



Neutral Citation Number: [2021] EWHC 3244 (Admin)

Case No: CO/4637/2020

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

Manchester District Registry
(sitting at Birmingham Civil and Family Justice Centre
33 Bull Street, Birmingham B4 6DS)

Date: 2/12/2021

Before :

MR JUSTICE ANDREW BAKER

Between :

THE QUEEN (on the application of:
(1) PROIMAGE LIMITED
(2) KULDIP SINGH BANSAL
(3) GOLD VOLTAGE LIMITED
(4) FULFIL AGENTS LIMITED
(5) FXC TRADING LIMITED)

Claimant

- and -

(1) THE LANCASHIRE MAGISTRATES'
COURT AT BLACKBURN
(2) LANCASHIRE COUNTY COUNCIL
TRADING STANDARDS SERVICE
(3) THE CHIEF CONSTABLE OF GREATER
MANCHESTER POLICE

Defendants

Rupert Bowers QC and Sarah Vine (instructed by Aticus Law Ltd) for the Claimant
Andrew Campbell-Tiech QC for the Second Defendant
Andrew Campbell-Tiech QC (and for the skeleton argument, Graham H Wells) for the Third
Defendant

Hearing date: 10 November 2021

Approved Judgment

Mr Justice Andrew Baker :

Introduction

1. Trading standards officers ('TSOs') employed by the second defendant authority (Lancashire Trading Standards or 'LTS') were and are investigating whether the second claimant, Kuldip Bansal, and/or companies in which he is interested including the corporate claimants have been and are engaged in trading on a large scale in counterfeit athleisure and designer clothing, as a result committing offences contrary to the Trade Marks Act 1994 ('the 1994 Act'). For the purposes of the Consumer Rights Act 2015 ('the 2015 Act'), LTS is a 'domestic enforcer' of the 1994 Act.
2. As part of that investigation, on 30 October 2020 Ms Lara Mason, an LTS TSO, obtained from the first defendant court, in the person of DDJ Richard Lowe, entry warrants in respect of three addresses:
 - (i) 136 Burnley Road, Hapton (including land to the side and south of Burnley Road), the home address of the Bansal family;
 - (ii) 20-26 Briddon Street, Manchester, commercial premises connected internally to (iii) below, such that on the inside they are effectively one unit;
 - (iii) 43 Julia Street, Manchester.
3. On 5 November 2020, claiming authority to do so under those warrants, LTS TSOs entered all three sets of premises. In an LTS-led operation, the TSOs were accompanied by various other individuals, including police officers and authorised representatives of trade mark proprietors professing expertise in distinguishing genuine from fake (counterfeit) clothing. More specifically, the home address was entered first, without resistance or objection from the Bansal family in view of the warrants. Keys to the commercial units were either handed over at or taken from the house, again on the basis that LTS had obtained the warrants so that entry had been authorised, enabling a separate posse of investigators to get into those premises.
4. At each address, therefore, entry was obtained unforced, purportedly lawfully in view of and pursuant to the respective warrant.
5. Permission was granted on paper for a judicial review of:
 - (i) DDJ Lowe's decision to grant the warrants, and
 - (ii) LTS's decision to execute the warrants, i.e. to seek and gain entry to the premises on the basis of the authority to do so purportedly granted by the warrants.
6. This is the judgment of the court upon that review, following an oral hearing conducted remotely via MS Teams. For reasons it is not necessary to relate, though the claim is in the Manchester District Registry, I sat for the hearing at the Birmingham Civil and Family Justice Centre and if for any reason it matters, this judgment should be treated as having been handed down there.

