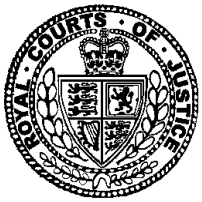

Neutral Citation Number: [2019] EWHC 1483 (Admin)

Case No: QB-2019-000742

IN THE DIVISIONAL COURT
IN THE MATTER OF AN APPLICATION
FOR AN ORDER OF COMMITTAL

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 10th June 2019

Before:

LORD JUSTICE COULSON
and
MR JUSTICE SPENCER

- -

Between:

HER MAJESTY'S SOLICITOR GENERAL	**Applicant**
- and -	
MS SOPHIE HOLMES	**Respondent**

- -
- -

Mr Aidan Eardley (instructed by **Government Legal Department**) for the **Applicant**
Mr Mark Brookes (instructed by **Mohammed Hussain Solicitors**) for the **Respondent**

Hearing Date: 22nd May 2019

- -

Approved Judgment

Lord Justice Coulson:

1 Introduction

1. This is the judgment of the court, to which we have both contributed.

2. By a claim form issued under CPR Part 8 on 4 March 2019, the applicant sought an order for committal against the respondent, following what is said to have been her clear contempt in the face of Bradford Crown Court on 18 October 2018. At the hearing on 22 May 2019, the applicant sought permission to apply for such an order. Despite what ought to have been the straightforward nature of such an application, a number of jurisdictional and procedural issues arose. However, at the end of the hearing, we dealt briefly with those issues and granted permission. We said that we would provide full reasons for our decision in writing: these are they.

3. We shall set out those reasons in the following way. Having set out the Factual Background (Section 2) and the issues that arose at the hearing on 22 May (Section 3), we then answer the questions as to the jurisdiction of the Divisional Court (Section 4); whether permission is required (Section 5); and the applicable test on a permission application (Section 6). Thereafter, we explain briefly why permission was granted in this case (Section 7). There is a short summary of our conclusions at Section 8. We are very grateful to both counsel for their written and oral submissions.

2. The Factual Background

4. During the early hours of the morning of 20 October 2017, Paul Serrant and the respondent were in bed at 18, Hill Top Road, Bradford, the home of Paul Serrant. A number of men arrived on a motorbike and smashed the windscreen of the respondent's car. A large number of shots were then fired into the house from an automatic rifle. Many shots penetrated the living room and kitchen but miraculously no-one was injured.

5. Charges were brought against a man called Michael Webster and two others. Webster was in an "on-off" relationship with the respondent and the prosecution case was that the attack was driven by Webster's jealousy. Neither Serrant nor the respondent were prepared to provide witness statements to the police or assist in any way. In Serrant's case, this may have been because of concerns about his own criminality. Agreed Facts 4-12, which were put before the jury, related to his potential involvement in a number of firearms incidents. It was not known whether, by the time of the trial in October 2018, the respondent's relationship with Webster had resumed.

6. The trial began on 9 October 2018 before His Honour Judge Rose. On 18 October, Webster was being cross-examined by prosecuting counsel about his relationship with the respondent. Suddenly, the respondent, who was in the public gallery, stood up and, ignoring the judge's request to sit down, began to shout. According to the transcript, she shouted:

> "I'm Sophie, and the shooter were Jordan Ross, and he already knows. I've admitted it to him. He told it to me. Jordan Ross, and all remember that, yeah? He's in jail for threatening me with a machete."

It is agreed that the reference to 'Ross' was an error on the part of the transcriber and the reference was to Jordon Rawson. This has been confirmed by the judge and DC Roebuck, the officer in the case who was also in court. It is also accepted on behalf of the respondent by Mr Brookes.

7. Following this outburst, the judge sent the jury out. Thereafter, we consider that he acted in an exemplary way, concentrating on the most relevant consideration, namely the fairness of the trial. He said to counsel:

> "While, fortunately, we know perfectly well who she is. How do you want to do this, because this is going to be done and it is going to be done properly and it's going to be done in a way that is fair to this man [Mr Webster] who is currently an innocent man in the midst of being cross-examined by the prosecution, so we have to balance everybody's interests here but primarily for the moment the right to a fair trial… I am thinking of the trial. In respect of Sophie Holmes, the court has powers that it can proceed against her. There is no urgency to exercise those powers, save and except the order that I make that she is prohibited from entering this courtroom again unless it is in respect of her own conduct. But you will need to give me chapter and verse before I do anything further about that."

