[2026] JMSC Civ 124

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

CIVIL DIVISION

CLAIM NO. SU2025CV04314

IN THE MATTER of The Integrity Commission Act, 2017

AND

IN THE MATTER of an application by Zavia Mayne for Administrative Orders

BETWEEN	**ZAVIA MAYNE**	**APPLICANT**
AND	**CRAIG BERESFORD**	**FIRST RESPONDENT**
AND	**KEVON STEPHENSON**	**SECOND RESPONDENT**
AND	**RONEIPH LAWRENCE**	**THIRD RESPONDENT**
AND	**INTEGRITY COMMISSION**	**FOURTH RESPONDENT**

IN CHAMBERS

Mr Nigel Jones and Ms Kashina Moore instructed by Nigel Jones & Company for the Applicant

Mr Kevin Powell KC, Mr Sundiata Gibbs and Ms Annay Wheatle instructed by Hylton Powell for the Respondents

Heard: April 13, 28, June 10 and October 6, 2026

Judicial Review — Application for Leave for Judicial Review for an order of certiorari quashing the Investigation Report

WINT-BLAIR, J

The Relief Sought

[1] The remainder of the application for leave being determined here seeks leave to apply for an order of certiorari quashing the Investigation Report dated 14 July 2025 ("the Report"), which contains the findings and recommendations made by the Director of Investigation ("the DI") pursuant to section 54(1) of the Integrity Commission Act ("the Act").

[2] At the outset, it is important to identify what is no longer before the Court. This is the surviving part of an application for leave that does not seek to quash the referral made by the Director of Information and Complaints ("the DIC"); it does not seek to quash a decision of the Integrity Commission ("the Commission") as a separate decision; and it cannot seek to quash the ruling or recommendation of the Director of Corruption Prosecution ("the DCP") that criminal proceedings be instituted, as leave in relation to the prosecutorial challenge was previously refused on 28 April 2026.

[3] The remaining issue is whether the proposed challenge to the Report should proceed solely against the DI, or whether any other respondents should remain, because an action taken falls within the permissible scope of the challenge, a material decision was made, but its legality remains genuinely unclear, or the relief sought would directly affect their legal rights, duties, or powers.

Procedural Background

[4] The applicant filed an application dated 8 December 2025 seeking permission to apply for judicial review. He sought the grant of two orders of certiorari, one directed to the Report and the other to the DCP's ruling that the applicant should be charged with breaching section 43(1)(b) of the Act.

[5] At the hearing on 13 April 2026, the Court heard the aspect of the application challenging the DCP's decision to initiate prosecution. The respondents did not

oppose leave to pursue the challenge to the Report, although they did not concede that the applicant would succeed at a substantive hearing. On 28 April 2026, the Court refused leave for the applicant's challenge to the DCP's ruling that the applicant be prosecuted. The Court indicated it was minded to grant leave related to the challenge to the Report and ordered further submissions on the proper parties to the surviving aspect of the application, namely the legal effect of excluding the other respondents.

The Parties' Positions

[6] The respondents submit that the DI is the only proper respondent. Their argument begins with section 54(1), which assigns to the DI the duty to prepare and submit a report of his findings and recommendations. They rely on the principle that judicial review is directed to the person or body whose decision is challenged, and also on **Norman Brown v The Integrity Commission and Kevon Stephenson**[1] and **Andrew Holness and others v Craig Beresford and others**,[2] subsequently considered by the Court of Appeal in **Holness and others v Beresford and others**.[3]

[7] With respect to the DIC, the respondents submit that his relevant act was the referral made on 12 April 2024 under section 32(1)(d), and that his involvement ended at that point. They further submit that any challenge to the referral is now time-barred and cannot be pursued indirectly by challenging the subsequent Report.

[8] The respondents raise delay as a bar to the claim's success, as the DIC referred the matter to the DI on April 12, 2024. The applicant was informed of the referral

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[1] [2025] JMSC Civ 9
[2] [2025] JMSC Civ 102
[3] [2026] JMCA Civ 26

on April 12, 2024. The challenge, by way of the application filed on December 8, 2025, against the DIC is therefore an abuse of process.