The Warrants

7. The warrants were in materially identical terms, the only difference between them being in the description of the premises to which each warrant applied. The terms of the warrants were as follows:

WARRANT TO ENTER PREMISES: THE TRADE MARKS ACT 1994

LANCASHIRE MAGISTRATES COURT

Date: 30 October 2020

Informant: Lara Mason

Address: Trading Standards Service, 4th Floor, Lancashire Point Building, County Hall, Preston, PR1 0LD

Informant: The informant being a duly authorised officer of the Trading Standards Service states upon oath that there are reasonable grounds to believe that the premises at: [*address in full*] contains products, documents, keys, devices or equipment which the informant has power to inspect; and that their inspection is likely to disclose evidence of a breach of The Trade Marks Act 1994, namely: the possession for supply of clothing and footwear apparel and other goods, which bear registered trademarks of which the occupant is not authorised to apply to goods or their packaging and, without the consent of the proprietor, and therefore is in breach of Section 92, contrary to Section 93 of the Trade Marks Act 1994.

and that

it is likely that products or documents on the premises would be interfered with if notice of entry on the premises were given to the occupier of the premises.

The above information being this day laid before the undersigned Justice of the Peace who is satisfied that there are reasonable grounds to believe as above.

Direction: To Lara Mason (or an authorised officer of Lancashire County Council Trading Standards Service)

You are authorised, within the period of one month of the date hereof, to enter the said premises, if need be by force.

[*Signature of DDJ Lowe*]

JUSTICE OF THE PEACE

8. The mention of s.93 of the 1994 Act was out of place. It places a duty upon local weights and measures authorities to enforce s.92 within their area. So it is relevant to the LTS operation in this case, but the warrants were in error in appearing to state that the

putative offences under investigation were offences contrary to s.93. The offence constituted by possession for supply as referred to in the warrants is an offence contrary to s.92(1)(c). It is not arguable that the unnecessary and strictly erroneous words “*contrary to Section 93*” render the warrants unlawful.

9. The warrants on their face set out a factual basis upon which DDJ Lowe had power to issue an entry warrant. By paragraph 32(1) of Schedule 5 to the 2015 Act, a justice of the peace “*may issue a warrant authorising an officer of an enforcer [viz., in this case a TSO] to enter premises if satisfied, on written information on oath given by such an officer, that there are reasonable grounds for believing that—*
(a) *condition A or B is met, and*
(b) *condition C, D or E is met.*”

As I set out immediately below, the factual basis set out on the face of the warrants was one upon which that statutory power (‘the paragraph 32 power’) arose. The warrants did not, however, say so, i.e. they did not state that they had been issued pursuant to that power, indeed they did not refer to the 2015 Act at all.

10. By paragraph 32(2) of Schedule 5 to the 2015 Act, Condition A is that “*on the premises there are—*
(a) *products which an officer of the enforcer has power to inspect under paragraph 25, or*
(b) *documents which an officer of the enforcer could require a person to produce under paragraph 27.*”

On their face, the warrants stated that DDJ Lowe had been satisfied by written information on oath given by a TSO that there were reasonable grounds to believe matters which would amount to satisfaction of Condition A(a). They did not, however, say that in so many words, or refer to the 2015 Act statutory Conditions as such, or to that Act at all.

11. By paragraph 32(5) of Schedule 5 to the 2015 Act, Condition D is that “*it is likely that products or documents on the premises would be concealed or interfered with if notice of entry on the premises were given to the occupier of the premises.*” On their face, the warrants stated that DDJ Lowe had been satisfied by written information given on oath by a TSO that there were reasonable grounds to believe matters that would amount to satisfaction of Condition D. Again, the warrants did not say that in terms, or refer to the 2015 Act statutory Conditions as such, or to that Act.

12. As I have just noted, anticipating one main focus of the claimants’ argument, the warrants did not identify in terms that the power (purportedly) pursuant to which they had been issued was the paragraph 32 power, or refer to the 2015 Act at all. They did however refer to the 1994 Act, both within the description of what the court had been satisfied there were reasonable grounds to believe, and in the heading, “**WARRANT TO ENTER PREMISES: THE TRADE MARKS ACT 1994**”. The question arises what the effect of that heading is, on the proper construction of the warrants, then whether the warrants were lawful in light of whatever conclusion is reached as to their proper construction.