8. The judge immediately made an order under Section 4(2) of the Contempt of Court Act 1981 prohibiting publication of anything to do with the respondent's outburst. Detailed representations were made by counsel the following day. The judge discharged the jury and ordered a new trial. The retrial could not take place until March 2019. At the end of the retrial, the three defendants were convicted, and significant prison sentences were imposed.

9. The judge referred the question of the respondent's outburst to the Attorney General. For the reasons set out in his referral of 31 October 2018, the judge concluded that this was a better course than dealing with the matter himself.

10. Having considered the papers, on 21 December 2018, the applicant wrote to the respondent outlining the incident and telling her that he was considering whether to bring proceedings against her for contempt of court. A response was sought within 14 days. No response was forthcoming.

11. The Part 8 claim for an order for committal was issued on 4 March 2019. It was served personally on the respondent on 19 March, together with supporting documents and the letter from the court fixing today's hearing. There was no acknowledgement of service, either within the prescribed 14 day period or at all. On 7 May 2019, solicitors now engaged on behalf of the respondent wrote to seek an adjournment on the basis that the respondent would be away on a pre-booked holiday. However, at the hearing on 22 May, Mr Brookes confirmed that the adjournment application was no longer pursued.

3. The Issues

12. A number of issues arose for the court's decision. They were:

(a) Does the Divisional Court have the jurisdiction to deal with this application?

(b) If so, is permission required?

(c) If permission is required, what is the applicable test?

(d) Should permission be granted in this case?

4. The Jurisdiction of the Divisional Court and CPR Part 81

13. The first issue which arises concerns whether or not the Divisional Court has the jurisdiction to deal with this application at all. The issue arises because of the wording of CPR Part 81. It is necessary to set out the law and the procedure in a little detail, in order to explain how and why the jurisdiction is undoubted, and to explain that any uncertainties have been created by infelicitous rule-drafting, rather than anything more significant.

14. From an examination of the authorities and the development of the Rules of the Supreme Court, it is plain that the Divisional Court has always exercised a supervisory jurisdiction in relation to contempts committed in criminal proceedings at first instance, concurrently with the jurisdiction of the judges of Assize, and (since the Courts Act 1971) the judges of the Crown Court. There is a valuable historical analysis in the reported arguments of counsel in *Balogh v St Albans Crown Court* [1975] 1 QB 73, at page 76-81. See also *Short and Mellor, The Practice of the Crown Office* (2nd ed, 1908), at pages 341-346.

15. In *Balogh*, Lord Denning MR explained that there was a concurrent jurisdiction in respect of a committal for contempt. The trial judge could act on his own motion, but he could also leave it to the Attorney General to make an application to this court. Lord Denning said:

> "The power of summary punishment is a great power, but it is a necessary power. It is given so as to maintain the dignity and authority of the court and to ensure a fair trial. It is to be exercised by the judge of his own motion only when it is urgent and imperative to act immediately – so as to maintain the authority of the court – to prevent disorder – to enable witnesses to be free from fear – and jurors from being improperly influenced – and the like…
>
> As I've said, a judge should act of his own motion only when it is urgent and imperative to act immediately. In all other cases he should not take it upon himself to move. He should leave it to the Attorney General or to the party aggrieved to make a motion in accordance with the rules in R.S.C.Ord.52. The reason is so that he should not appear to be both prosecutor and judge: for that is a role which does not become him well."

At pages 92H-93B, Lawton LJ came to the same conclusion, saying that "contempts which are not likely to disturb the trial or affect the verdict or judgment can be dealt with by a motion to commit under R.S.C.Ord.52, or even by indictment."

16. This court reached the same conclusion in *DPP v Channel 4 Television Co Limited* [1993] 2 All E.R. 517, where Lord Woolf referred to this "choice of jurisdiction" and

indicated specific limitations on the trial judge's ability to deal with committals for contempt. Similarly, in *R v M* [2009] 1 WLR 1179, the Court of Appeal (Bean J) said:

> "There are two possible ways of dealing with criminal contempt: one by the exercise of the summary jurisdiction, the other by an application to Divisional Court."

