality assessment.

137. First, the Appeal Panel's treatment of suspension as a "*neutral act*" was a clear error of law. Suspension is not a neutral administrative step: it is a coercive measure carrying significant reputational and democratic consequences. As such, it requires a rights-sensitive justification, including explicit consideration of less intrusive measures such as undertakings or targeted restrictions. The authorities (*Mezey*; *Agoreyo* and *Crawford v Suffolk Mental Health Partnership NHS Trust* [2012] EWCA Civ 138 at [71]) underscore that suspension must not be deployed as a reflexive or precautionary measure; it is permissible only where necessary and proportionate. Although the CEO's later evidence referred to undertakings and targeted restrictions as potential alternatives to suspension, there is no contemporaneous record suggesting that either the Initial Suspension Decision or the Suspension Appeal Decision considered such alternatives. In a context engaging fundamental rights the law requires that obvious, less intrusive options be evaluated at the time of decision, rather than reconstructed retrospectively.

138. Second, a later review can cure earlier defects only if it is a genuine *de novo* determination incorporating the safeguards of notice, an opportunity to make representations, and a reasoned reassessment of necessity and proportionality as they stood at the time of review. Those safeguards were absent: no notice was given, no opportunity for representations, and no new right of appeal was conferred. The review simply reiterated the original rationale. Although the review letter stated that suspension did not imply guilt, its reasons did not engage with necessity and proportionality and, in substance, treated suspension as a neutral measure.

139. Third, by the time of review, circumstances had materially changed: only one complaint remained live, requiring reassessment of seriousness and reputational risk. Yet no fresh assessment occurred. The review also failed to address matters so obviously material that rationality required consideration: (i) disclosure of Mr Odle's identity to enable meaningful representations; (ii) the passage of time as a factor bearing on proportionality; (iii) the absence of any cogent interference risk in relation to fixed, public statements; and (iv) the availability of undertakings or targeted restrictions as less intrusive safeguards. This analysis is not predicated on Mr Odle's prior complaint history. Although PFEW attributes delay to Mr Prior's failure to agree an interview date, the evidential picture is more nuanced: it includes medical-based requests for written questions, PFEW's insistence on a face-to-face format, late clarification that only one valid complaint remained, and mid-investigation scope changes. The fact that the interview was public does not negate the duty of fairness; disclosure of the complainant's identity remained essential to enable meaningful representations. The number and nature of complaints, and the identity of the complainant relied upon, were material to assessing necessity and proportionality.

140. For completeness, the Court records that suspension under Appendix 9 is not "*neutral*" in either effect or character. Suspension immediately disables core representational functions. The operation of the Rules can precipitate or accelerate cessation of office and, in practice, carried reputational stigma, limitations on public engagement, and consequences for eligibility to stand in elections. These effects underline why the decision required rigorous justification,

consideration of less intrusive measures, and compliance with natural justice, rather than being treated as an administrative holding measure.

141. Taken together, the Appeal Panel's legal misdirection in treating suspension as a "*neutral act*" and the review panel's failure to retake the decision *de novo* — affording no notice or opportunity for representations — meant the review did not cure earlier defects. It also failed to address necessity, proportionality or less intrusive alternatives, despite materially changed circumstances. The continued restraint lacked lawful justification. Grounds 3 and 8 are therefore upheld.

Grounds 4 and 8 *- Decision to Maintain Suspension was unreasonable*

Submissions on behalf of Mr Prior

142. Mr Gold submits that the decision to maintain suspension was irrational, disproportionate, and procedurally flawed. The pleaded case maintains that the review panel did not explain why an investigation could not proceed without suspension, identified no evidence that lifting suspension would prejudice the process or deter complainants, and failed to consider Mr Prior's offer to give undertakings as a less intrusive safeguard. It is further pleaded that the review panel wrongly treated suspension as a "*neutral act*" and failed to reassess necessity and proportionality in light of materially changed circumstances, including the narrowing to a single live complaint and the passage of time. The pleaded grounds also state that no notice was given, no opportunity for representations was afforded, and no new right of appeal existed, with the result that the review did not operate as a fresh determination but instead perpetuated earlier defects. Finally, reliance is placed on Article 10 rights in the context of elected office and the omission to consider obvious alternatives such as undertakings.

143. Amplifications in Mr Gold's skeleton argument and oral submissions such as the impact on Mr Prior's psychological well-being, the characterisation of the allegations as "*inherently weak*" and grounded in legitimate concerns about policing, and the expanded emphasis on reputational harm, do not alter the substance of the pleaded case but provide context for the proportionality argument advanced at the hearing. Accordingly, it is submitted that the review unlawfully maintained restrictions on Mr Prior's ability to perform his elected role and seek re-election without proper justification.

Submissions on behalf of PFEW

144. Mr Payne KC submits that the Suspension Review Decision was lawful and proportionate. He argues that fairness did not require a further opportunity for representations because Appendix 9 imposes no such obligation, the decision was interim and subject to review, and Mr Prior had already made extensive submissions during his appeal. Even if fairness required prior representations, any omission was immaterial, as Mr Prior has not identified anything he could have said that might have altered the outcome.

145. On substance, Mr Payne KC submits that the decision fell within the evaluative discretion afforded by Appendix 9: continued suspension was necessary to protect the integrity of the investigation, prevent reputational harm, and maintain confidence in the process. As to Article 10, he submits that any interference was justified by the need to safeguard organisational integrity and the interests of all members. He also raises a procedural point: several arguments advanced under Ground 8 go beyond the scope of the amended grounds permitted and should not be entertained.

Analysis

146. Grounds 4 and 8 are considered together because both challenge the fairness and legality of the continuation of suspension, raising overlapping issues about misdirection, procedural safeguards, and proportionality. They differ in focus in that Ground 4 targets the rationality of maintaining suspension, while Ground 8 challenges the fairness and legality of the review mechanism. Adopting the findings under Ground 3 (neutrality misdirection, material non-disclosure, and absence of a genuine *de novo* safeguard), the Court now addresses the distinct issues raised by Grounds 4 and 8.