The Application

13. Ms Mason made the successful application for the warrants by attending upon DDJ Lowe, in person, sitting at Blackburn Magistrates’ Court, on 30 October 2020, having

sent to the Lancashire Magistrates' Listing Office during the morning of 28 October 2020 an email stating that she wished "to make an application for entry warrants to be executed at ... premises currently under investigation by [LTS]" and attaching "In support of my application": a signed warrant application; copies of relevant extracts from the 2015 and 1994 Acts; draft warrants; evidence of her credentials as an authorised TSO; and a schedule listing the statutes that as a TSO she was authorised to enforce.

14. The signed warrant application stated that the application was to Preston Magistrates' Court, because when initially telephoning for a listing Ms Mason was told she would be heard there. She was later notified that in fact she would be heard in Blackburn, but the signed application was not amended for the entirely unimpressive reason that under LTS's procedures, the application had been approved and counter-signed to confirm Ms Mason's authority to make it by a member of the LTS senior management team. Ms Mason says in her witness statement in this claim that "amendments by officers are not permitted once the application has been signed by a member of SMT". If that internal management rule is so strict that Ms Mason was not allowed to amend the paperwork to reflect the Listing Office notification of a change of venue for the hearing, then she should have taken it to a member of the senior management team for an authorised amendment. Nothing turns on this point now, although it does explain why, since the warrants did not state on their face where DDJ Lowe had sat when issuing them, this claim was commenced naming Preston Magistrates' Court rather than Blackburn Magistrates' Court as the first defendant.

15. Section 1) of the signed application form was in these terms:

1) THE MAIN ENTRY POWER. Make sure the court has a copy of the legislation which allows it to issue the warrant(s) for which you are applying (the main entry power), and any legislation which allows you to make this application if you are not a constable. If necessary, attach a copy of the legislation when you send or deliver this form to the court.

(a) What legislation allows the court to issue the warrant(s) for which you are applying? This is the main entry power:

Consumer Rights Act 2015 Schedule 5 Part 4 (32)

(b) How does the legislation allow you to make this application?

The Trade Marks Act 1994 is domestic legislation. As an authorised officer of a local Weights and Measures Authority I am under a duty to enforce the provisions of the Act by virtue of Section 93. The Consumer Rights Act 2015 powers are applied to The Trade Marks Act by virtue of Schedule 5, Part 2 paras 9 & 10.

16. Section 2) of the application ("THE INVESTIGATION") set out substantial factual detail concerning the investigation into the activities of the Bansal family and the corporate claimants. It is rightly no part of the claimants' grounds for this judicial review to suggest that the information set out in Section 2), when confirmed on oath before DDJ Lowe, did not provide him with ample basis properly to conclude that there were reasonable grounds to believe that the addresses to which the warrants would

authorise entry were likely to contain evidence of offending contrary to s.92 of the 1994 Act.