17. The predecessor of CPR Part 81.12 was RSC 52, r.1, introduced in 1965. Quoting it in full, Rule 1(2) provided:

"(2) Where contempt of court-

(a) is committed in connection with-

(i) any proceedings before a Divisional Court of the Queen's Bench Division, or

(ii) criminal proceedings, except where the contempt is committed in the face of the court or consists of disobedience to an order of the court or a breach of an undertaking to the court, or

(iii) proceedings in an inferior court, or

(b) is committed otherwise than in connection with any proceedings,

then… an order of committal shall be made only by a Divisional Court of the Queen's Bench Division."

18. In this way, the Rule spelt out very clearly that the jurisdiction of the Divisional Court to deal with contempt in the face of the court below was not excluded, but nor was it reserved to the Divisional Court. It was concurrent with the jurisdiction of the lower court. Although the current rules, in CPR Part 81.12 (1), incorporate most of the elements of the former rule, they do not accurately reflect the overall effect.

19. Tracing the history of the rules back further still, RSC 52, r.2 was taken from the former RSC Order 59, r.26 (introduced in 1938). Order 59 dealt generally with the jurisdiction of "Divisional Courts". Rule 26 was headed "Attachment for Contempt". Rule 26(2) provided:

"(2) This rule applies to cases where the contempt is committed-

(a) in connection with proceedings to which this Order relates;

(b) in connection with criminal proceedings or any proceedings in the King's Bench Division except where the contempt is committed in facie curiae or consists of disobedience to an order of the court;

(c) in connection with the proceedings in an inferior court."

20. Order 59, r. 1 provided that among the proceedings which "shall be heard by divisional courts" were:

> "…(d) proceedings for attachment for contempt of court in the cases specified in this Order".
>
> Order 59, r. 26 (1) provided that an application for leave (permission) to bring proceedings for committal had to be made to a Divisional Court, and that only a Divisional Court could make the order for committal (order a writ of attachment) .

21. The existence of the concurrent jurisdiction was therefore plain under the RSC. However, when RSC Order 52 was transmuted into CPR Part 81 (and in particular, when Part 81 was revamped in 2014), the existence of the concurrent jurisdiction was not as clearly signposted as it might have been. It is that redraft which has given rise to the present problem.

22. As we have said, this case is concerned with contempt in the face of the court. Logically therefore, the starting-point ought to be r.81.16 which provides:

> "*V. Contempt in the face of the court*
>
> Committal for contempt in the face of the court
>
> 81.16
>
> Where –
>
> (a) contempt has occurred in the face of the court; and
>
> (b) that court has power to commit for contempt,
>
> the court may deal with the matter of its own initiative and give such directions as it thinks fit for the disposal of the matter".

There is no other rule under the heading of Section V.

23. R.81.16 was clearly designed to preserve the ability of the court in whose face the contempt occurred ("the original court") to deal with the contempt. It is a discretionary power; hence the use of the word "may". The problem is that r.81.16 does not deal with the concurrent jurisdiction exercised by the Divisional Court.

24. That is not the end of the difficulty. If the original court deals with the contempt, permission is not required and the matter is dealt with summarily. Neither is permission required for the original court to deal with any contempt by breach of an order or undertaking, addressed in Section II of Part 81 (rules 81.4-81.11). That leaves a third category, which does not fall into either of the first two categories, of contempt as a result of interference with the due administration of justice.

25. Permission is required for an application under that heading. Section III of Part 81, under the heading "*Committal for interference with the due administration of justice"* provides clear rules for this. Deleting the parts that are inapplicable to the present case, they provide:

"*III. Committal for interference with the due administration of justice*

Scope

81.12

(1) This Section regulates committal applications in relation to interference with the due administration of justice in connection with proceedings…

(e) which are criminal proceedings,

except where the contempt is committed in the face of the court or consists of disobedience to an order of the court or a breach of an undertaking to the court…

(3) A committal application under this Section may not be made without the permission of the court.

(The procedure for applying for permission to make a committal application is set out in rule 81.14.)…

Court to which application for permission under this Section is to be made

81.13

(1) Where contempt of court is committed in connection with any proceedings…

(e) which are criminal proceedings, the application for permission may be made only to a Divisional Court of the Queen's Bench Division…

Application for permission (High Court, Divisional Court or Administrative Court)

81.14

(1) The application for permission to make a committal application must be made by a Part 8 claim form which must include or be accompanied by –

(a) a detailed statement of the applicant's grounds for bringing the committal application; and

(b) an affidavit setting out the facts and exhibiting all documents relied upon.

