Neutral Citation Number: [2020] EWHC 1787 (QB)

Case No: QB-2020-000089

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 06/07/2020

Before :

MRS JUSTICE STEYN DBE

- -

Between :

YVONNE AMEYAW

Claimant

- and -

(1) CHRISTINA MCGOLDRICK
(2) LOUISE COYNE
(3) PRICEWATERHOUSECOOPERS SERVICES LIMITED

Defendants

- -
- -

The Claimant represented herself
Rupert Paines (instructed by Fladgate LLP) for the Defendants

Judgment without a hearing pursuant to CPR 23.8(b)

- -

Approved Judgment

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

.....

THE HONOURABLE MRS JUSTICE STEYN DBE

Covid-19 Protocol: This judgment was handed down by the Judge remotely by circulation to the parties' representatives by email and release to Bailii. The date and time for hand-down is deemed to be 6 July 2020 at 14:00

Mrs Justice Steyn :

A. Introduction

1. This judgment addresses an application for me to recuse myself ("the recusal application") from dealing with the Defendants' application dated 30 March 2020 ("the Defendants' application"). The recusal application was made by the Claimant by email on 2 July 2020 at 11.25. I received written submissions in response from the Defendants' representatives at 17.14 on 2 July 2020.

2. In accordance with my order of 3 July 2020, and for the reasons attached to my Order, this application is being determined without a hearing, with the agreement of both parties, in accordance with CPR 23.8(b).

B. The Claimant's grounds

3. As I read them, the Claimant's submissions raise two matters which she submits give rise to an appearance of bias:

   i) My professional relationship with the Defendants' Counsel, Mr Paines; and

   ii) The way in which I dealt with the hearing on 1 July 2020 and the fact that I am now the subject of a complaint made by the Claimant's mother in respect of the hearing on 1 July 2020.

4. It is clear from the Defendants' submissions that they have understood the Claimant's application to be based solely on the first of these points, and so that is the only ground addressed in their submissions. It seems to me from the first paragraph of the Claimant's submissions that she is also relying on the points which I have sought to elucidate as ground (ii), albeit the focus of the remainder of the Claimant's written submissions is on ground (i). Accordingly, I address both grounds below.

C. The legal principles

5. The Claimant has a right to a fair hearing before an impartial court. It is of fundamental importance that judicial decisions should be made free from bias or partiality. It has long been recognised that justice must not only be done, it must also be seen to be done: see *R v Sussex Justices, ex parte McCarthy* [1924] 1 KB 256.

6. The authorities draw a distinction between actual bias and apparent bias. Most cases dealing with bias are argued and decided on the basis of apparent bias. As I have said, this case is no exception: no allegation of actual bias has been made.

7. In *In re Medicaments and Related Classes of Goods (No.2)* [2001] 1 WLR 700, [2001] ICR 564, Lord Phillips MR (giving the judgment of the court) observed at [37]:

> "Bias is an attitude of mind which prevents the judge from making an objective determination of the issues that he has to resolve."

8. The approach, and the test to be applied, in considering the recusal application is as follows:

> "The court must first ascertain all the circumstances which have a bearing on the suggestion that the judge was biased. It must then ask whether those circumstances would lead a fair-minded and informed observer to conclude that there was a real possibility, or a real danger, the two being the same, that the tribunal was biased."

See *In re Medicaments (No.2)* per Lord Phillips MR at [85] and the endorsement of this passage by the House of Lords in *Porter v Magill* [2002] 2 AC 357, per Lord Hope (with whom all members of the Judicial Committee agreed) at [102]-[103].

9. It is, therefore, clear that:

i) The matter is to be judged from the perspective of the fair-minded and informed observer; and

ii) The threshold is a "real possibility".