17. Section 3) of the application (“**ARTICLES OR PERSON(S) SOUGHT**”) asked Ms Mason to identify what, or who, was to be looked for and how those things, or people, met the criteria for the issue of an entry warrant prescribed by the main entry power, i.e. (in this case) why both Condition A or B and Condition C, D or E in paragraph 32 of Schedule 5 of the 2015 Act were satisfied. Ms Mason’s answer was that LTS was seeking the entry warrants “*to inspect any goods, equipment or documents relating to the supply of trade marked products, namely, phones, tablets, laptops, computers, associated invoices, receipts, supplier contact details, and keys to other units and premises which an authorised officer would be entitled to inspect after entry (Schedule 5 Part 4 para 25 of the Consumer Rights Act 2015), or to require the production of records or take copies of records (Schedule 5 Part 4 para 27 of that Act), or to seize goods and documents (Schedule 5 Part 4 paras 28/29 of that Act), and that their inspection is likely to disclose evidence of the commission of offences relating to trade marked products which infringe the requirements imposed by Section 92 of the Trade Marks Act 1994.*” It is likewise rightly no part of the claimants’ grounds for judicial review to suggest that Section 3), read against the background of Section 2), did not provide DDJ Lowe with ample basis properly to conclude that there were reasonable grounds for thinking that Condition A(a) (or for that matter Condition A(b)) was satisfied. In addition, there was material within Section 2) upon the basis of which DDJ Lowe could properly be satisfied that there were reasonable grounds for believing that Condition D was satisfied.
18. It is fair to say that it would have been better if Condition D had been addressed, separately and specifically, within Section 3). That said, the form was accompanied by a “**List of specified premises to be entered**” presented in table form, one column of which was for “**Reasons why access conditions are met**”. For each address, the reasons given were that “*The application demonstrates that there are reasonable grounds for believing that counterfeit goods, documentation, and digital equipment which the applicant has power to inspect are on these premises; and that it is likely that these items on the premises would be concealed or interfered with if notice of entry were to be given to the occupant.*” That is to say, although this terminology was not used, the information and case set out to the court as justifying the grant of the warrants sought was that statutory Conditions A(a) and D were met.
19. Thus, the application was plainly for the exercise by DDJ Lowe of the paragraph 32 power to issue entry warrants, on the basis of statutory Conditions A(a) and D; but those statutory Conditions were not named in the application form, nor was it said in terms in the form that the paragraph 32 power required the court to be satisfied that there were reasonable grounds for believing that both Condition A or B and Condition C, D or E were satisfied. The application form did in terms name the paragraph 32 power as the statutory jurisdiction being invoked; but as already noted, that was not carried through into the drafting of the warrants, so they did not mention paragraph 32 or indeed the 2015 Act.

The Decision

20. DDJ Lowe signed at the time a decision form included within the application. He there gave as his reason for issuing the warrants that, “*I was satisfied that entry to the*

premises was unlikely to be granted without a warrant and/or the purposes of entry would otherwise be frustrated & that the conditions in s.32 Consumer Rights Act 2015 were satisfied.” The reference to ‘s.32’ obviously should have been to paragraph 32 (of Schedule 5 to the 2015 Act). The reference to entry being not likely permitted without a warrant may have had in mind the first part of statutory Condition C (which is that “*access to the premises has been or is likely to be refused*”), but this could not be a Condition C case because the application was without notice and the second part of Condition C is that notice of the intention to apply for a warrant under paragraph 32 has been given to the occupier of the premises in question. Equally, of course, a view that it was unlikely that entry would be permitted without a warrant would be a relevant consideration in the exercise of the court’s discretion whether to issue a warrant, whichever statutory Conditions were assessed as satisfied such that there was power to do so. The reference to frustrating the purposes of entry may have had in mind Condition D and/or discretionary factors, including whether it had been justified to apply without notice. The compendious reference to being satisfied as to the statutory Conditions is less helpful than it should have been.

21. Those concerns or criticisms noted, the witness statement evidence of DDJ Lowe, accepted by the claimants before me, is that he did address his mind to which of the statutory Conditions were satisfied and “*the conditions which I found to have been met were conditions A and D.*”

Powers after Entry

22. Paragraph 23(1) of Schedule 5 to the 2015 Act gives an officer of an enforcer, so in this case a TSO, power to “*enter premises at any reasonable time*”, but by paragraph 23(2) that “*does not authorise ... entry into premises used wholly or mainly as a dwelling*”. Paragraph 23 goes on to set out other requirements in relation to the power of entry under paragraph 23(1), drawing a distinction in that regard between routine inspections as defined by paragraph 23(6) and other inspections.
23. One argument raised by Mr Campbell-Tiech QC, relying if he needed to do so on s.31(2A) of the Senior Courts Act 1981, was that the warrants had not been needed for entry since the TSOs could have entered in exercise of their powers under paragraph 23(1), even in respect of the Bansal family’s home address, because the basement ‘garage’ built under the house was so extensive and in such use as to constitute, in truth, a commercial warehouse unit so that the warrant address constituted dual use residential and commercial premises and did not fall within paragraph 23(2). I shall not need to deal with that argument and in what follows I assume in the claimants’ favour that entry needed to have been authorised by the warrants, which in any event seems only fair given that the 5 November operation was in fact carried out purportedly pursuant to those warrants. That is to say, the warrants were produced and provided to the Bansal family as providing the TSOs and those accompanying them with their claimed lawful authority to enter.
24. Paragraph 24 of Schedule 5 provides that “*Paragraphs 25 to 31 apply if an officer of an enforcer has entered any premises under the power in paragraph 23(1) or under a warrant under paragraph 32*”. Mr Bowers QC argued that this should be read as if it said that paragraphs 25 to 31 apply where there has been entry under paragraph 23(1) or pursuant to a warrant issued on the basis of Condition B under paragraph 32, but only paragraphs 25 and 27 apply where entry is pursuant to a warrant issued on the