[9] With respect to the DCP, the respondents rely on the refusal of leave to proceed with the prosecution. They submit that the applicant cannot retain the DCP merely because his prosecutorial function arose later in the sequence of events.

[10] The applicant adopts a broader interpretation of the statutory process. He relies on the Commission's statutory power to give directions and on the expansive use of the Commission's name in the Report. Further, it was contended that a letter dated 25 November 2025 referred to directions issued by the Commission, the DI, and the DCP, and therefore that the Commission's role in the Report, which was later submitted to Parliament, was at issue. Lastly, he contends that the DCP participated in the process contemplated by section 54(4). The applicant does not contest the issue of delay.

The Statutory Scheme

The DI and the Commission

[11] Section 30(3) provides that, subject to section 34(3), the performance of the functions of the Director of each Division shall be subject to the "*general or specific direction of the Commission*."

[12] Section 33(1)(a) also uses the language of the "*general or specific direction of the Commission*" in relation to investigations falling within the DI's investigative functions. Section 6(1)(a), subject to the provisions of the Act, provides that it is the Commission whose function is the investigation of alleged or suspected acts of corruption and instances of non-compliance. These provisions must be read together, applying the principles of statutory interpretation and construing the words used by the legislature in context.

[13] The Act confers the investigative office on the DI, who remains the statutory officer responsible for conducting the investigation and preparing the report, while the

manner in which the investigative functions are performed is expressly subject to lawful general or specific directions of the Commission. The existence and legal effect of any particular general or specific direction are separate questions of fact and law.

The DIC's referral function

[14] Section 32(1)(d), read together with the opening words of subsection (1), provides that the DIC shall:

> *"refer to the appropriate Director, any complaint or information or notification received under paragraph (c), or any other matter which he considers appropriate for action."*[4]

[15] The respondents rely on this provision to distinguish the referral from the subsequent investigation.

The DI's investigative and reporting functions

[16] Section 33 identifies the DI's functions. Under section 33(1)(a), investigations following the referrals of the DIC or the Commission itself are subject to the Commission's general or specific direction.

[17] Whereas section 33(1)(c) provides that "*subject to the general direction of the Commission, the DI may investigate on his own initiative, in the manner specified by or under this Act*...."[5] This section limits the DI's power. He is first subject to the general direction of the Commission for the investigations and second these investigations must be intra vires his statutory function.

[18] Section 54(1) provides:

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[4] Integrity Commission Act, 2017 (Jamaica), section 32(1)(d).
[5] Integrity Commission Act, 2017 (Jamaica), section 33(1)(a) and (c).

> *"On completion of an investigation the Director of Investigation shall prepare and submit to the Commission, through the Executive Director, a report of his findings and recommendations."*[6]

[19] This provision expressly assigns preparation of the report to the DI.

Referral for prosecution and submission to Parliament

[20] Section 54(3)(b) addresses the DI's recommendation for referral to the DCP where the statutory grounds for suspecting corruption or an offence exist. Section 54(4) addresses the submission of the Report to Parliament. Where the report contains a recommendation under subsection 54(3), the Commission must submit it for tabling, subject to the exclusion of matters which the DCP regards as:

> "*likely to prejudice the prosecution of any proceedings in relation to matters referred to in the report."*[7]

[21] The Act therefore distinguishes between the DI's preparation of his findings and recommendation that the Commission refer the matter to the DCP, the Commission's submission of the report, and the DCP's assessment of prejudice to any prosecution.

[22] However, a close examination of the Act reveals the intention of Parliament in the interaction between each Director and the Commission:

1. In section 30(3) it says:

   "Subject to section 34(3), the performance of the functions of the Director of each Division shall be subject to the specific or general direction of the Commission."

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[6] Integrity Commission Act, 2017 (Jamaica), section 54(1).
[7] Integrity Commission Act, 2017 (Jamaica), section 54(3)(b) and (4).

2. The words *"[s]ubject to section 34(3)"* distinguish the DCP from every other Director.

3. Section 34(1)(a) confers statutory authority on the DCP in the exercise of his prosecutorial function. He is subject only to the authority of the Director of Public Prosecutions.