147. First, elected status cannot convert generic assertions of "*reputational risk*" or administrative convenience into lawful justification for coercive restraint. The concern that Mr Prior might give further interviews is not a proper basis for continued suspension: his comments were fixed and public; no concrete interference risk was identified; and undertakings or targeted restrictions were obvious and practicable alternatives. Reliance on his high-ranking position is misconceived. It neither widens the powers under paragraph 11 nor lowers the threshold for interferences with political speech. Predicted media engagement cannot satisfy the "*pressing social need*" required under Article 10(2). In a rights-sensitive context, *Higgs* confirms that disciplinary escalation and suspension are "*debatable*" steps, requiring structured justification and consideration of less intrusive measures.

148. Second, the speech-restrictive conditions imposed under suspension were unlawful. On a strict construction, paragraph 11 authorises only restrictions on PFEW duties, not general behavioural controls or restraints on speech. Targeted restrictions on PFEW duties (e.g., limiting attendance at meetings) are qualitatively different from a blanket prohibition on media engagement — the latter is a speech restraint and, absent clear authority, is unlawful and incompatible with Article 10. Media engagement was integral to the role of Branch Chair — representing members publicly and serving as MPF's voice on policing policy — so prohibiting press interviews and social media commentary in his capacity as a PFEW representative did not merely regulate duties; it impaired a core function of elected office. Appendix 9 contains no incidental powers clause; public law principles require statutory powers to be exercised within their express limits. As established in *R v Secretary of State for the Home Department, ex p Simms* [2000] 2 AC 115, fundamental rights such as freedom of expression cannot be curtailed by implication; any restriction must be clearly authorised by law and applied within its express limits.

149. Third, even leaving Convention rights aside, the review decision was irrational. Investigating fixed public statements did not rationally require suspension; no contemporaneous analysis identified any interference risk; undertakings were an obvious safeguard; and the review failed to recalibrate necessity and proportionality in light of material changes, including the narrowing to a single live complaint and the passage of time. Mr Prior was an elected representative speaking on matters of public interest — policing standards, race relations and officer confidence — so interferences with such political expression attract the highest level of protection under Article 10 (*Lombardo*; *Demirtaş* (No. 2)). The democratic impact — preventing an elected officer from speaking and standing for re-election — heightened the need for rigorous justification, which is absent. Other criticisms — such as reliance on irrelevant considerations (failure to consult, speculative breaches, assumptions about duration, and the alleged weakness of the allegations) — reinforce this conclusion but do not require separate determination. Mr Prior's comments remained within the scope of protected political speech on matters of public interest and did not justify the imposition or continuation of coercive restraints.

150. For these reasons, the decisions to maintain suspension constituted unlawful interferences with Article 10. Grounds 4 and 8 succeed.

Ground 5 *- Investigation Decision was unreasonable*

Submissions on behalf of Mr Prior

151. Mr Gold submits that escalation to a formal investigation was unreasonable and disproportionate. Appendix 9 reserves such investigations for a "*serious breach*" of standards (*paras* 15.2-15.4), with most matters addressed informally. He submits that this threshold was not met. By the time escalation occurred, only one valid complaint remained; the complaint concerned a short GB News interview where no racist meaning could, he argues, legitimately be inferred from Mr Prior's words; and the allegations rested on illegitimate inference rather than the actual words used, contrary to the principle in *Higgs* that speech must be judged by its content.

152. Mr Gold also submits that the decision amounted to a misuse of Appendix 9, inconsistent with its purpose and the caution expressed in the Normington Review that the procedure should operate as a fallback mechanism. The contemporaneous record shows no structured assessment of seriousness or proportionality, no explanation of why informal resolution was inadequate, and no consideration of less intrusive alternatives. In substance, escalation to a coercive process was disproportionate given the nature of the comments, the absence of any evidence of discriminatory intent, and the chilling effect on elected representatives' freedom of expression under Article 10.

Submissions on behalf of PFEW

153. Mr Payne KC submits that escalation to a formal investigation was lawful and well within the range of reasonable responses. Appendix 9 confers a broad discretion on PFEW to determine whether a complaint warrants investigation, guided by its purpose of protecting PFEW's reputation and public standing. The complaint concerned public comments by a senior elected representative on highly sensitive issues of race and policing, with potential to damage confidence in PFEW and its members. That was sufficient to meet the seriousness threshold in paragraph 4 of Appendix 9.

154. Mr Payne KC further argues that the existence of only one valid complaint was immaterial: the Rules do not require multiple complaints, and a single complaint can justify investigation where the concerns raised are serious. While Mr Prior disputes that any racist meaning could be inferred from his GB News interview, Mr Payne KC submits that the complaint raised credible issues about discriminatory language and representation of members' views, which warranted inquiry. The decision therefore fell within the bounds of *Wednesbury* reasonableness and was consistent with PFEW's statutory obligations to maintain high standards of conduct and transparency.

Analysis

155. Although Ground 5 does not affect the practical outcome given the success of Grounds 1-4 and 8, it raises issues of principle concerning the scope of Appendix 9 and rights-sensitive proportionality. The defects under Grounds 4 and 8, namely the absence of structured necessity reasoning, reliance on generalised assertions, and the lack of a genuine *de novo* safeguard, carry

directly into Ground 5. If suspension was maintained without lawful justification, escalation to a formal Appendix 9 investigation, an even more coercive step, required corresponding rigorous scrutiny. 'Coercive' refers to the procedural and reputational consequences of initiating a disciplinary process, irrespective of outcome. The question is whether, on a proper construction of Appendix 9 and applying public law principles, the escalation to a formal investigation was lawful and rational.

156. Appendix 9 distinguishes informal resolution from formal investigation and reserves the latter for written complaints alleging a "*serious breach*" that places PFEW's reputation at risk, while requiring investigations and hearings to be conducted having regard to the rules of natural justice. Although the decision-maker enjoys a wide evaluative margin, it must be exercised in accordance with the text and purpose of the Rules and with heightened scrutiny where Convention rights and elected office are engaged. As explained in *Higgs*, an "*investigation of some kind*" may be legitimate to evaluate reputational risk; but whether that inquiry must be disciplinary and whether escalation is necessary require structured, contemporaneous reasoning. The decision-maker must judge what was actually said and any necessary implications, not meanings others may choose to infer.