basis of Condition A under paragraph 32. There is no arguable merit in that argument of construction, and I did not trouble Mr Campbell-Tiech QC to respond on it.

25. The argument was raised so as to contend that some of the things done after entry was gained (for example seizing goods and documents pursuant to paragraphs 28 and 29 of Schedule 5) were not authorised by the 2015 Act if the warrants were Condition A warrants and not Condition B warrants. That contention therefore falls away.
26. If they had entered lawfully under the warrants, then Ms Mason and her TSO colleagues had statutory powers:
 - (i) to inspect any product (paragraph 25(1));
 - (ii) to test weighing or measuring equipment (paragraph 26(1));
 - (iii) to require production of, and to take copies of, a trader's business documents (paragraph 27(1));
 - (iv) to seize and detain goods or documents (paragraph 28(1) or 29(1) respectively);
 - (v) to break open any container, open any vending machine, or access electronic devices on which information may be stored or from which it might be accessed, for the purpose of seizing and detaining goods or documents under paragraph 28(1) or 29(1) (paragraph 31(1)/(2)).
27. Furthermore, by paragraph 33(3) of Schedule 5, when Ms Mason or any of her TSO colleagues entered under the warrants, they were entitled to be accompanied by such persons, and take onto the premises such equipment, as they thought necessary. Therefore:
 - (i) in principle, a police officer could be lawfully present on the warrant premises by being such a person, and
 - (ii) if a police officer were in that way lawfully present on the warrant premises and whilst there was given reasonable grounds to suspect that they contained stolen goods, their powers to search for and seize suspected stolen property would be available to be exercised by them.
28. In this case, one of the attending police officers, PC Cregan, did seize some 'Timberland' hoodies identified to him whilst he was on the warrant premises for which he was given reasonable grounds to suspect that they were stolen rather than counterfeit, although the latter was also identified as a possibility. Subsequent enquiries ruled out to the satisfaction of the police the possibility that the hoodies were stolen and they were passed by the police into the custody of LTS, where they remain to date. Complicated questions may arise as to what can or should happen to those hoodies, in the light of whatever ruling is made now as to the lawfulness of their initial seizure by PC Cregan. I am not asked to consider or determine those, however, only the lawfulness or unlawfulness of the initial seizure.