4. Section 34(3) provides:

> *"For the avoidance of doubt, except as provided in subsection (1)(a), the Director of Corruption Prosecution shall not be subject to the direction or control of any person or body in relation to the conduct of his prosecutorial functions under this Act or any other enactment."*

5. The DI is not outside of the Commission's direction, as is the DCP. His functions are prescribed by the statute and expressly so under section 33. These functions are performed subject to specified circumstances and are directly connected to the "*general or specific direction of the Commission."* Again, section 52 subjects the DI's functions in relation to government contracts and prescribed licences to the Commission's specific and general direction.

6. The court therefore has to reconcile section 30(3) with sections 33 and 52, as Parliament clearly intended that the words "general or specific directions" appear more than once in the statute. These words confer an express statutory power authorising the Commission to give specific and general directions to another statutory office holder.

7. These words were placed by Parliament within the provision conferring the investigative function on the DI. In section 33(1)(a), the general or specific directions concern referrals to the DI by the decision of the Commission or the DIC. By contrast, in section 33(1)(c), the DI is empowered to commence an investigation on his own initiative, subject to the general direction of the Commission.

8. Section 6(1)(a) provides that:

   Subject to the provisions of this Act, the functions of the Commission shall be to –

   (a) *investigate alleged or suspected acts of corruption and instances of non-compliance with the provisions of this Act;*

9. Section 33 establishes a mechanism for conducting investigations, which is assigned to and carried out by the DI. However, under section 6(1)(a), the Commission itself bears statutory responsibility for investigations. It fulfils that responsibility through the DI, to whom Parliament has assigned the statutory function, subject to the Commission's express authority to direct how the office holder performs that function.

10. The difference in language used in these provisions requires the court to construe the meaning of the words in the particular context, applying the rules of statutory interpretation, in order to determine the scope of the authority conferred on the Commission to direct investigations and how this power is exercised.

[23] This court rejects a narrow construction of the power granted to the Commission to issue specific or general directions. There is no language limiting the scope of directions that can be given to the DI, and the power applies to a wide range of investigative functions.

[24] In my view, these provisions in the statute must co-exist, and their relationship is this: within the same enactment, the legislature conferred the power to investigate on the Commission and subjected the performance of the investigative function to general or specific directions, depending on the circumstances. The court is not saying that Parliament removed the power or took the function away from the DI when it drafted the statute as it did. The investigative function remains that of the DI, but Parliament has expressly made the manner in which he performs it subject

to lawful general and specific directions of the Commission, and these operate directly on his statutory power. The extent to which they do so requires examination.

[25] The Court therefore rejects both extremes. In this case, the DIC referred the matter to the DI. This Court is not saying that the Commission authored the Report or made any findings or recommendations merely because the DI operates within the same statutory structure. However, the Commission's investigative role, as assigned by the Act, cannot be dismissed simply because section 54(1) assigns responsibility for preparing the Report to the DI. The statute assigns distinct functions to each, yet Parliament retained both specific and general directions concerning the DI's functions, as provided for in sections 33 and 52 of the Act. The exercise of statutory power granted to the Commission to give directions must be examined by this Court.

The DCP

[26] The Act treats the DCP differently. Section 34(3) provides that, except as stated in section 34(1)(a), the DCP is not subject to the direction or control of any person or body in the conduct of prosecutorial functions. Section 54(4) also gives the DCP a distinct role where a report is to be submitted to Parliament, by reference to matters which the DCP regards as likely to prejudice the prosecution of proceedings relating to matters referred to in the report.

[27] Parliament used language in relation to the DCP that it did not use for any other Director. Therefore, had Parliament intended to exclude the Commission from the investigative provisions concerning referrals to the DI, it would have said so.

[28] The DCP's role under section 54(4) is separate from the DI’s role in generating the Report. This part of the application is not determining the decision to prosecute, so the applicant is not permitted to use this challenge to the Report to reopen the challenge to the prosecution at any stage.

[29] The applicant's contention that the DCP "would have vetted" the Report is insufficient. The statute gives the DCP a defined role under section 54(4), but the applicant must identify the specific action, omission or decision alleged to be unlawful and link it to a ground within the relief sought. The materials before this Court do not demonstrate the existence of such an action, omission or decision with sufficient clarity.