10. In *Lawal v Northern Spirit Ltd* [2003] UKHL 35, Lord Steyn (giving the opinion of the Judicial Committee) observed at [14]:

> "Public perception of the possibility of unconscious bias is the key. It is unnecessary to delve into the characteristics to be attributed to the fair-minded and informed observer. What can confidently be said is that one is entitled to conclude that such an observer will adopt a balanced approach. This idea was succinctly expressed in *Johnson v Johnson* (2000) 201 CLR 488, 509, para 53, by Kirby J when he stated that "a reasonable member of the public is neither complacent nor unduly sensitive or suspicious."

11. The characteristics of the notional fair-minded and informed observer were described in more detail by Lord Hope in *Helow v Secretary of State for the Home Department* [2008] 1 WLR 2416:

> "2. The observer who is fair-minded is the sort of person who always reserves judgment on every point until she has seen and fully understood both sides of the argument. She is not unduly sensitive or suspicious, as Kirby J observed in *Johnson v Johnson* (2000) 201 CLR 488, 509, para 53. Her approach must not be confused with that of the person who has brought the complaint. The "real possibility" test ensures that there is this measure of detachment. The assumptions that the complainer makes are not to be attributed to the observer unless they can be justified objectively. But she is not complacent either. She knows that fairness requires that a judge must be, and must be seen to be, unbiased. She knows that judges, like anybody else, have their weaknesses. She will not shrink from the conclusion,

> if it can be justified objectively, that things that they have said or done or associations that they have formed may make it difficult for them to judge the case before them impartially.
>
> 3. Then there is the attribute that the observer is "informed". It makes the point that, before she takes a balanced approach to any information she is given she will take the trouble to inform herself on all matters that are relevant. She is the sort of person who takes the trouble to read the text of an article as well as the headlines. She is able to put whatever she has read or seen into its overall social, political or geographical context. She is fair-minded, so she will appreciate that the context forms an important part of the material which she must consider before passing judgment."

12. In *Locabail (UK) Ltd v Bayfield Properties Ltd* [2000] QB 451, Lord Bingham CJ, Lord Woolf MR and Sir Richard Scott V-C observed in a joint judgment of the court at [25]:

> "It would be dangerous and futile to attempt to define or list the factors which may or may not give rise to a real danger of bias. Everything will depend on the facts, which may include the nature of the issue to be decided. We cannot, however, conceive of circumstances in which an objection could be soundly based on the religion, ethnic or national origin, gender, age, class, means or sexual orientation of the judge. Nor, at any rate ordinarily, could an objection be soundly based on the judge's social or educational or service or employment background or history, nor that of any member of the judge's family; or previous political associations; or membership of social or sporting or charitable bodies; or Masonic associations; or previous judicial decisions; or extra-curricular utterances…; or previous receipt of instructions to act for or against any party, solicitor or advocate engaged in a case before him; or membership of the same Inn, circuit, local Law Society or chambers … By contrast, a real danger of bias might well be thought to arise if there were personal friendship or animosity between the judge and any member of the public involved in the case; or if the judge were closely acquainted with any member of the public involved in the case, particularly if the credibility of that individual could be significant in the decision of the case; or if, in a case where the credibility of any individual were an issue to be decided by the judge, he had in a previous case rejected the evidence of that person in such outspoken terms as to throw doubt on his ability to approach such person's evidence with an open mind on any later occasion; or if on any question at issue in the proceedings before him the judge had expressed views, particularly in the course of the hearing, in such extreme and unbalanced terms as to throw doubt on his ability to try the issue with an objective

> judicial mind …; or if, for any other reason, there were real ground for doubting the ability of the judge to ignore extraneous considerations, prejudices and predilections and bring an objective judgment to bear on the issues before him. The mere fact that a judge, earlier in the same case or in a previous case, had commented adversely on a party or witness, or found the evidence of a party or witness to be unreliable, would not without more found a sustainable objection. In most cases, we think, the answer, one way or the other, will be obvious. But if in any case there is real ground for doubt, that doubt should be resolved in favour of recusal. We repeat: every application must be decided on the facts and circumstances of the individual case. The greater the passage of time between the event relied on as showing a danger of bias and the case in which the objection is raised, the weaker (other things being equal) the objection will be."