The Grounds

29. The claimants' grounds for judicial review are as follows:-

30. By Ground 1, the claimants say that the warrants were “*unlawful on their face*” because they purported to have been issued by DDJ Lowe under the 1994 Act, though it is plain on the face of the warrants that there was no power under that Act to issue them. It is indeed plain on the face of the warrants that there was no power under the 1994 Act to issue them, and there was in fact no such power, so the issue is as to the premise that the warrants purported to have been issued under the 1994 Act, and the effect upon their validity if so.
31. By Ground 2, the claimants said that the criteria for the issue of warrants under the paragraph 32 power were not satisfied. That claim amounted on analysis to an argument that I should conclude, contrary to the evidence, that DDJ Lowe had not in fact addressed his mind to the statutory Conditions under paragraph 32, or had not in fact concluded that Conditions A and D were satisfied.
32. For example, heavy emphasis was placed upon cases where it has been insisted that applications should with scrupulous care identify, and should do so explicitly, which statutory criteria are being invoked and the factual basis for doing so; cases, that is, such as *Hargreaves et al v Powys County Council Trading Standards Department et al* [2015] EWHC 1803 (Admin), in which a Divisional Court (Burnett LJ and Thirlwall J, as they were then) quashed warrants issued under the predecessor to the paragraph 32 power (which was the power under regulation 21 of the Consumer Protection from Unfair Trading Regulations 2008). But the conclusion sought to be drawn was that “*Given the terms of the warrants it is impossible rationally to conclude that DJ Lowe was satisfied of ... criteria under the [2015 Act]*”, or again that “*no inference can be drawn that DJ Lowe found the [2015 Act] criteria to be satisfied from a reading of the application (cf. R (Cronin) v Sheffield Justices [2003] 1 WLR 752)*”.
33. In this case, I find on the evidence that DDJ Lowe *did* address his mind to the statutory Conditions for the existence of the paragraph 32 power, and was satisfied as to Conditions A and D, which sufficed. As I noted above, it is no part of Ground 2 to contend that the application did not provide DDJ Lowe with a proper basis reasonably to be so satisfied (and although at one point in the oral argument, it may be led astray by a question from the court, Mr Bowers QC seemed to be trying to develop such a case on the hoof, he fairly acknowledged that no such case was within the Grounds on which permission was granted and that he was not seeking to amend).
34. There is nothing in Ground 2, therefore, and I need say no more about it.
35. By Ground 3, the claimants claim that the warrants did not authorise the search for, or seizure of, any item. In a narrow sense, that is plainly correct, but that is because the warrants did not purport to authorise search or seizure, they were, and were only, entry warrants. The claimants’ real point, however, as pleaded in their Grounds, is this:
 - (i) first, and generally, they say that if as they contend the warrants were unlawful, then “*the entry to the premises [and therefore] the searches and all of the seizures were similarly unlawful*”;
 - (ii) second, and specifically, that if as they contend the warrants were unlawful and if it follows that PC Cregan was not lawfully on the premises, then his seizure of the ‘Timberland’ hoodies was unlawful.

36. There is a further point concerning PC Cregan and the 'Timberland' hoodies, which arguably goes beyond Ground 3 as pleaded but which arises on PC Cregan's witness evidence and was fully argued. I shall call it 'Ground 3*' and it arises thus:
- (i) PC Cregan says in his evidence that he was present, and entered the premises, in order to ensure that no breach of the peace occurred, trouble of that kind being a known potential by-product of operations of this kind;
 - (ii) in the event, nothing occurred during the 5 November operation that could have caused any of those present to think that anything untoward was or was likely to kick off;
 - (iii) Mr Bowers QC argues that the lawfulness of PC Cregan's presence on the premises must be tested solely by reference to his evidence that he was relying on his ordinary powers as a constable to police actual or prospective breaches of the peace, and not by reference to paragraph 33(3) of Schedule 5 to the 2015 Act;
 - (iv) if that be right, and if it be right that there was no or no proper basis for any entry to the premises on the basis of policing a possible breach of the peace, then it was said that the seizure of the 'Timberland' hoodies by PC Cregan could not be justified.

Ground 1

37. This is the real point in the case. It is developed at unnecessary length in the Grounds as pleaded, in that the claimants there rather labour the point that the factual basis upon which the warrants state on their face that they were issued is not a basis giving rise to a power provided by the 1994 Act for the issue of entry warrants. That point is of no use to the claimants in this claim unless the warrants purport to have been issued under a power granted by the 1994 Act notwithstanding that evident lack of basis for them to have been so issued.
38. That is a question of the proper interpretation of the warrants, and I accept Mr Bowers QC's submission that a warrant must be considered upon its own terms only, without reference to other materials, when determining its meaning and (purported) effect. As it was put in *R (Van der Pijl) v Crown Court at Kingston* [2013] 1 WLR 2706 at [57]: "*... the warrant ... is the only document which provides lawful cover for what would otherwise be an unlawful act. Accordingly ... the warrant must be judged by reference to its own terms exclusively and not by reference to any other material source.*"
39. The pleaded case for the claimants as to that is a single sentence asserting that "*The warrants tell the reader that they are warrants pursuant to the [1994 Act]*". I set out the text of the warrants in full in paragraph 7 above. Nothing in that content says in terms that the power to issue warrants being exercised by DDJ Lowe was a power granted by the 1994 Act. The body of the warrants recites that various matters, as set out, were stated on oath by Ms Mason, being an authorised TSO, and that DDJ Lowe was satisfied that there were reasonable grounds to believe those matters, and then directed, under the hand of DDJ Lowe, that Ms Mason (or other authorised TSO) could enter the identified premises, by force if necessary. The sense of all that is of course that DDJ Lowe so directed on the basis of his being satisfied that there were reasonable