157. Measured against those standards, the contemporaneous record discloses no structured application of the "*serious breach*" threshold to the actual words spoken and no explanation of why informal resolution was inadequate; after the case narrowed to a single valid complaint, there was no reassessment of necessity or proportionality despite materially changed circumstances; escalation relied on broad reputational concerns rather than explaining why a brief, public interview crossed the seriousness threshold; and the reasoning rested on inference rather than the text of the interview, contrary to the objective approach mandated in *Higgs*. Appendix 9 permits proportionate "*restrictions on the Federation duties which the representative can undertake*", but it does not authorise blanket conduct controls or speech restraints that disable core functions of elected office; conditions of that kind are not "*restrictions on duties*" but substantive restraints on expression and office holding, and in the political-speech context are not "*prescribed by law*" for Article 10 purposes. The Court rejects Mr Payne KC's submission that broad discretion and reputational risk justified escalation. While Appendix 9 confers evaluative latitude, it does not permit unstructured or convenience-based escalation. A single complaint may warrant consideration, but it does not dispense with the need for contemporaneous necessity and proportionality analysis.

158. In a rights-sensitive context, engaging Article 10 and elected office, the absence of contemporaneous necessity reasoning, and reliance on generalised assertions rendered the decision unreasonable. Ground 5 is therefore upheld.

Grounds 6 and 7 *- Terms of Reference are Unlawful*

Submissions on behalf of Mr Prior

159. Mr Gold submits that PFEW acted unlawfully in formulating and later expanding the terms of reference for the investigation. He argues that Appendix 9 treats "Complaint" as a defined term and confines the investigation to the written complaint received from a member (paras 4-5). Where the recipient decides that the complaint should be investigated, the representative must be notified and save in exceptional circumstances, provided with a copy (para 15).

160. The structure of Appendix 9 makes clear that the investigation is of the complaint itself, not of additional allegations devised by PFEW. A single complaint may justify investigation where the concerns raised are sufficiently serious to warrant formal investigation under Appendix 9 (para 4). However, the Rules contain no incidental powers provision permitting the scope to be

expanded beyond the complaint received. PFEW's approach — adding further allegations and subsequently introducing the Chris Kaba issue — was inconsistent with the narrow scope mandated by the Rules, the caution reflected in the Normington Review, and the requirement that investigations be conducted having regard to natural justice. The effect was to transform a single complaint into a wide-ranging and unanchored inquiry, which was procedurally unfair and *ultra vires*.

Submissions on behalf of PFEW

161. Mr Payne KC submits that PFEW acted lawfully in setting and later amending the scope of the investigation. He argues that Appendix 9 does not prescribe a rigid formula for defining the terms of reference. Its purpose is to support the application of PFEW's ethics and standards and to protect its reputation and public standing. To achieve that purpose, PFEW must identify the issues raised by a complaint and articulate those issues for investigation. He submits that this permitted PFEW to include matters reasonably connected to the concerns expressed, such as whether Mr Prior appreciated the sensitivity of commenting during the Chris Kaba trial.

162. Mr Payne KC further submits that limiting the investigation strictly to the wording of the complaint would undermine the effectiveness of the procedure, given that complaints are often drafted informally by members who are not legally trained. PFEW was entitled to clarify and structure those concerns and set terms of reference addressing the ethical and reputational implications of Mr Prior's statements. He submits that, on that basis, the terms of reference were consistent with the broad discretion conferred by Appendix 9 and were necessary to ensure a fair and thorough inquiry.

Analysis

163. Appendix 9 establishes a closed, complaint-led process. A complaint must be raised in writing by a member or representative alleging a "*serious breach*" placing PFEW's reputation at risk (paras 4-5), submitted to the National Secretary or their delegate (para 7). Where an investigation is initiated, the representative must be notified and save in exceptional circumstances, provided with a copy of the complaint (para 15). The process culminates in a binary outcome: either the complaint is not upheld or referred to a hearing (para 19).

164. Read as a whole, Appendix 9 confines the investigation to the written complaint. Paragraph 18 governs the manner of investigation, not its scope: it permits particularisation of the complaint's embedded issues but does not authorise the addition of new allegations or the introduction of external topics. Purpose and context reinforce this interpretation. Appendix 9 was designed as a "*fallback*" mechanism, to be used sparingly, with most matters resolved informally; it is not a general disciplinary code. Internal convenience cannot create new powers — any enlargement requires approval by the SoS.

165. Against that backdrop, PFEW's approach was unlawful. It converted a single complaint into a wide-ranging inquiry and later introduced the Chris Kaba issue without any fresh complaint or statutory justification. That expansion contradicted the text and structure of Appendix 9, undermined the safeguard that the representative knows the case to meet, and breached natural justice by enlarging the case without notice or reasons. The argument that Appendix 9 permits flexibility to include "*related issues*" is rejected: flexibility concerns how evidence is gathered, not scope expansion that bypasses the complaint mechanism. The addition of the Chris Kaba issue illustrates the defect: it was not raised in any complaint and was introduced months later without contemporaneous structured reasoning. In a context engaging Article 10, heightened

scrutiny required clear justification and consideration of informal alternatives; none was provided. Relevance or contextual interest does not supply authority. Appendix 9 is a closed, complaint-led scheme: importing topics not raised by any complainant was *ultra vires* and contrary to natural justice. While some flexibility in framing issues is permissible, it cannot justify scope expansion that defeats the disclosure safeguard in paragraph 15 and the binary outcome in paragraph 19. On any view, the enlargement materially altered the case and falls outside the range of lawful responses.

166. Grounds 6 and 7 succeed: the scope-setting decisions were unlawful because they went beyond the written complaint and introduced matters not raised by any member, contrary to Appendix 9's text, purpose, and safeguards, and the principles of natural justice.

Materiality under s.31(2A) Senior Courts Act 1981 - Grounds 1-8

167. Section 31(2A) requires the Court to refuse relief only if satisfied that it is highly likely the outcome would not have been substantially different but for the errors. That threshold is not met. These claims arise in a context engaging Article 10 and the democratic status of elected office holders, which requires heightened scrutiny of necessity, proportionality, and the availability of less intrusive measures.

168. The errors upheld were not peripheral but fundamental. They include: (i) an *ultra vires* suspension, contrary to Appendix 9 which vests the power exclusively in the National Secretary; (ii) procedural unfairness arising from non-disclosure, curated appeal materials, and involvement of the original decision-maker; (iii) misdirection in treating suspension as a "*neutral act*" and failure to conduct a genuine *de novo* review; (iv) unlawful conditions restricting press and social media engagement in Mr Prior's capacity as a PFEW representative, not "*prescribed by law*" and disproportionate to the elected role; (v) escalation to a formal investigation without structured assessment of the "*serious breach*" threshold; and (vi) unlawful expansion of scope beyond the written complaint.