[30] The DCP may have an evidential connection to the statutory process, and evidence concerning the operation of section 54(4) may be relevant to the factual matrix, but that connection does not make him a proper respondent. On the case as presently framed, the DCP shall be removed as a party.

The governing principles on the proper respondent

[31] The starting point is **Council of Civil Service Unions v Minister for the Civil Service**[8] where Lord Diplock described the subject matter of judicial review as a decision made by a person or body, or a refusal to make a decision. The Court must therefore identify the act, decision or omission which is actually impugned.

[32] In **Bahamas Hotel Maintenance & Allied Workers Union v Bahamas Hotel Catering & Allied Workers Union and others**,[9] the Board said, "*judicial review is directed to official decision-making, and the official who took the relevant decision is the natural respondent to such proceedings*." The inquiry concerns the allocation and exercise of statutory power, not the administrative structure within which the official works.

[33] **Norman Brown** applies that principle in the context of an Investigation Report under this Act. Jarrett, J held that the impugned passages contained the DI's findings, comments and recommendations, and treated the DI as the natural

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[8] [1985] AC 374
[9] [2011] UKPC 4, at paragraph 35

respondent to the challenge to those passages. The Commission did not become the author of those findings merely by associating itself with and transmitting the report. There were no grounds or evidence to support attributing the Report to the Commission, whether by inference from the material before the Court or any direct evidence. The applicant had to identify precisely what was decided as a result of each statutory function, rather than treating the statutory process as one continuous action.

[34] However, the principle that the decision-maker is the natural respondent does not preclude any other party from remaining. In **John Mussington and another v Development Control Authority and others**,[10] the Board held that a person with a clear interest in the relief sought could properly participate, even though that person had not made the impugned planning decision. The question is not simply who made the decision, but whether the proposed relief would directly affect another party's legal interest.

[35] In **National Bank of Anguilla (Private Banking and Trust) Ltd (in Administration) and another v Chief Minister of Anguilla and others**,[11] there was genuine uncertainty about who made the material decisions related to depositors' funds. At paragraphs [134]- [140], the Board declined to exclude any of the respondents before the decision-making process had been adequately explained and ordered that all the respondents remain until that process had been clarified.

[36] **National Bank** does not justify joinder without evidence establishing that the materials before the Court disclose a real uncertainty about who exercised the decision-making power and further, where several public bodies or office-holders are involved, and their roles remained unclear, both the claimant and the Court

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[10] [2024] UKPC 3
[11] [2025] UKPC 14

were entitled to enough information to identify the relevant decision-makers at each stage of the process.

The leave stage

[37] **Sharma v Brown-Antoine**[12] states the familiar test: the applicant must show an arguable ground with a realistic prospect of success with no discretionary bar such as delay or an alternative remedy. **Attorney General of Trinidad and Tobago v Ayers-Caesar**[13] confirms that the threshold is low and that the leave stage filters out unarguable cases. The leave hearing is a filtering exercise, not a trial on the merits. (See **National Bank of Anguilla (Private Banking and Trust) Ltd (in Administration) and another v Chief Minister of Anguilla and Others**[14] and **Lynden Simpson and Jamaica Civil Service Association v Permanent Secretary, Ministry of Transport and Mining, Hugh M Salmon, Mary Cresser and Loraine Robinson (all members of the Committee of Enquiry)**).[15]

[38] The Court must still consider the consequence of granting the orders sought, since in this case the identity of the proper respondent cannot reasonably be considered apart from the legal effect of the remedy that remains available.

Discussion

[39] The Court has chosen to work backwards from the relief sought. The grounds seeking an "Investigation Quashing Order" cannot be a substitute for identifying the actual decision sought to be reviewed. The Court has borne in mind these questions in determining the issues: first, what act or omission is to be quashed. Second, who is legally responsible for that act. Third, has another respondent exercised a distinct statutory power that falls within the scope of the action being

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[12] [2006] UKPC 57
[13] [2019] UKPC 44
[14] [2025] UKPC 14
[15] [2025] JMCA Civ 17

challenged. Fourth, is responsibility for a material act genuinely uncertain or would any relief granted operate directly against that respondent?