13. In *Taylor v Lawrence* [2003] QB 528, Lord Woolf CJ (giving the judgment of court) addressed a contention that an appearance of bias arose from the judge's professional relationship with the solicitors for one of the parties at [61]-[63]:

> "61. The fact that the observer has to be "fair-minded and informed" is important. The informed observer can be expected to be aware of the legal traditions and culture of this jurisdiction. Those legal traditions and that culture have played an important role in ensuring the high standards of integrity on the part of both the judiciary and the profession which happily still exist in this jurisdiction. Our experience over centuries is that this integrity is enhanced, not damaged, by the close relations that exist between the judiciary and the legal profession. Unlike some jurisdictions the judiciary here does not isolate itself from contact with the profession. Many examples of the traditionally close relationship can be given: the practice of judges and advocates lunching and dining together at the Inns of Court; the Master of the Rolls's involvement in the activities of the Law Society; the fact that it is commonplace, particularly in specialist areas of litigation and on the circuits, for the practitioners to practise together in a small number of chambers and in a small number of firms of solicitors, and for members of the judiciary to be recruited from those chambers and firms.
>
> 62. It is also accepted that barristers from the same chambers may appear before judges who were former members of their chambers or on opposite sides in the same case. This close relationship has not prejudiced but enhanced the administration of justice. …
>
> 63. The informed observer will therefore be aware that in the ordinary way contacts between the judiciary and the profession should not be regarded as giving rise to a possibility of bias. On

> the contrary, they promote an atmosphere which is totally inimical to the existence of bias. What is true of social relationships is equally true of normal professional relationships between a judge and the lawyers he may instruct in a private capacity." (emphasis added)

D. Ground (i): Professional relationship

The parties' submissions

14. The Claimant contends:

> "In the present case there is apparent bias whereby Mrs Justice Steyn had been in 11 King's Bench Chambers for some considerable time and during which time she took silk in 2014, just two years after Counsel appearing before her, Rupert Paines (a Junior) was admitted in 2012 and Mrs Justice Steyn had mentored him. Accordingly, there is a close connection between Mrs Justice Steyn and Mr Rupert Paines even if on a professional level, it is plain that the best thing to do is for Mrs Justice Steyn to recuse herself and to have declared this connection in open court and ought to have given the parties before her an opportunity to make representations as to whether she should continue to sit."

15. The Claimant recognises in her submissions that there are "often connections between lawyers involved in a case, such as the judge formerly having been in chambers with one of the barristers appearing in front of them". Nevertheless, she contends:

> "The fact is that Rupert Paines is a lead junior and indeed the learned judge was a QC at the time in practice at the same chambers with Rupert Paines appearing for and on behalf of the Defendants in an application to strike out all the claims in its entirety before the same learned judge who had mentored him whilst in chambers.
>
> …
>
> It is submitted that the professional embarrassment here is all too plain and obvious as between Rupert Paines appearing before his mentor, Mrs Justice Steyn and Mrs Justice Steyn having to preside over matters to which one of her protégé is seeking to strike out particulars of claim in its entirety could not be too more embarrassing for the learned [judge] not to continue to wish to sit to be on the safest side on the particular circumstances of this case."

16. The Claimant relies on *Howell v Lees Millais* [2007] EWCA Civ 720 and submits that the "present case crosses the line".

17. The Defendants submit that the complaint of apparent bias, based on the fact that I was, prior to my elevation to the Bench, a member of 11 King's Bench Walk chambers ("11KBW"), the chambers of which Mr Paines is a member, and that I was Mr Paines' pupil supervisor for three months in autumn 2012, is "plainly incorrect. It is well-established that the fact that a judge formerly shared (or indeed currently shares) Chambers with a barrister before them will not create an appearance of bias".