169. These defects materially affected both the process and the evaluative standards applied. A lawful approach could have adopted undertakings or targeted restrictions instead of full suspension, disclosed the true position that only one complaint remained, and considered less intrusive measures. Confinement to the written complaint would have significantly altered the proportionality calculus. The Court cannot be satisfied that it is highly likely the outcome would have been the same but for these errors. The statutory bar does not apply.

Conclusion

170. For the reasons set out above, all pleaded grounds succeed. Although the decisions were taken with the intention of safeguarding PFEW's reputation and governance, they were unlawful and *ultra vires* under Appendix 9. The Suspension Review Decision was procedurally unfair and failed to operate as a lawful *de novo* determination. The Investigation Decision, the Scope Decision, and the Extended Scope Decision were outside the powers conferred by Appendix 9. The restrictions imposed on media and social-media engagement were similarly unlawful and constituted disproportionate and unjustified interferences with Article 10. Taken together, these decisions imposed restraints that were neither lawful nor proportionate in limiting an elected representative's ability to perform his role or engage in protected speech on matters of public interest.

IX. Part B Analysis: Mr Cooke's Claim

171. Although the grounds advanced by Mr Cooke differ from those raised by Mr Prior, the Court applied the same rights-sensitive principles of fairness and proportionality, recognising that each engages Article 10 and the democratic status of elected office.

Preliminary Matters

172. PFEW submits that the challenge to the Initial Decision is academic because it was superseded by the Appeal Decision and, in any event, the refusal of interim relief has rendered reinstatement impossible. That submission is not accepted. Although reinstatement is no longer achievable, the legality of the Initial Decision and the standards applied remain directly relevant to the Appeal Decision and to the proportionality analysis under Article 10. The Appeal Decision was informed by, and based upon, the Initial Decision; its lawfulness therefore bears on the validity of the operative outcome. The Court will accordingly address the legality of both decisions.

173. The detailed proportionality analysis under Article 10, including consideration of necessity and less intrusive measures, is addressed under Ground 5. Although Article 6 ECHR was not pleaded as a discrete ground, the fairness complaints advanced under Grounds 1 - 3 and aspects of Ground 6 engage principles of disclosure, opportunity to respond and impartiality. The Court addresses these issues under the common law and by reference to the requirement in Appendix 9 to have regard to the rules of natural justice, which broadly align with Article 6 standards.

Ground 1 *- Admission of Opinion Evidence Contrary to Natural Justice.*

Submissions on behalf of Mr Cooke

174. Mr Stanage submits that the Ethics Panel acted unlawfully by admitting and placing weight on opinion evidence contained in the IIO's report, for which Appendix 9 makes no provision. He argues that paragraphs 18.4 and 23.4 required the investigation and hearing to be conducted with regard to the rules of natural justice, and that reliance on broad discretion cannot cure this defect. On any reasonable view, he submits, the opinion evidence was irrelevant, unfair, and prejudicial.

175. Mr Stanage further submits that Appendix 9 should not be treated as permitting a lower standard of justice than that applicable under the Police (Conduct) Regulations 2020 and the Police (Complaints and Misconduct) Regulations 2020 (the "Police Regulations"). He contends that the departure from those expected standards was material and undermined the integrity of the process.

Submissions on behalf of PFEW

176. Ms Barnes submits that the Ethics Panel acted lawfully in admitting the IIO's report and did not breach the rules of natural justice. She argues that Appendix 9 confers a broad discretion as to how an investigation is conducted and does not prohibit the inclusion of evaluative material. Unlike the Police Regulations, Appendix 9 does not prescribe the investigator's role or restrict them to findings of fact. It was a matter for the Ethics Panel to determine what weight to attach to any opinions, and it expressly referred to the underlying evidence. She further submits that

the IIO did not give any definitive view on whether Appendix 8 had been breached but merely observed that the conduct "*raised concerns*".

177. Ms Barnes invites the Court to conclude that Ground 1 discloses no public law error and that Mr Cooke's criticisms amount to an impermissible attempt to re-characterise evaluative judgments as procedural unfairness.

Analysis

178. Appendix 9 requires investigations and hearings to be conducted "*having regard to the rules of natural justice*" (paras 18.4 and 23.4). The question is one of procedural fairness within that statutory framework. The discrete issue is whether admitting evaluative opinion in the IIO's report was inconsistent with that obligation and, if so, whether any defect was material to the outcome.

179. Mr Stanage submits, on behalf of Mr Cooke, that inclusion of evaluative opinion breached Appendix 9 and undermined fairness, contending that such material should have been excluded to maintain parity with the Police Regulations. The Court does not accept that submission. Natural justice, as reflected in Appendix 9, allows procedural flexibility; it does not prescribe a closed list of admissible materials nor a detailed evidential code. The Rules provide the fairness standard, not a mechanistic evidential regime.

180. The IIO's report went beyond narrative fact but stopped short of making any definitive findings. Its evaluative formulations such as "*could reasonably be interpreted as dismissive or victim-blaming*", "*could constitute detriment*", "*raises concerns*", "*appears consistent with a pattern*", and "*suggests an inability or unwillingness to learn*" identified issues for consideration, not conclusions. While the observations were critical in tone, the language was tentative and framed as possibilities rather than findings of fact. The key question is not whether the IIO report contained evaluative opinion in addition to factual narrative, but whether the procedure remained fair overall: whether Mr Cooke knew the case to meet, had a fair opportunity to respond, and the decision-maker reached an independent judgment.

181. Appendix 9 does not prescribe the investigator's role or restrict the report to pure findings of fact; it confers a broad discretion as to how the investigation is to be carried out. Accordingly, there is nothing in the Rules that prevents an investigator from offering evaluative observations on the matters under inquiry; it is then for the Ethics Panel to determine what weight, if any, to attach to such opinions. The contrast with the Police Conduct Regulations, where the investigator's evaluative function is expressly limited (e.g. to whether there is a "case to answer"), highlights the different purpose and design of this regime.

182. In Mr Cooke's case, the Ethics Panel's reasons demonstrate independent appraisal of the primary materials and do not reveal uncritical adoption of the IIO's evaluative labels. The Ethics Panel rejected Issues 2 - 5 entirely and focused instead on the capacity in which the posts were made, the sensitivity of the context and the significance of the word "*nonsense*" under Appendix 8, rather than adopting the IIO's commentary. The Ethics Panel expressly stated that it would "*refer primarily to the evidence available to us and put greater weight on that*". Its reasons were contemporaneous and adequate for this discrete issue.