[40] I have approached the matter in this way because the Report sits at the vertex of several legally distinct acts. The DIC makes the referral. The DI investigates, makes findings and recommendations, and prepares the Report. The Commission may give directions and performs a separate function in relation to submission to Parliament. The DCP performs distinct prosecutorial functions and the statutory function described in section 54(4). The fact that these acts form part of one statutory sequence does not make them a single action, and so the actions of each decision maker at different stages of the process are relevant considerations.

The DI

[41] The DI is plainly the natural and necessary respondent in this application. The relief seeks to quash findings and recommendations assigned to him by section 54(1). That conclusion is supported by **Bahamas Hotel** and, more directly, by **Norman Brown**. There is no basis in the materials for treating another respondent as the author of the findings and recommendations of the DI simply because that respondent participated elsewhere in the statutory process.

The Commission

Directions by the Integrity Commission

[42] The Executive Director referred to the following notice in both of his letters dated 25 November 2025, these are all set out below. These letters clearly state that the Commission gave directions. The Commission is empowered to exercise a statutory function in this regard and makes its own independent decision when it elects to give directions to any of its Directors. The DCP is excluded from and not subject to these directions, as discussed previously.

[43] Notice dated April 6, 2023:

"I have the good honour and privilege to write to you, at the direction of the Commissioners of the Integrity Commission, regarding the Commission's conveyance of Investigation Reports to Parliament for tabling, and its notification to you of the Indicative Rulings of the Commission's Director of Corruption Prosecution.

The Commission wishes to advise as follows:

> *(1) "The Integrity Commission Act provides for the tabling in Parliament of reports done by the Director of Investigation. It forbids comment on a report prior to it being tabled. There is no provision in the Act as regards tabling or publishing the rulings of the Director of Corruption Prosecution."*
>
> *(2) "For the avoidance of doubt, the Commission wishes to indicate its policy as follows:*
>
> *An investigation report that contains a recommendation for the consideration of the Director of Corruption Prosecution will be sent in the usual manner to Parliament for tabling. If the ruling is available, an indication of the ruling will be sent concurrently with the report in a separate letter for Parliament to table same after the report has been tabled. The reasons for the ruling of the Director of Corruption Prosecution will not necessarily be published."*

[44] Letter 1 dated November 25, 2025:

*"**I write further to the Commission's Notice of April 6, 2023, a copy of which is attached herewith for your ease of convenience and, more particularly, with reference to the directions of the Commission**, its Director of Investigation and its Director of Corruption Prosecution, regarding the captioned Investigation Report.*

…The Commission's Director of Corruption Prosecution has, pursuant to the provisions of the Integrity Commission Act, inclusive of the aforementioned Sections 54(3)(b) and 54(4) of the Act, and Sections 34(1)(a) and 34(1)(b) thereof, reviewed the subject Report and has made a formal Ruling thereon." (Emphasis mine).

[45] Letter 2 dated November 25, 2025:

*"**I write further to the Commission's Notice of April 6, 2023 and, more particularly, with reference to the directions of the Commission**, its Director of Investigation and its Director of Corruption Prosecution, regarding the captioned Investigation Report.*

> *…The Commission's Director of Corruption Prosecution, pursuant to the provisions of Sections 34(1)(a) and 34(1)(b) of the Integrity Commission Act, has reviewed the subject Report and, upon careful consideration, it was determined that Mr. Zavia Mayne should be charged for breaching section 43(1)(b) of the Integrity Commission Act, namely, for the offence of failure, without reasonable cause, to provide information requested by the Director of Information and Complaints contrary section 43(1)(b) of the Integrity Commission Act, 2017."* (Emphasis mine).

[46] The position of the Commission requires closer examination. The fact that its name appears on the Report, or that correspondence describes the document as the Commission's report, is not enough to make the Commission responsible for the DI's findings (see **Norman Brown**).

[47] I agree with Mr Jones that in the letter dated 25 November 2025 it states: "*the **directions of the Commission**, its Director of Investigations and its Director of Corruption Prosecution, **regarding the captioned Investigation Report***." In addition, the Report itself states the overarching objective as "the Commission's investigation."