(2) The claim form and the documents referred to in paragraph (1) must be served personally on the respondent unless the court otherwise directs.

> (3) Within 14 days of service on the respondent of the claim form, the respondent –
>
> (a) must file and serve an acknowledgment of service; and
>
> (b) may file and serve evidence.
>
> (4) The court will consider the application for permission at an oral hearing, unless it considers that such a hearing is not appropriate.
>
> (5) If the respondent intends to appear at the permission hearing referred to in paragraph (4), the respondent must give 7 days' notice in writing of such intention to the court and any other party and at the same time provide a written summary of the submissions which the respondent proposes to make.
>
> (6) Where permission to proceed is given, the court may give such directions as it thinks fit, and may –
>
> (a) transfer the proceedings to another court; or
>
> (b) direct that the application be listed for hearing before a single judge or a Divisional Court."

26. The intention must have been that these provisions apply to applications to commit for contempt in the face of the court, if that contempt is not dealt with by the original court. The potential problem, as Mr Eardley recognised, is that r.81.12-r.81.14 are all under the heading '*III. Committal for interference with the due administration of justice'*. So it might be argued that the rules which follow are applicable only to that form of contempt, not contempt in the face of the court (which, as we have seen, is dealt with in Section V of Part 81). Moreover, further support for that may be found in the exception at r.81.12(1) (highlighted in bold and underlined above) which arguably excludes contempt in the face of the court from Section III.

27. We have considered these arguments carefully, but we do not consider that they are sustainable.

28. Part 81 was revamped in 2014 to provide a comprehensive code for all committals for contempt: see *Simmonds v Pearce* [2018] 1 WLR 1849 at [11]. It cannot have been the intention that the Divisional Court's substantive and undoubted jurisdiction to deal with contempt committed in the face of the court below was lost as a result of the remodelling of the rules. The Divisional Court's powers have not disappeared as the result of a drafting error, and Mr Brookes did not submit otherwise.

29. As to the exception at r.81.12(1), it seems to us that this would be unnecessary if the category of contempt in the face of the court was outside Section III altogether. It is tolerably clear that this wording arose so as to preserve the discretionary power of the lower court, formalised in r.81.16, to deal with that contempt summarily. It was not designed to exclude the concurrent jurisdiction of the Divisional Court to commit for contempt in the face of the court, as outlined above.

30. If Part 81 is read as a whole, the intention to preserve the existing jurisdiction is in our view discernible, if somewhat opaque:

(i) Part 81 Section V (CPR 81.16) regulates the procedure for contempt in the face of the court, where that court is dealing with contempt committed *in its own face.* No permission is required.

(ii) Part 81 Section II (CPR 81.4-81.11) regulates the procedure for contempt by breach of an order or undertaking. No permission is required.

(iii) Part 81 Section III (CPR 81.12) regulates proceedings for contempt which falls into neither of these two categories, hence their exclusion by the words "except where the contempt is committed in the face of the court or consists of disobedience to an order of the court or a breach of an undertaking to the court". Permission is required to bring contempt proceedings.

(iv) It follows, as a matter of construction, that CPR 81.12 is intended to deal with contempt in situations not covered by those other provisions. No permission is required in those other situations because the contempt is so obviously deserving of punishment if proved and there is no wider public interest which needs to be considered in allowing a committal application to proceed.

31. Thus, in his skeleton argument on behalf of the applicant, Mr Eardley submitted:

> "The evident purpose of the wording [of r.81.12] is to ensure that the concurrent jurisdiction of those courts is preserved, not to identify and exclude committal applications where the law officers seek to invoke the recognised jurisdiction of the High Court".

For the reasons set out above, we agree.

32. From a drafting perspective, it is, we think, relatively easy to see what has gone wrong with the highlighted words in r.81.12(1). Its predecessor, R.S.C.Ord.52.1 provided for the *exclusive* jurisdiction of the Divisional Court in specified situations, with an express exception for this kind of committal proceedings, and was designed to preserve the concurrent jurisdiction of the original court. An echo of that can now be found in r.81.13(1)(e). But that drafting mechanism, and the use of the word "only", was omitted from r.81.12(1)(e), with the result that, superficially at least, the rules provide the opposite of what was intended, because they suggest that the Divisional Court has no jurisdiction in such cases.