183. Although inclusion of opinion in an investigator's report is not best practice, as it risks blurring the distinction between fact-finding and the decision-maker's independent evaluative role, Appendix 9 does not prohibit it, and fairness ultimately depends on the approach taken by the Ethics Panel. The Ethics Panel's decision was based on its own analysis of the posts in

accordance with the standards in Appendix 8, and exclusion of the IIO's evaluative language would not have altered the outcome for the purposes of s.31(2A) Senior Courts Act 1981.

184. The Court concludes that inclusion of such opinion did not compromise the integrity of the process or affect the result; any imperfection was immaterial in law. For these reasons Ground 1 is not upheld.

Ground 2 - *Errors of Law and Fact in Panel and Appeal Reasoning*

Submissions on behalf of Mr Cooke

185. Ground 2 alleges material errors of law and fact in the reasoning of the Ethics Panel and the Appeal Decision. The ground is framed briefly. Mr Stanage contends that the Ethics Panel relied on subjective perceptions rather than applying the objective standard required by Appendix 8 and by the approach required in *Higgs*. He submits that the Ethics Panel erred by treating the complainants' interpretations as determinative of breach. He further argues that the Appeal Decision compounded that error by introducing new reasoning after the event and relying on *ex post facto* interpretations to justify the outcome.

Submissions on behalf of PFEW

186. Ms Barnes submits that Ground 2 adds little or nothing to Ground 1. The Ethics Panel did not misapply the term "*nonsense*" or treat subjective perceptions as determinative of breach. Rather, the Ethics Panel applied an objective standard, considering the complainants' perceptions only to the extent that they were assessed as "*valid and reasonable*". That formulation reflects an objective reasonableness test rather than uncritical acceptance of subjective reactions. Ms Barnes also relies on the Appeal Decision, which expressly adopted an "*objective person*" perspective, and argues that this confirms that the operative reasoning was objective. She rejects any suggestion that the Ethics Panel's approach was irrational or procedurally unfair, emphasising that its conclusions were anchored in the content of the posts and the obligations in Appendix 8, not in complainants' feelings alone.

187. Ms Barnes submits that Mr Cooke's criticisms amount to an impermissible attempt to re-weigh evaluative judgments rather than identify a public law error. Any alleged error falls far short of the *Wednesbury* threshold.

Analysis

188. The Court accepts the submission made on behalf of PFEW that this ground introduces no distinct public law error beyond those addressed under Ground 1. In substance, the complaint is a restatement of the same point: that the Ethics Panel failed to apply an objective standard. That contention is unsustainable. Appendix 9 permits procedural flexibility regarding admissible material and the inclusion of evaluative content in an investigator's report is not, without more, inconsistent with natural justice. The critical question is whether the Ethics Panel exercised independent judgment, which it plainly did for the reasons stated under Ground 1.

189. As to perceptions, the Ethics Panel recorded complainants' views and assessed them as "*valid and reasonable*", reflecting an objective reasonableness test rather than wholesale acceptance

of subjective reactions. Any residual concern is overtaken by the Appeal Decision, which expressly applied an "*objective person*" perspective and reached its own view on the merits.

190. In short, Ground 2 is an impermissible attempt to invite the Court to re-evaluate matters entrusted to the Ethics Panel and, on appeal, to the appellate decision-maker. The Court's role is supervisory: choices as to the weight accorded to the IIO report and to whether complainants' perceptions were objectively reasonable fall well within the legitimate evaluative space and do not approach the high threshold for *Wednesbury* intervention.

191. Even if the inclusion of evaluative opinion were treated as a procedural imperfection, it was immaterial. Excluding the IIO's evaluative language would not have produced a substantially different result, so the statutory bar in section 31(2A) Senior Courts Act 1981 applies. Ground 2 is not upheld.

Ground 3 - *Defective Legal Advice Undermining Fairness*

Submissions on behalf of Mr Cooke

192. Mr Stanage submits that the legal advice provided to the Ethics Panel was opaque, incomplete, and unreliable, with the result that Mr Cooke was unable to understand the basis on which his legal submissions had been rejected. He highlights specific defects: the gist wrongly states that Mr Cooke described a headline rather than a tweet as "*nonsense*"; it contains advice that training should be framed to reassure complainants, which he says reveals an illegitimate purpose; and it records that the "*public law point should be dismissed*" without engaging with the detailed submissions advanced on his behalf. He further argues that disclosure of the two-page gist was inadequate because it remained unclear when the document was created, by whom, whether it was based on recollection or any contemporaneous note, who requested its production, what instructions were given for that purpose, and whether material had been omitted.

193. As a separate strand, Mr Stanage argues that the involvement of the legal adviser gave rise to apparent bias. The adviser was employed by Trowers & Hamlins, the same firm acting for PFEW in these judicial review proceedings. He submits that a fair-minded and informed observer could view this dual role as giving rise to a real possibility of partiality, particularly in a disciplinary process where independent legal advice is of central importance.

194. Taken together, he submits that these matters undermine fairness and give rise to apparent bias.

Submissions on behalf of PFEW

195. Mr Payne KC submits that the imperfections identified in the legal advice gist do not amount to a public law error and did not compromise fairness. He argues that non-disclosure of the advice at the hearing reflected established practice and that no unfairness arises unless the advice contained material defects capable of affecting the decision. The gist, he contends, demonstrates that the advice was orthodox: it summarised the relevant legal framework and did not purport to determine the outcome. He maintains that the Ethics Panel's reasoning was anchored in its own assessment of the posts and the standards in Appendix 8, not in the contested aspects of the advice. He argues that Mr Cooke's criticisms attempt to elevate minor imperfections into a determinative error when, properly analysed, they were peripheral and immaterial.

196. Mr Payne KC further submits that the allegation of apparent bias is unsustainable. He invites the Court to note that the legal adviser was a qualified solicitor subject to professional obligations, and that the Appeal Decision was taken independently without legal input. He argues that a fair-minded and informed observer, aware of the relevant facts, would not consider that the mere fact the legal adviser was employed by the same large law firm instructed in unrelated proceedings concerning a different representative gives rise to any real possibility of bias.