18. In addition to addressing the general principles, the Defendants, in respect of the specific situation of barristers appearing before current or former members of chambers, the Defendants rely on *Locabail* at [25] (which I have quoted above) and *Siddiqui v University of Oxford* [2016] EWHC 3451 (QB) in which Kerr J refused an application for him to recuse himself based inter alia on the fact that counsel for the Defendant before him was a member of his former chambers. Kerr J held:

> "19. It is true that I was a member of the same chambers of Mr Milford until June 2015. That is squarely within *Locabail* paragraph 25, and as Mr Mallalieu [Counsel for the claimant] readily accepts, it is commonplace in litigation in these courts for a member of chambers to appear before a judicial tribunal comprising a former member of that person's chambers.
>
> 20. I am confident that the points relied upon by the claimant would not lead cumulatively or individually a fair-minded observer to conclude that there is a real possibility of bias, and the application for a change of judge is for those reasons dismissed." (emphasis added)

19. The Defendants submit:

> "Membership of the same Chambers does not give rise to an appearance of bias. A period as a pupil supervisor a number of years ago, particularly when the Judge was at that time an experienced junior who supervised many pupils, does not give rise to an appearance of bias.
>
> The application should be refused. The Judge has fully read in and made a number of preliminary determinations. The Claimant and Mr Ogilvy have previously made applications on the basis of bias, following determinations of preliminary matters against the Claimant: see §§3-8 and §§25-26 of the Grewal judgment … The application wastes the time and resources of the Court and the Defendants."

Analysis

20. The circumstances which have a bearing on the suggestion that there is an appearance of bias by reason of my relationship with the Defendants' Counsel, in addition to the general circumstances addressed in the authorities, are these:

    i) I was a member of 11KBW from 2 October 2000 until 30 September 2019. Mr Paines has been a member of 11KBW since 2013, having undertaken his

pupillage at 11KBW during the legal year 2012-2013. We were, therefore, members of the same chambers for a period of six years.

ii) For several years as a senior junior, as is commonplace at the Bar, I acted as a pupil supervisor, supervising a number of 11KBW's pupils for periods of three months each. Each pupil would also be supervised by two other pupil supervisors during the year, as well as undertaking work for numerous other members of chambers.

iii) I was Mr Paines' pupil supervisor for three months in autumn 2012.

iv) The relationship is a professional one.

v) The judicial oath or affirmation, by which I am bound, includes a pledge to do justice without fear or favour, affection or ill-will.

21. In my judgment, the Claimant's contention that there is an appearance of bias by reason of my former membership of the same chambers as the Defendant's counsel, and the fact that he was once one of my pupils and I was one of his pupil supervisors, is ill-founded.

22. The fact of a judge having been a member of the same chambers as counsel for a party falls squarely within the examples given by the Court of Appeal in *Locabail* at [25] of circumstances which do not, at any rate ordinarily, give rise to any soundly based objection. The Court of Appeal in *Taylor v Lawrence* [2003] QB 528 also made clear that it is not only commonplace for Counsel to appear before judges who were formerly members of their chambers, such professional contacts between the Bar and the Judiciary do not give rise to a real possibility of bias.

23. I have borne in mind that in *Lawal* Lord Steyn observed at [22] that while the informed observer can, as Chadwick LJ said in *Taylor v Lawrence* "be expected to be aware of the legal traditions and culture of this jurisdiction", "he may not be wholly uncritical of this culture", and standards may change over time. However, *Lawal* was concerned with the position where a fee-paid judge who had chaired a tribunal on which a lay wing member had sat, subsequently appeared as a barrister before that lay wing member. The House of Lords did not address the issue of contacts between members of the Bar and those sitting as salaried judges with secure tenure.