[48] While these statements do not prove that the Commission directed the impugned findings, they do raise a genuine issue as to whether the Commission gave any relevant direction to the DI, and, if so, what it concerned and when. Arguably, the responsibility for investigations under section 6(1)(a) of the Act is a function of the Commission. In this case, the exercise of that function merits review by the Court in its supervisory jurisdiction.

[49] That question is raised insofar as it bears on the lawfulness of the Commission's exercise of its power or identifies any separate act concerning the scope of the challenge to the Report. It would be wrong to construe the Commission's statutory power of direction as meaning that it co-authored the Report, as there is no such evidence. It would be equally wrong, at this stage, to remove the Commission as a respondent before the nature and legal significance of these directions referred to in the letter of 25 November 2025 by the Executive Director to the Houses of Parliament have been clarified for both the applicant and the court.

[50] Secondly, the Commission performs its own statutory function in relation to the submission of the Report to Parliament. The applicant's grounds, as framed, mount no challenge to any act of the Commission in the exercise of that function, so the Commission is not the natural respondent to that act. The Commission's conduct in performing that duty may still form part of the narrative relevant to the DI's decision, but no relief could be granted against the Commission solely for submitting the Report, as it is required to do.

[51] In these circumstances, I am not satisfied that the Commission should be removed as a party. As I have said, the Commission's remaining as a respondent is not based on any authorship of the DI's findings and recommendations. It is based on the unresolved issue of the directions it gave related to the Report and whether it exercised a relevant power of direction or a separate statutory function in the investigation. **National Bank of Anguilla** supports the applicant's and the Court's entitlement to clarification **by way of evidence** in this regard.

The DIC

[52] The DIC's position differs from that of the DI and the DCP. The act attributed to him is his referral dated 12 April 2024, which is distinct from the DI's investigative function and the Report dated 14 July 2025. The relief sought does not include setting aside the DIC's referral. His involvement in the sequence of events does not make him responsible for the DI's findings and recommendations. Where relevant, the applicant may rely on communications or conduct involving the DIC as part of the context in which the DI exercised his powers. On the material before the Court, the challenge is to the Report, and the grounds identify no separate act by the DIC. The DIC is therefore not required to remain a respondent and will be removed as a party. I make no determination on the merits of any separate challenge to the April 2024 referral, as that is unnecessary given my conclusion.

The effect of excluding respondents

[53] This Court holds that only the DI and the Commission shall remain as respondents; meaning that the permission granted confines the claim to the investigation, the findings and recommendations of the DI, the directions issued by the Commission, and the preparation of the Report.

[54] As I have said, and for the avoidance of doubt, the evidence reveals a genuine issue concerning the directions the Commission gave the DI in relation to the Report. Excluding the Commission would require the Court to determine whether the DI lawfully exercised its power without a sufficiently clear account of whether those directions were lawful or how the Commission exercised its statutory authority.

Orders

[55] The Court makes the following orders:

1. Application for leave to apply for judicial review is granted.

2. The permission granted confines the claim to the investigation, the DI's findings and recommendations, the directions issued by the Commission to the DI, and the preparation of the Report.

3. The grant of leave shall operate as a stay of the proceedings.

4. The application is dismissed against the First and Third Respondents.

5. The Applicant shall file and serve a Fixed Date Claim Form no later than 14 days of the date hereof.

6. The Fixed Date Claim Form shall name the Director of Investigation and the Integrity Commission as the only Defendants.

7. The Respondents shall file and serve their affidavits in response to the Fixed Date Claim Form no later than 28 days from the date of service.

8. There shall be no further affidavits filed after November 16, 2026 without leave of the Court.

9. The order sought at paragraph (e) of the application for leave seeking an order of certiorari against the ruling of the Director of Corruption Prosecution has been previously refused.

10. The first hearing of the Fixed Date Claim is fixed for November 17, 2026 at 10 am for 1/2 hour.

11. Any case-management directions related to disclosure shall be made at the first hearing.

12. Leave to appeal is refused.

13. Costs to cost in the Claim.

14. The Applicant’s attorneys-at-law shall prepare, file and serve the orders made herein.