**Action 2 Paragraph 10 stop of BMW on Ely link road 23 January 2000**.

**Another sequence of three incidents, all in one day this time, just after the Appellant had ‘found’ his BMW car Sergeant Khilberg had recently broken into.**

**This must, again, have only been achieved by passing instructions to traffic police by senior management, to harass their vulnerable motorist whilst he was on his own.**

**First he was stopped at the Severn Bridge, then on the M4 near Cardiff and finally, between Cardiff and Barry.**

**One officer, on the M4, was recognised as coming from Barry but, as usual, all stops on the usual spurious non proven reasons with the usual hope of finding a positive breath test or defective vehicle.**

1. **Action 2 Paragraph 10 stop of BMW on Ely link road 23 January 2000**. The pleaded case is, in its entirety, “On the night of 23rd January 2000 the Claimant was stopped as he drove along the A4050 by a police officer and was required to provide a breath sample. There was no good reason to stop the Claimant or to require him to provide a breath sample”. There is no pleaded case that Mr Kirk was arrested, detained, or charged, and in his oral evidence he accepted that there had been no arrest detention or charge.
2. The pleaded case was that the Defendant was unable to plead to this allegation without information as to the name number and identity of the officer alleged to have required Mr Kirk to provide a breath sample. However a PC Guest was identified as an officer who had stopped Mr Kirk’s vehicle, albeit according to PC Guest on the A4232 adjacent to the Welsh Folk Museum. The Defendant served statements both from PC Guest and a PC Wellbeloved who had joined him at the scene.
3. It is clear that the car which Mr Kirk was driving was the BMW car stopped by the South Wales Police on 1 December 1999 and the rear quarter light of which had been smashed by PC Kihlberg on that occasion.
4. In his long witness statement dated 19 June 2009 Mr Kirk stated, “I was travelling on M4 when stopped for no good reason only to be stopped again within 10 minutes to do Yes, a breath test. No offence had been caused to allow them to stop me and I have reason to believe the first lot, clearly known to the defence, had forgotten to do it, too busy trying to find something wrong with my BMW car”.
5. In an earlier statement which he there attached, he says that he was stopped “by Barry Police” on the M4 motorway and that after they had examined him and taken his details he was released, only to be stopped again “by different Barry Police and ordered to do a breath test as he considered I was ‘weaving’ on the road. I had been weaving in order to overtake traffic travelling on the inside lane in a perfectly lawful manner”.
6. In an extract from his website, of uncertain date, Mr Kirk asserted that on this date at the Severn Bridge, near Chepstow police caused him to stop his vehicle and accused him of theft of the vehicle, requiring him under caution to write down a statement and then releasing him without explanation or apology.
7. For the Defendant, I received witness statement and oral evidence from PC 1696 Guest and PC 485 (retired) Wellbeloved.
8. PC Guest stated that he recalled the incident and that in fact Mr Kirk was stopped on the Ely link road (the A4232) in what is known as the third lay-by (near to the St Fagans Welsh Folk Museum). He says he stopped Mr Kirk “because he was weaving in the road” and that when he stopped him it was not his intention to breathalise him. He says that he noted the quarter light of the car being smashed and, Mr Kirk refusing to get out of his vehicle on request, or to wind down his window, he leant into the car through this window and “there was a strong aroma of intoxicants within the vehicle”. Since Mr Kirk refused to get out of the car, he called for assistance and PC Wellbeloved arrived.

**After Khilberg’s dreamed-up 1st December 1999 allegation of ‘smell of alcohol on the breath’, used at magistrates to obtain a conviction of ‘refusal’ and later changed at the Royal College of Veterinary Surgeon enquiry, in 2002, to ‘smell of alcohol in the car’, here was another officer using the same excuse for a roadside breath test.**