24. It is clear that the application of the appearance of bias principles to contacts between members of the Bar and the Judiciary remains as stated in *Taylor v Lawrence.* The Court of Appeal addressed the issue in *Watts v Watts* [2015] EWCA Civ 1297, upholding a decision by a fee-paid judge not to recuse herself. The circumstances which gave rise to the recusal application were that the barrister for one of the parties was junior Counsel to the fee-paid judge in another case, which they had been working on together for the past year.

25. Sales LJ (with whom the other members of the Court of Appeal agreed) concluded at [28]:

> "i) The notional fair-minded and informed observer would know about the professional standards applicable to practising

members of the Bar and to barristers who serve as part-time deputy judges and would understand that those standards are part of a legal culture in which ethical behaviour is expected and high ethical standards are achieved, reinforced by fears of severe criticism by peers and potential disciplinary action if they are departed from: *Taylor v Lawrence* [2001] EWCA Civ 119, [33]-[36]; *Taylor v Lawrence* [2002] EWCA Civ 90; [2003] QB 528, [61]-[63]. These aspects of the legal culture of the Bench and legal professionals are not undermined by the fact that some litigation is now funded by means of CFAs;

ii) The notional fair-minded and informed observer would understand that a part-time judge's approach to the case she is trying and to her relationships with other professionals will be governed by these professional standards. There is no reason to think that a judge would allow her professional training and ethics to be overridden by a concern not to upset a junior counsel she is leading in other litigation. Moreover, the judge would know that the junior counsel would himself understand that she is bound by strict professional standards, and hence would have no expectation that she would do anything other than act in accordance with them. So the judge would not expect any disgruntlement or difficulty to arise in her relationship with the junior counsel even if she makes a decision adverse to him in the case she is trying. Accordingly, the idea that the judge would adjust her behaviour as judge to avoid upsetting the junior counsel is far-fetched indeed. The notional fair-minded and informed observer would not consider that there was any genuine possibility of this occurring;

iii) … The position is underlined by *Smith v Kvaerner Cementation Foundations Ltd* [2006] EWCA Civ 242; [2007] 1 WLR 370. In that case, a personal injury claim was tried by a practising barrister and part-time judge sitting as a recorder, who was the head of the chambers to which both counsel for the claimant and counsel for the defendant belonged and who had also acted for the defendant or associated companies in the past and might do so in the future. This court rejected the suggestion that an appearance of bias arose by reason of the connection between the recorder and counsel through being members of the same chambers: [17]-[19]; it was only because the recorder regarded himself as having an on-going barrister-client relationship with the defendant that this court held he should have recused himself. Similarly, in Resolution Chemicals at [46] this court referred to the idea that the reasoning in Lawal "would preclude a judge from hearing a case in which his former pupil master or regular instructing solicitors were acting for one of the parties, or a deputy High Court judge from ever hearing a case in which a more senior

> member of his or her chambers was acting for one of the parties" as something which it regarded as obviously untenable;
>
> iv) As both the Taylor v Lawrence judgments and these other decisions indicate, relationships between members of the Bar, or between members of the Bar and their clients, can be much closer than that between the deputy judge and counsel for the respondent in the present case, yet because the relationships are mediated through known professional standards no appearance of bias arises." (emphasis added)

26. The passage I have quoted demonstrates that the Court of Appeal has held it was untenable to contend that there was an appearance of bias in circumstances where one of the parties is represented by a barrister who was once the fee-paid judge's pupil supervisor or where the fee-paid judge and the barrister representing one of the parties were members of the same chambers, and the barrister was the more senior. It is all the more untenable to suggest there is an appearance of bias in this case where (a) I am a full-time Judge, (b) I am no longer a member of the chambers of which Mr Paines is a member; and (c) I am more senior than Mr Paines and I was his pupil supervisor, not vice versa.