Analysis

197. Ground 3 primarily concerns the adequacy of the legal-advice gist. In his skeleton argument, Mr Stanage argues that the gist disclosed arguable bias and promoted an illegitimate purpose. While the skeleton did not pursue the separate strand advanced in the original pleadings concerning the legal adviser's affiliation with Trowers & Hamlins, that point was expressly revived in the Reply and was addressed by Mr Payne KC in both written and oral submissions. In those circumstances, I have considered both strands on their merits.

198. The Court notes that the gist, as disclosed, contains imperfections. The misattribution of "*nonsense*" is an error of fact. The remarks about training and the summary dismissal of a public law point are less than ideal and, taken at face value, suggest advice straying beyond neutral legal analysis. The absence of provenance (when and by whom the gist was created, and what was omitted) compounds the opacity of the disclosure. These matters fall short of best practice and require acknowledgment. The determinative question, however, is whether these imperfections materially affected the Ethics Panel's decision or the outcome of the appeal. It did not. The Ethics Panel's reasons were anchored in its own assessment of the two posts and the standards in Appendix 8. As previously explained under Grounds 1 and 2, the Ethics Panel did not adopt the investigator's evaluative commentary uncritically; it upheld only Issue 1 and rejected Issues 2 - 5. It expressly stated that it would "*refer primarily to the evidence available to us and put greater weight on that*" and its analysis focused on the capacity in which the posts were made, the sensitivity of the subject matter, and the objective significance of the term "*nonsense*". Those conclusions did not depend on the contested aspects of the legal advice. Any residual concern is overtaken by the Appeal Decision, which is the operative decision. The appellate decision-maker stated that he had considered the tweets from an "*objective person*" perspective and reached his own view on the merits. That independent reassessment breaks any causal link between the alleged defects in the gist and the outcome.

199. As to the allegation that the legal adviser's employment by Trowers & Hamlins gave rise to apparent bias, the Court does not accept that the fair-minded and informed observer would perceive a real possibility of partiality. The adviser - Ms Nicola Ihnatowicz, a partner in the Employment Department of Trowers & Hamlins - was not involved in the Prior proceedings, and nothing about her firm's separate retainer in that unrelated litigation bears on her ability to provide independent legal assistance to the Ethics Panel. The observer is assumed to know that solicitors are bound by stringent professional duties of independence and integrity under the SRA Principles, duties which preclude allowing the interests of another client to influence the discharge of a neutral advisory function. There is no evidence of any personal involvement by Ms Ihnatowicz in the Prior matter, no factual overlap between the two sets of proceedings, and no suggestion that the advice given was directed at shaping PFEW's position in that judicial review. Viewed in the round, including the fact that the Ethics Panel reached its own conclusions and upheld only one of five issues, the circumstances do not support the contention that she lacked independence or that the Ethics Panel's decision-making was tainted. This strand of Ground 3 therefore fails.

200. Applying section 31(2A) of the Senior Courts Act 1981, any imperfections in the gist, though regrettable, were immaterial. They neither compromised fairness nor affected the outcome. The Ethics Panel's decision rested on its own reasoning, and the appeal provided an additional safeguard. Relief is therefore barred, and Ground 3 fails.

Ground 4 *- Improper Reliance on Complainants' Feelings as Determinative*

On behalf of Mr Cooke

201. Mr Stanage submits that the Ethics Panel acted unlawfully by allowing the complainants' perceptions to determine whether there had been a breach of Appendix 8, contrary to the requirement of natural justice. He argues that the Ethics Panel relied on subjective interpretation rather than applying an objective standard required when assessing the tweets against the obligations in Appendix 8. This, he contends, was compounded by the Appeal Decision, which introduced additional reasoning after the event and relied on evaluative assertions that were not part of the Ethics Panel's contemporaneous analysis.

202. Taken together Mr Stanage submits that these matters undermined the integrity of the process and resulted in a decision that was procedurally unfair.

On behalf of PFEW

203. Mr Payne KC submits that the Ethics Panel did not treat complainants' feelings as determinative of breach. He argues that the Ethics Panel applied an objective standard, taking account of the complainants' perceptions only to the extent that they were assessed to be "*valid and reasonable*." Subjective responses, he submits, may properly be taken into account where they are objectively justified, and the Ethics Panel's reasoning demonstrates that its conclusions were anchored in the content of the posts and the obligations in Appendix 8, rather than in subjective reaction. He further relies on the Appeal Decision, which expressly adopted an "*objective person*" perspective, confirming that the operative reasoning was objective.

204. Mr Payne KC rejects any suggestion that the Ethics Panel misapplied the Equality Act or relied on irrelevant considerations, emphasising that it was concerned solely with breaches of Appendix 8. He submits that Mr Cooke's criticisms amount to an impermissible attempt to re-weigh evaluative judgments.

Analysis

205. Ground 4 asserts that the Ethics Panel treated complainants' feelings as determinative rather than applying an objective standard. For the reasons already set out in the Court's earlier analysis of fairness and evaluative judgment, that contention is unsustainable. The Ethics Panel did not simply accept subjective reactions; it recorded the complainants' perceptions and assessed them as "*valid and reasonable*," which reflects an objective reasonableness test rather than uncritical acceptance. Its reasoning was anchored in the content of the posts and the standards in Appendix 8 (e.g. exemplary conduct, integrity, professionalism, and acting in members' interests) rather than in subjective responses. The Appeal Decision reinforced this by expressly adopting an "*objective person*" perspective.

206. Two features confirm independent appraisal: first, the Ethics Panel upheld only Issue 1 and rejected Issues 2-5, demonstrating selectivity; second, its reasons focused on matters Appendix 8 makes relevant, such as Mr Cooke's role and the sensitivity of discrimination-related speech, not on complainants' feelings alone. The reference to his role is contextual, explaining the Ethics Panel's focus under Appendix 8, and contrasts with the Court's earlier finding in respect of Mr Prior's claim that senior status cannot lower the threshold for lawful interference.

207. Even assuming some procedural imperfection, the statutory materiality bar under s.31(2A) Senior Courts Act 1981 would apply. The dispositive reasoning was rooted in the posts and the standards, and the appellate decision-maker conducted an independent reassessment, breaking any causal link between alleged subjectivity and outcome. Read fairly and in context, the Ethics Panel and Appeal Panel applied an objective, standards-based analysis.