1. “When PC Wellbeloved arrived, we were able to talk Mr Kirk into getting out of the vehicle. He then provided a negative breath test”. “I do recall that after having given the breath test, without warning Mr Kirk began to dance around myself and PC Wellbeloved holding a small camera in his right hand with which he took a number of photographs of us. It is because of this bizarre behaviour that I recall this incident” (witness statement 23.10.2008 paragraph 11).
2. Like evidence was given by retired PC Wellbeloved. I have dealt with this evidence relatively shortly since first, in Mr Kirk’s oral evidence it emerged that there was little dispute between him and the. police officers and second, the contemporaneous police incident log is consistent with and supports the account(A2/5.13). Illustratively, that records the stop as being reported to be on the A4232 and in his oral evidence Mr Kirk accepted that it was on the Ely link road that he was stopped.
3. Mr Kirk’s recollection of this incident is meagre.
4. As to the stop by Avon and Somerset Police, he first put this as being on the Welsh side of the old bridge but then agreed with leading counsel that “You’re right” it was on the old bridge motorway, a little to the English side.
5. His first recollection was that at the scene, stopped by PC Guest, he offered to do a breath test through the broken window but got out of the car when PC Wellbeloved arrived and “before he actually came to talk to me”; but shortly afterwards, to the suggestion that it was when PC Wellbeloved spoke to him that he persuaded Mr Kirk to get out, he answered “No….. Oh! I can’t disagree with you, because I can’t remember”. He did not now remember the breath test but “earlier in the trial I had no reason to believe that I didn’t”. Did he remember taking photographs?, “I don’t actually”.
6. At the beginning of his oral evidence he was quite clear that he was not “weaving or speeding” but later agreed that he had weaved from lane to lane, by way of overtaking.
7. His case at trial was that he was stopped 3 times (not 2) on 23 January 2000, first by the “Bristol” Police, second by Barry Police, and that when the latter stopped him and issued him with a vehicle rectification notice (for a blowing exhaust, which he acknowledged) they forgot to breathalise him and must have radioed on for other police to stop him, in the shape of PC Guest. His closing submissions contend that he was stopped because he had been doing 100 mph and the police caught him up only because he hit heavy traffic; they were then irate because they forgot to breathalyse him and so (must have) radioed ahead for him to be stopped. I do not for one moment consider that Mr Kirk is making this up for the purposes of closing submissions. It is merely a further illustration that his memory for this occasion is meagre, as he himself accepted (see above).
8. It may well be that there was an intervening police stop between that by Avon and Somerset Police and PC Guest, in respect of a blowing exhaust, but it is of some note that in his first statement he was not complaining of an intervening stop (see e.g. Claimant’s witness bundle at page 85). At trial, he described the behaviour of the Avon and Somerset Police as “impeccable”, although he had been strongly critical of them in the website to which I have referred. In his oral evidence, he stated “I think maybe they heard the exhaust in the tunnels at Newport”, which would indicate that the stop was by Gwent Police (not South Wales police from Barry).
9. As to being breathalysed at all, Mr Kirk agreed there may have been a smell of alcohol in the car, “Anything is possible. It’s a car I used for my business” (with reference to chemical alcohol which he used in his veterinary practice).
10. As to the calling in of PC Wellbeloved, PC Guest told me that he recalled calling his supervising officer, who was [Acting Supervising Sergeant] Wellbeloved, because he could smell a strong smell of intoxicants, and Mr Kirk would not get out of the vehicle. Mr Wellbeloved himself said “as far as I recall I spoke to Mr Kirk through the top bit of the window, common sense and a little chat and a short while later he got out”. “Q. Why was I stopped? A. I believe PC Guest informed me he stopped you because of the manner of driving. Q. What about the police who stopped me shortly before? A. I’ve no knowledge of who stopped you before. Q. They had forgotten to do a breath test? A. No. I was Acting Sergeant in Cardiff Bay. There was a radio channel we could use. The motorway traffic police use a different channel so we wouldn’t hear anyway on that channel”. For completeness, I record that in his witness statement PC Guest said that when he stopped the vehicle he had no idea that it was Mr Kirk, it was only when he got out that PC Guest recognised him “as I had seen him previously whilst on duty in Barry”.
11. I have not identified any discrepancy in the evidence of either police officer, and it is as to each consistent with the contemporaneous police incident log.
12. It is not suggested that there was arrest detention or charge. Accordingly no cause of action is identified but it would be relevant to his case generally if this was a case of police harassment. Viewed through the lens of Mr Kirk, persuaded by now that there was a campaign of police targeting and harassment, this was a needless and unjustified stop. However as to this incident, the memory of Mr Kirk is meagre, and in my judgment unreliable: see above. He himself acknowledges driving, in order to overtake other cars, by weaving from lane to lane and such would justify the police officer in lawfully exercising a power to stop the vehicle under section 163 Road Traffic Act 1988. If, after the Avon and Somerset Police, he had been stopped an intervening time such was justifiable on Mr Kirk’s own account of the exhaust, and I note was not the subject of complaint in his first statement. As to the decision to administer a breath test, Mr Kirk acknowledges the possibility that there was in his vehicle the smell of chemical alcohol. I find no evidence to support the surmise that police had radioed ahead to ask that he be stopped again or that this was an instance of harassment.
13. I am unable to find positive evidence from this incident in support of his claim that he was the subject of a campaign of police discrimination or harassment.

**This sequence is yet another example of an overarching ‘course of conduct’ of harassment instigated by a certain cabal within the South Wales Police**