grounds to believe the matters said by the warrants to have been stated on oath by Ms Mason.

40. None of that content purports to identify the source (statutory or otherwise) of the power being exercised by DDJ Lowe in issuing the warrants. There is reference to the 1994 Act in the information said to have been stated on oath, conveying to the reader that DDJ Lowe was told that inspection of items at the identified premises was likely to disclose evidence of a breach of that Act. That neither asserts in terms nor implies that the 1994 Act is the source of any power vested in DDJ Lowe to issue an entry warrant on the basis of that information.
41. Ground 1 therefore depends on the fact that the warrants bore the heading: “**WARRANT TO ENTER PREMISES: THE TRADE MARKS ACT 1994**”. The necessary submission is, and the submission of Mr Bowers QC was, that the warrants thereby conveyed that the 1994 Act was the source of the power vested in DDJ Lowe that was being exercised by their issuance.
42. I do not accept that submission. The heading does not so state. The exercise in interpreting the warrants is an exercise in putting a meaning to the colon in the heading. The claimants need the colon to convey “*issued pursuant to a power granted by*”, or similar; but to my mind it conveys only “*for the purposes of*”, “*in connection with*”, or the like.
43. That means that the warrants did not state on their face the source of the power being exercised by DDJ Lowe, but there is no legal requirement for an entry warrant issued in exercise of the paragraph 32 power to state on its face the statutory authority under which it is issued. Mr Bowers QC did not suggest that any such requirement was created by the 2015 Act (which granted the paragraph 32 power), by the 1994 Act (the statute being enforced here *inter alia* through the application for the warrants), or by any other statute. As in *R (Bromley) v Secretary of State for Justice* [2010] EWHC 112 (Admin) at [53]-[56], explaining comments of Lords Wilberforce and Diplock in *R v Inland Revenue Commissioners, ex parte Rossminster Ltd et al* [1980] AC 952, it would be good practice for entry warrants sought within an investigation or enforcement operation to be drafted so as to carry an express statement of the power in the issuing court that was being exercised, but where there is no statutory requirement for such a statement to appear on the face of the warrant, “*there can be no question of the warrant being unlawful*” (*ibid* at [56]).
44. If there *were* a statutory requirement for the warrants to carry on their face a statement identifying paragraph 32 of Schedule 5 to the 2015 Act as the power being exercised by DDJ Lowe, it would be necessary to consider whether the failure to comply with that requirement was a failure of form or procedure only, not invalidating the warrants, or a matter to be regarded as rendering unlawful DDJ Lowe’s exercise of power that might require the warrants to be quashed (see *R v Soneji* [2006] 1 AC 340 and the case-law since Lord Steyn’s salutary reappraisal in that case of the old distinction between ‘directory’ and ‘mandatory’ statutory requirements, such as *R v Ashton* [2007] 1 WLR 181, *R v Clarke & McDaid* [2008] 1 WLR 338). Mr Campbell-Tiech QC’s argument under s.31(2A) of the Senior Courts Act 1981 would also have to be considered. As it is, questions of that kind do not arise.
45. There is, on analysis, no substance to Ground 1.

Ground 3

46. It follows that Ground 3 as pleaded also fails. Its premise was that the warrants were unlawful. The claimants have failed to establish that premise.