27. I refuse the application to recuse myself on this ground.

E. Ground (ii): The hearing on 1 July and the Claimant's mother's complaint

The Claimant's submissions

28. Paragraph 1 of the Claimant's recusal application states:

> "It is submitted that for the following reasons Mrs Justice Steyn should not continue to sit and preside over this matter (a) there is extant complaint made by the Claimant's mother to three different sources and which includes the Ministry of Justice given the events that took place in court yesterday whereby the Claimant collapsed and, it is estimated that for about 5-10 minutes the learned judge continued to address the court and direct this to hearing the Respondent's application to strike out before hearing various preliminary objections set out in the Claimant's Skeleton argument and there were 8 of them and maintaining very strongly with no compassion and sensitivity that the Claimant had just collapsed in the middle of proceedings as the learned judge expressed no view or concern about the Claimant's well being whilst presiding save for a belated apology yesterday as if an afterthought. The Claimant and other persons present on her side, are very concerned about this aspect and never in the history of proceedings taking place in court where a party to proceedings collapses and a judge behaves unconcerned, said nothing about the collapse whilst it happened before the very eyes of the court, did not take steps to get the Claimant any help whilst she collapsed on the floor and

> could no longer continue her case. It was an appalling and shameful sight putting it mildly."

29. It appears from this that the Claimant is alleging that there is an appearance of bias by reason of:

    i) Her belief that I saw her collapse in court and was unconcerned for her welfare; and

    ii) The fact that the Claimant's mother has made a complaint.

Analysis

30. The circumstances of which the fair-minded and informed observer would be aware are these:

    i) In my 2 July judgment I have explained the procedural history, the preliminary applications which were made by the Claimant on 1 July and my decisions in respect of them, and the circumstances in which and reasons why I adjourned the hearing. I draw attention to some matters in this judgment, but it is necessary to refer to my earlier judgment for a full understanding of events.

    ii) Prior to the hearing on 1 July 2020, there was no indication that the Claimant was suffering from ill-health. On the contrary, the Claimant applied on 29 June 2020 for the hearing on 1 July 2020 to proceed in person rather than as a remote hearing. I granted the Claimant's application.

    iii) At the hearing on 1 July 2020, the Claimant made submissions on her own behalf. She did not say she was feeling unwell.

    iv) The 2 July judgment records:

> "69. When I refused the Claimant's application to grant Mr Ogilvy permission to make oral submissions on her behalf, the Claimant initially became agitated. She asked me to provide my reasons in writing, stating that she wished to appeal. I made clear that I would provide a written judgment and that she could seek to appeal if she wished.
>
> 70. Until this point in the hearing, the Claimant had behaved courteously and respectfully. However, her behaviour changed very suddenly and dramatically. She became extremely angry, shouting very loudly at me, as well as over me when I tried to speak. The Claimant also picked up files and threw them forcefully down onto the bench.
>
> 71. Two of the people accompanying the Claimant (who I understand to have been her mother and sister) went forward from the rows where they had been sitting, apparently to seek to calm the Claimant down. The Claimant then appeared to sit down under the bench so that she was no

> longer visible to me. At this point the Claimant's mother began shouting and became very disruptive.
>
> 72. I said that I would rise for five minutes to give the Claimant and those accompanying her time to calm down, and that when I returned I would hear the Defendants' Counsel's submissions on the Defendants' application, before giving the Claimant an opportunity to make submissions in response.
>
> 73. After I left court I was informed that the Claimant was lying down, and that Mr Ogilvy had called an ambulance for her. …"

v) I initially adjourned the hearing until 1.30. When I returned to court at 1.30, the Claimant was absent, as were those accompanying her. I informed the Defendants that I would adjourn for a short period to seek to ascertain whether the Claimant's absence was due to ill-health or for some other reason.

vi) I asked my clerk to send an email to the Claimant (and to her McKenzie friend, in view of the possibility that the Claimant would not be in a position to respond). The email said: "The Judge was very sorry to hear that an ambulance had to be called for you, Ms Ameyaw, this morning." And it sought information as to whether the Claimant would be returning to court or was unfit to do so.