208. Ground 4 therefore fails. Article 10 proportionality is addressed separately under Ground 5.

Ground 5 *- Failure to Address Article 10 and Provide Adequate Reasons*

On behalf of Mr Cooke

209. Mr Stanage submits that Article 10 formed a central and expressly pleaded issue throughout yet was not addressed by either the Ethics Panel or the Appeal Panel, rendering both decisions legally deficient. He argues that the sanctions imposed for two short social-media posts constituted an unjustified interference with Mr Cooke's freedom of expression, particularly given his position as an elected representative speaking on matters of public interest.

210. He further submits that the panels relied on subjective perceptions rather than the objective approach mandated by *Higgs*, which requires an analysis of the actual words used and a structured proportionality assessment beyond *Wednesbury*. No lawful basis under Article 10(2) was identified; the justifications relied upon, such as "*ensuring appropriate conduct*" or "*safeguarding complainants*", are said to fall outside the permissible grounds and lack evidential support. He contends that the panels failed to consider less restrictive alternatives and overlooked the heightened protection afforded to political speech and to elected representatives under Strasbourg jurisprudence, including *Lombardo* and *Demirtaş*.

211. Mr Stanage further submits that the Appeal Decision compounded these defects by introducing *ex post facto* reasoning and by continuing to elevate subjective interpretations over an objective analysis. In consequence, he argues that the interference with Mr Cooke's Article 10 rights was neither necessary nor proportionate and therefore breached section 6 of the Human Rights Act 1998.

On behalf of PFEW

212. Mr Payne KC accepts that Article 10 applies to contentious speech but argues that it is a qualified right and any interference was lawful, necessary, and proportionate to ensure Mr Cooke carried out his elected role effectively and to safeguard members who had suffered discrimination. He submits that the Ethics Panel's reasons were adequate when read as a whole and that the Appeal Decision provided further explanation.

213. Mr Payne KC submits that both decisions applied an objective standard: complainants' perceptions were considered only insofar as they were "*valid and reasonable*," and the Appeal Decision expressly adopted an "*objective person*" perspective. He invites the Court to reject

any suggestion that subjective feelings were determinative or that the Equality Act was misapplied. He further argues that Mr Cooke has failed to identify any authority extending the heightened protection for elected politicians to PFEW representatives. The interference pursued a legitimate aim (protecting organisational integrity and members' interests) and was proportionate given the sensitivity of discrimination-related speech and its potential impact on confidence in PFEW. Less restrictive measures were considered but rejected because the decision-maker was concerned that Mr Cooke might not modify his behaviour without training.

Analysis

214. Where a decision interferes with Article 10 rights, the decision-maker must demonstrate: (i) a legal basis for the interference ("*prescribed by law*"); (ii) pursuit of a legitimate aim within Article 10(2); (iii) that the interference responds to a "*pressing social need*" and is necessary in a democratic society; and (iv) that the measure adopted is proportionate, including consideration of less restrictive alternatives. These requirements are not optional; they form an inseparable part of the decision-making framework, particularly where the subject of the speech is an elected representative commenting on matters of public importance. Neither the Ethics Panel nor the Appeal Decision addressed any limb of this structured analysis.

215. Mr Cooke was sanctioned for two short social-media posts made in his capacity as an elected PFEW branch chair on matters plainly within the sphere of public interest - race, discrimination and policing. Although his position is not identical to that of a national politician, his role as an elected representative within a statutory body exercising organisational democratic functions engages a heightened level of protection under Article 10. Strasbourg authority makes clear that elected representatives—whether operating within national political institutions or within bodies performing democratic representational functions—are afforded a wide latitude in their public speech, particularly on controversial issues, and restrictions require rigorous justification. The precise degree of protection afforded to national parliamentarians need not be resolved here; the point is that interferences with the speech of any elected representative require express, structured, and contemporaneous proportionality analysis.

216. As set out earlier in this judgment, where Articles 8 and 10 are engaged and a decision impacts an elected representative's ability to hold office, participate in representational functions, or communicate on matters of public concern, the Court's scrutiny is necessarily intensified. The decision-maker must apply the four-limb proportionality test, demonstrating: (i) that the interference is prescribed by law; (ii) that it pursues a legitimate aim recognised by Article 10(2); (iii) that it answers a pressing social need and is necessary in a democratic society; and (iv) that it is proportionate, including by assessing whether less intrusive measures would suffice. Where sanctions restrain speech or elected office, that analysis must be articulated contemporaneously; it cannot be reconstructed after the event.

217. Neither the Ethics Panel's written reasons nor the Appeal Decision engaged with Article 10 or undertook any analysis under Article 10(2), despite the point being repeatedly signposted to them as "*arguably pivotal*". That omission is a material legal defect: where Convention rights are engaged, the decision-maker must show that those rights were considered and provide reasons demonstrating the route to justification. Mr Cooke's posts fell squarely within the scope of protected public-interest expression and did not, without more, justify a sanction that curtailed his ability to speak or to continue in elected office.

218. Even assuming Appendix 9 could in principle authorise speech-related sanctions, the contemporaneous record discloses no analysis of the legal basis for restricting expression and no structured assessment of compatibility with Article 10(2). In the absence of such reasoning, the interference fails the "*prescribed by law*" requirement and the reasons-adequacy standard

applicable in a rights-sensitive context. The aims identified by PFEW—protecting organisational integrity, safeguarding members, and maintaining confidence—were not articulated by reference to Article 10(2)'s closed list, and were unsupported by any findings demonstrating a pressing social need arising from the particular content or context of Mr Cooke's posts. Anticipated offence, disagreement, or discomfort on the part of some members does not, without more, satisfy the necessity limb under Article 10(2). Nor were obvious, less intrusive alternatives—such as guidance, mentoring, or targeted training—considered, let alone explained. Strasbourg authority emphasises that elected representatives are entitled to a wide margin in political and public-interest speech, even where provocative, and that any restrictions must be justified by particularly weighty reasons. The Ethics Panel did not address that elevated standard or explain why this case fell within any recognised limitation. The omission cannot be cured by the subsequent Appeal Decision. The appeal did not conduct a *de novo* Article 10 proportionality assessment, did not identify any legitimate aim under Article 10(2), and did not evaluate necessity or less restrictive measures. It reframed aspects of the Ethics Panel's reasoning without supplying the missing analytical structure. A failure to address a Convention right is a hard-edged error; it must appear in the original and in the appellate decision. Its absence from both is fatal.