Ground 3*

47. It is a curious feature of the present case, to put it at its lowest, that PC Cregan insists by a witness statement provided for this claim that, in his mind, he was present on 5 November 2020, and entered one of the warrant premises, only for the purpose of policing a possible breach of the peace. That is curious because there is a wealth of evidence indicating that PC Cregan must be mistaken about that. Mr Campbell-Tiech QC, appearing for both LTS and the Chief Constable, joined as third defendant on the basis of his legal responsibility for PC Cregan's conduct, felt obliged to ask the court to proceed on the basis of PC Cregan's evidence. The claimants, through Mr Bowers QC, were content not to challenge that account.
48. On that basis, I have no doubt that the reason which I am constrained to say was the reason PC Cregan had in mind at the time as justifying his presence on the premises did not in fact do so. Even if, which I would be prepared to find in PC Cregan's favour, there were sufficient basis to apprehend the possibility of a breach of the peace to justify a police presence at the scene with a view to taking action if required, no such action proved to be required. In particular, there was no rational basis – nor that I can see does PC Cregan attempt to identify any – for a conclusion after arrival at the scene that PC Cregan's entry onto the premises was required because of any real or reasonably apprehended threat of a breach of the peace.
49. It is also clear, however – from the same evidence that (if different forensic positions had been adopted) might have led to a finding that PC Cregan's evidence as to why he entered the premises was unreliable – that PC Cregan was one of the police officers who were requested to attend by the LTS TSOs running the operation and were regarded by them as necessary companions when entering the premises pursuant to the warrants, to assist in the inspection of items there. PC Cregan in fact accompanied the TSOs and when he did so he was a person they thought it necessary to have accompany them. Paragraph 33(3) of Schedule 5 to the 2015 Act therefore authorised PC Cregan's presence on the premises, even if his own thinking was muddled as to why he was there (as I am constrained to say that it was).
50. In short, I agree with Mr Campbell-Tiech QC that the question whether PC Cregan was lawfully present, at all events where paragraph 33(3) is relied on as the source of his lawful authority to be there, is defined by reference to the evidence of the TSOs as to why they took him with them onto the premises, because that is the focus of paragraph 33(3), and not by PC Cregan's subjective but confused thinking.
51. The information PC Cregan was given whilst on the premises concerning the 'Timberland' hoodies gave him reasonable grounds for suspecting them to be stolen property. Since he was lawfully present, he was empowered to seize the hoodies as he did. Ground 3*, as I have labelled it, therefore also fails.

Conclusions

52. Although the argument was more wide-ranging, in part to deal with points that might arise if I were otherwise with the claimants in their claim, and in part because of a lack of precision and focus in the presentation of the claimants' arguments, in the end this is a straightforward case. The warrants issued by DDJ Lowe did not claim on their face to have been issued under a power granted by the 1994 Act. They claimed on their face to have been issued, and they were in fact issued, in connection with or for the purposes of that Act.
53. The warrants were issued in exercise of the paragraph 32 power, that is to say the source of the power that DDJ Lowe was exercising when issuing them was the 2015 Act. The warrants did not say as much, and it would have been good practice if they had done so; but their failure to do so does not mean they were unlawful.
54. There was ample basis in the application put before DDJ Lowe for him reasonably to conclude, and on the evidence he did in fact conclude, that there were reasonable grounds for believing that Conditions A and D in paragraph 32 of Schedule 5 to the 2015 Act were satisfied. It was a lawful exercise of the paragraph 32 power for DDJ Lowe to issue the warrants as he did.
55. As regards the 'Timberland' hoodies, although PC Cregan says he had in mind that his presence on the premises was justified by reference to his powers as a constable to police an actual or apprehended breach of the peace, and in fact there was no actual or reasonably apprehended breach of the peace justifying entry onto the property, PC Cregan was lawfully present because he was one of those accompanying the TSOs as a person they thought it necessary to accompany them to assist them in exercise of their powers under Schedule 5 following entry pursuant to the warrants.
56. More generally, the judicial review claim for relief in respect of steps taken after entry was premised upon the contention I have rejected that the warrants were unlawful.
57. In the circumstances, the claimants' claims for public law remedies in respect of the warrants, or the steps taken in and after the execution of the warrants, fail and will be dismissed.