33. More widely, we also agree with Mr Eardley that it would be singularly unhelpful if nice distinctions were drawn between different types of contempt at the outset, with different procedures applying to different types of contempt. If the same procedure applies to contempt in the face of the court (when it is not being dealt with summarily by that court) and to interference with the due administration of justice, then the nice distinctions between those two different kinds of contempt will not matter, at least from a procedural perspective. All that will matter is that, for cases not dealt with by the original court, permission to seek an order for committal will be required. It makes sense to have the same procedure applying, regardless of the classification of the

conduct alleged, in all cases where permission is required. The rules at 81.12-81.14 provide a clear and comprehensible procedure to be followed in such cases.

34. In the course of his measured submissions, Mr Brookes said that the solution to any 'conflict' (as he put it) between the different parts of CPR Part 81 could be found in rule 48 of the Criminal Procedure Rules, which provides for what is known as the 'postponed enquiry' regime (see in particular rules 48.5 and 48.7). This is designed to provide something of a half-way house, whereby the original judge, or a judge in the same court centre, can deal with the contempt in the face of the court, but at a subsequent date, when feelings may not run so high.

35. We do not doubt that this is a useful mechanism. Indeed, for most situations that are likely to arise, that is the procedure which should be followed. This was, we think, an exceptional and particularly serious case, where the judge was quite right to refer the matter to the Attorney-General and invite him to intervene. It should not be thought, however, that such a course should become the preferred approach generally.

36. More importantly for present purposes, there is nothing in the Criminal Procedure Rules, and no other authority, which suggests that this pragmatic solution was intended in any way to deprive the Divisional Court of the long-standing concurrent jurisdiction noted above.

37. For all those reasons, therefore, we conclude that the procedure set out in CPR r.81.12-r.81.14 applies to applications for an order for committal for contempt in the face of the court, in circumstances, such as the present case, where the original court has decided not to deal with the contempt itself. In our view, those provisions set out a clear and sensible regime for such committal applications.

5. Is Permission Required?

38. At the outset of these proceedings, the applicant was unsure whether permission was required; indeed, the claim form suggests that it was not. This may be the result of the unhappy drafting of Part 81 to which we have already referred.

39. It is quite clear that r.81.13 requires a permission stage. Mr Eardley accepted on behalf of the applicant that this was necessary. The Divisional Court needs to decide whether it is appropriate to allow a committal order to be sought in any given case (r.81.12(3) and r.81.13(1)(e)) and the rules provide a clear procedure to be followed to achieve this (r.81.14).

40. There was a hint in some of the submissions that this was an unnecessarily cumbersome process. But it seems to us that, in circumstances where the lower court (which has first-hand knowledge of the contempt) is not dealing with the application for a committal order, it is inevitable that a "gatekeeping" stage is required at the outset of any application for an order for committal in the Divisional Court. Of course, because this will inevitably cause at least some delay, judges are encouraged, wherever appropriate, to deal with contempt in the face of the court themselves, either summarily, or using the postponed enquiry procedure at Criminal Procedure Rule 48, referred to above. But in the light of the warnings in *Balogh* and *Channel 4 News*, there will be exceptional cases where that is neither possible nor practical, and where an application for permission will need to be made to this court.

6. What Is The Applicable Test?

41. For the reasons set out below, we consider that the applicable test for permission is twofold:

    (a) Has the applicant demonstrated at least a *prima facie* case of contempt?

    (b) If so, is it in the public interest that an application to commit should be made?

42. As to the first stage, it is clear that the applicant must show at least a *prima facie* case of contempt. To seek an order for committal for contempt of court is a serious step, and it is therefore appropriate that there is a proper threshold which the applicant needs to cross in order to satisfy this court that permission to seek such an order should be granted. At the same time, this should not become a provisional assessment of the merits.

43. A number of the authorities talk about the need for a strong *prima facie* case. That is the threshold expressed by the Court of Appeal in *Tinkler v Elliott* [2014] EWCA Civ 564 at [44]:

    "The correct legal approach to the determination of an application for permission to bring committal proceedings was not in dispute on this appeal. The judge correctly summarised the relevant and well-known principles in paragraph 23 of his judgment as follows:…

    > iv) Permission should not be granted unless a strong *prima facie* case has been shown against the alleged contemnor- see *Malgar Limited v RE Leach (Engineering) Limited* [1999] EWHC 843 (Ch), *Kirk v Walton* [2008] EWHC 1780 (QB), Cox J at paragraph 29 and *Berry Piling Systems Limited v Sheer Projects Limited* (ante) at Paragraph 30(a).