219. Applying the proportionality test, the interference with Mr Cooke's Article 10 rights was not shown to be prescribed by law, necessary, or proportionate. These cumulative, rights-critical defects undermine the lawfulness of the decisions. Section 31(2A) of the Senior Courts Act 1981 does not bar relief: given the absence of any lawful Article 10 reasoning, the Court cannot be satisfied that it is highly likely the outcome would have been the same but for the errors. Had Article 10 been properly addressed, several materially different outcomes were available: no sanction; guidance-only; or targeted remedial measures short of removal from office. The Appeal Chair's concerns about future behaviour could have been addressed through training without exclusion from office. Given these realistic alternatives, the Court cannot conclude that it is highly likely the same sanction would have resulted.

220. Ground 5 is therefore upheld.

Ground 6 - *Unreasonable and Disproportionate Sanction; Breach of Procedural Unfairness*

On behalf of Mr Cooke

221. Mr Stanage argues that the sanction imposed on Mr Cooke was unreasonable and disproportionate given the circumstances. He submits that the two posts, which did not refer to any individual case and were not intended to cause upset, did not justify a sanction of this severity. He further submits that the decision to remove Mr Cooke from office and impose additional requirements lacked any rational connection to the nature or gravity of the alleged breach. He contends that, given the timing of the elections, the sanction operated as an effective three-year bar on holding office, compounding its harshness.

222. In addition, Mr Stanage submits that the subsequent expansion of the training obligations, following an earlier and more limited indication of sanction conveyed by telephone, breached Mr Cooke's legitimate expectation and basic procedural fairness. The variation without clear justification or any opportunity to make representations is said to amount to an abuse of power and further undermines the lawfulness of the decision.

On behalf of PFEW

223. Mr Payne KC submits that the sanction imposed on Mr Cooke was lawful, proportionate, and well within the broad discretion conferred by Appendix 9. He argues that the timing of elections and any alleged impact on Mr Cooke's ability to stand for office are irrelevant to the lawfulness of the decision. He rejects the argument of legitimate expectation, arguing that no clear and unambiguous representation was made as to the scope of the sanction and that the subsequent variation was minor, justified, and introduced for constructive purposes.

224. Mr Payne KC submits that the addition of training requirements was beneficial, was designed to address concerns raised during the process, and caused no prejudice. In his submission, the sanction reflected a rational connection to the seriousness of the conduct and to the need to uphold standards of professionalism and integrity within PFEW.

Analysis

225. Ground 6 raises two legitimate concerns: (i) the proportionality of imposing removal from office and an eight month bar on re-election where the Ethics Panel upheld only one issue and rejected four others; and (ii) a fairness defect arising from the later expansion of training obligations after an earlier, more limited oral indication, without clear justification or any opportunity to make representations.

226. In a rights-sensitive context, where sanctions restrict speech and elected office, one would expect contemporaneous reasoning explaining why less intrusive measures (such as targeted guidance or mentoring) would not suffice before resorting to sanctions of this gravity. That reasoning is absent from the record. However, Ground 6 adds little independent weight. Its proportionality limb is effectively absorbed by Ground 5: the Article 10 challenge already captures the failure to demonstrate necessity, consider less restrictive alternatives, and provide structured reasons for sanctioning speech by an elected representative. If Ground 5 succeeds, the sanction falls; if it fails, Ground 6 alone is unlikely to prevail given the breadth of discretion under Appendix 9 and the absence of any clear, unambiguous promise capable of founding a legitimate expectation. The fairness issue arising from post notification variation was raised in the pleaded grounds and therefore requires brief acknowledgment; however, given the Courts conclusions on Ground 5, its significance is limited and it does not affect the outcome.

227. In short, while Ground 6 exposes imperfections in reasoning and process, its proportionality argument is subsumed within Ground 5's rights-based analysis, and its expectation limb is marginal. It does not materially advance Mr Cooke's case beyond what is already dispositive under the Article 10 proportionality framework.

Conclusion

228. Mr Cooke's challenge succeeds in part. The Ethics Panel and Appeal Decision are vitiated by a fundamental legal defect: neither engaged with Article 10 nor demonstrated that the interference with his freedom of expression was prescribed by law, necessary, and proportionate.

229. Other grounds disclose imperfections, such as reliance on evaluative opinion and opaque legal advice, but these do not independently warrant relief. The decisive flaw lies in the absence of a structured proportionality analysis and the failure to consider obvious, less intrusive alternatives before imposing sanctions that curtailed speech and excluded Mr Cooke from elected office.

Accordingly, the Ethics Panel decision and the Appeal Decision cannot stand insofar as they impose and maintain sanctions on Mr Cooke's speech. This omission is not peripheral: it is a fundamental defect that goes to the heart of lawfulness and renders both decisions unsustainable.

X. Relief and Orders

Mr Prior's Claim - Declaratory Relief

230. The Court declares that:

i. The Initial Suspension Decision of 9 October 2024 and the Suspension Appeal Decision of 31 October 2024 were unlawful and *ultra vires* under Appendix 9 of PFEW Rules.

ii. The Suspension Review Decision of 12 February 2025 was unlawful and procedurally unfair.

iii. The Investigation Decision of 9 October 2024, the Scope Decision of 16 October 2024, and the Extended Scope Decision of 21 January 2025 were unlawful and outside the powers conferred by Appendix 9.

iv. Conditions imposed under Appendix 9 restricting media engagement and social-media activity in Mr Prior's capacity as a PFEW representative were unlawful and constituted unlawful interferences with Article 10.

v. The decisions identified above amounted to unjustified and disproportionate interferences with Mr Prior's rights under Article 10.

Mr Cooke's Claim - Quashing Orders and Declarations

231. The Court declares that:

i. The Ethics Panel Decision of 28 March 2025 and the Appeal Decision of 30 April 2025 are quashed insofar as they imposed and maintained sanctions on Mr Cooke's speech without a lawful Article 10 analysis.

ii. The Court further declares that the interference with Mr Cooke's freedom of expression was not shown to be prescribed by law, necessary or proportionate under Article 10(2) ECHR and accordingly amounted to unjustified and disproportionate interference with Mr Cooke's rights under Article 10.

Costs and Consequential Matters

232. The Court has deferred final disposal of the proceedings in order to address, on the papers, costs and any consequential matters, including any application for permission to appeal. Costs are reserved. Directions are set out in the accompanying order.

233. The Court is grateful to all counsel and solicitors for their careful preparation and focused submissions, which have been of considerable assistance.