vii) At about 2.15pm, in view of the Claimant's continued absence and having received no further information, I adjourned the hearing until 3 July 2020.

viii) My clerk received an email from Mr Ogilvy at 4.49pm on 1 July 2020 in which he stated that the Claimant's mother had informed him that "Ms Ameyaw following my 999 call has been admitted to Hospital and as of this time I have no clue what is her prognosis".

ix) On 2 July 2020 I received (via my clerk) an email from the Claimant's account, but which stated it was from the Claimant's mother, attaching a copy of a letter from the Claimant's GP. The GP's letter states:

> "I understand that she collapsed in court yesterday. She was assessed by the ambulance service at the scene who reported high blood pressure and pulse rate. She was transferred for assessment in the Accident and Emergency Department at St Thomas's Hospital. The hospital report states that she felt her heart rate and breathing rate increasing and felt sweaty and dizzy and then her legs gave way and she collapsed. The symptoms then resolved and once she reached hospital the investigations and observations were normal. The hospital report gives a diagnosis of a vasovagal syncopal episode."

x) The GP's letter reported that on 2 July 2020 the Claimant reported various symptoms on the basis of which the GP said, "it seems she has a current viral

> illness". I invited submissions as to whether the hearing on 3 July 2020 should be adjourned and, for the reasons given in my order dated 3 July 2020, I vacated that hearing.

31. The Claimant contends that I saw her collapse and was unconcerned. It is not clear to me that the criticism is truly one of bias, rather than of callousness. But in any event the fair-minded and informed observer is not the Claimant. Such an observer would consider the range of possible explanations for what I did and said, in the circumstances. Bearing in mind the judicial oath, and that fairness and open-mindedness are integral aspects of judicial training, a fair-minded and informed observer would not suspect bias if there is a reasonable explanation which is consistent with entirely proper conduct. In this case, a fair-minded and informed observer would consider that a reasonable alternative explanation for the fact that I said nothing about the Claimant's collapse before I left court is that I was not aware she had collapsed.

32. In my judgement, a fair-minded and informed observer would not consider that there is anything in the way in which I dealt with the hearing on 1 July 2020 which gives to a real possibility of bias.

33. Nor does the fact that the Claimant's mother has made complaints give rise to an appearance of bias. It is not hard to understand why a mother who believes (even if mistakenly) that a judge has not cared that her daughter collapsed in court would be distressed and might wish to complain.

34. In *Dobbs v Tridos Bank NV* [2005] EWCA Civ 468 Chadwick LJ observed at [7]:

> "7. It is always tempting for a judge against whom criticisms are made to say that he would prefer not to hear further proceedings in which the critic is involved. It is tempting to take that course because the judge will know that the critic is likely to go away with a sense of grievance if the decision goes against him. Rightly or wrongly, a litigant who does not have confidence in the judge who hears his case will feel that, if he loses, he has in some way been discriminated against. But it is important for a judge to resist the temptation to recuse himself simply because it would be more comfortable to do so. The reason is this. If judges were to recuse themselves whenever a litigant — whether it be a represented litigant or a litigant in person — criticised them (which sometimes happens not infrequently) we would soon reach the position in which litigants were able to select judges to hear their cases simply by criticising all the judges that they did not want to hear their cases. It would be easy for a litigant to produce a situation in which a judge felt obliged to recuse himself simply because he had been criticised — whether that criticism was justified or not."

35. It is clear that the mere fact that criticisms have been levelled at a judge – or complaints made – does not in and of itself give rise an appearance of bias.

F. Conclusion

36. Considering the Claimant's grounds separately and in the round, I am confident that the fair-minded and informed observer would apprehend no real danger of bias. This is not a case where there is "real ground for doubt" that should be resolved in favour of recusal. On the contrary, it is clear and obvious that there are no proper grounds for recusal. Accordingly, the Claimant's application is dismissed.