    That same approach was adopted by Birss J in *Grosvenor Chemicals Limited v UPL Deutschland Gmbh* [2017] EWHC 1893 at [105]-[118]. Both cases were concerned with false statements of truth.

44. Mr Eardley submitted that in a case concerned with the disruption of a trial, the test of a strong *prima facie* case may set the bar too high. His argument was that, because those authorities were concerned with private litigants who were bringing contempt proceedings against the other side where the statements of truth that they had signed had been demonstrated to be incorrect, a higher threshold may be understandable in such cases, so as to discourage frivolous applications. His submission was that the same would not apply to contempts in the face of the court.

45. We consider that there is some force in this argument. Detailed considerations at the permission stage about the precise strength of the application to commit for contempt in the face of the court are to be discouraged. But we do not need to decide the point because, as is apparent from Section 7 below, there is here on the facts a strong *prima facie* case anyway. So for present purposes, we are content to say simply that the applicant must demonstrate at least a *prima facie* case of contempt in the face of the court.

46. On a related topic, Mr Eardley argued that, where the applicant was a Law Officer, a lower threshold should be applied to any application that he/she might make. We are uncomfortable with that submission as it stands: the applicable test should not vary depending on the identity of the applicant. But we accept that the fact that the application is being made by a Law Officer, independent of the parties and with no vested interest in the outcome of the underlying proceedings, is plainly a relevant consideration for the Divisional Court to take into account when considering whether there is at least a *prima facie* case[1]. Moreover, the fact that the Law Officer is making the application is important to any consideration of the second stage, namely the public interest.

47. As to that, in *Makdessi v Cavendish Square Holdings BV* [2013] EWCA Civ 1540 at [79], the Court of Appeal said:

> "The critical question, in this and every case, is whether or not it is in the public interest that an application to commit should be made. That is not an issue of fact but a question of judgment."

Although that was an application brought by a private individual seeking permission to commit a litigant having made a false statement of truth, the same question must arise on any permission application in committal cases. Indeed, we consider that it is the issue which overlays everything else on an application for permission to seek an order for committal for contempt in the face of the court.

7. Should Permission Be Granted In This Case?

47. In our view, the clear answer is Yes. The reasons for that view are briefly outlined below.

48. First, there is at least a *prima facie* case of contempt. The words used by the respondent are the subject of a court transcript, and also evidenced by the officer in the case and the judge. Contempt in the face of the court simply requires the deliberate doing of the act. Specific intent is not required: see *Solicitor General v Cox* [2016] QB 1241 at [70]. There can be no debate that the respondent deliberately stood up to shout her message. Mr Brookes does not suggest otherwise.

50. It is of course necessary for the disruption to pass a certain *de minimis* level of seriousness for it to amount to contempt: see *R v Powell* [1994] 98 Cr. App. R 224. But here the disruption obviously passed that level of seriousness: it caused the first trial to be aborted after several days of evidence; led to a delay of some 5 months; and the costs and inconvenience of a second trial.

51. Ultimately, Mr Brookes accepted on behalf of the applicant that, in all the circumstances, there was a strong *prima facie* case of contempt and that there had been significant disruption. We agree.

52. For the same reasons, we are of the view that there is a clear public interest both in the respondent's outburst being carefully examined and, if it is regarded as a contempt in the face of the court, in the nature of any penalty imposed. As was said during

[1] We note that r.81(18) (1), which is concerned with false statements of truth, requires a permission stage only if the Attorney General is *not* bringing the proceedings.

submissions, if a contempt is established, the court is likely to consider the imposition of a custodial sentence.

8. Conclusions

53. For the reasons set out above, we conclude that, notwithstanding the infelicities of the drafting of CPR Part 81 (which will have to be addressed separately[2]), the permission of the Divisional Court is required if the court in whose face the contempt has been committed has not been invited or decides not to address the contempt itself. The test is whether there is at least a *prima facie* case of contempt and whether bringing committal proceedings is in the public interest. Both limbs of that test are amply made out in the present case. We therefore granted permission at the hearing on 22 May.

[2] As was also suggested in *Simmonds v Pearce*.