

Imerman Devices — Legal Framework, Administrative Duties, and Public Law Significance

PART A — IMERMAN EXPLANATORY NOTE

1. Purpose and Status of this Note

This note explains the administrative and public-law issues arising from the handling of the electronic devices commonly referred to as the “Imerman material”.

It does not seek to determine facts, attribute responsibility to individuals, or allege criminal wrongdoing. Its purpose is to set out the legal and administrative framework governing court-controlled electronic material and to explain why the matters identified fall within the scope of public law and Judicial Review.

2. Judicial Functions and Administrative Functions

In England and Wales, a clear constitutional distinction exists between:

- Judicial functions, exercised by judges in determining cases and issuing orders; and
- Administrative and executive functions, exercised by HM Courts & Tribunals Service (HMCTS) and the Ministry of Justice (MoJ) in managing court processes, records, evidence, and safeguarding arrangements.

Judicial Review does not lie to challenge judicial decisions as such. It lies to scrutinise whether public authorities have lawfully discharged their administrative duties.

The custody, preservation, recording, and auditability of court-controlled material are administrative matters. They do not involve adjudication and do not depend on the outcome of proceedings.

3. The Imerman / UL v BK Framework and the Role of Solicitors

The jurisprudence following Imerman v Tchenguiz and subsequent authorities, including UL v BK, establishes that where confidential or improperly obtained material is received, solicitors have defined duties designed to protect the integrity of the court process.

As explained by Knowles J in UL v BK, those duties include, particularly where the other party is unrepresented:

- returning the material to the other party's solicitors, as officers of the court, so that preservation and proper disclosure can be ensured; or
- seeking directions from the court, which may include arrangements for independent legal oversight of the disclosure exercise.

These duties exist to engage the court's supervisory jurisdiction. Once that jurisdiction is engaged, or ought reasonably to have been engaged, responsibility for the administrative consequences of that framework does not remain private.

4. Administrative Responsibility Where Physical Custody Is Delegated

The fact that court-controlled electronic material may, as a matter of practical arrangement, be held in the physical custody of solicitors does not displace the continuing administrative responsibility of HMCTS and the Ministry of Justice for its lawful oversight, preservation, and auditability. Where such material is retained by legal representatives

pursuant to court-related arrangements, it remains subject to the court’s administrative jurisdiction, including duties to ensure an identifiable chain of custody, accurate record-keeping, and lawful retention pending review or further direction.

In the present case, the Imerman devices were taken into court-related custody in April 2021 (see contemporaneous solicitor correspondence, Exhibit **E5**), but at the conclusion of the relevant proceedings no record was produced identifying their whereabouts, no chain-of-custody or audit documentation was disclosed, and no forensic or administrative review of the devices was conducted (Exhibits **E6**).

On 12 December 2025, a formal written enquiry was addressed to the Respondent’s solicitors seeking confirmation of the current custody status of the Imerman devices and the authority under which any release may have occurred. That enquiry has, to date, received no response (Exhibit **E7**).

5. Administrative Duties Engaged by Imerman Material

Once electronic devices are identified as requiring special handling and are taken into court-related custody, a series of non-discretionary administrative duties arise, independent of judicial determination.

These include:

Administrative Duty	Practical Requirement
Preservation of material	Secure retention in unchanged condition
Chain of custody	Continuous, documented record of possession
Audit trail	Records of access, handling, and movement
Lawful retention and release	No release absent lawful authority

Administrative Duty	Practical Requirement
Transparency	Clear confirmation when custody is queried

These duties are administrative in character and capable of compliance irrespective of litigation outcome.

6. Failures Identified on the Record

By reference to the duties above, the following matters are apparent on the record:

- no documented forensic or administrative review of the devices **(E6)**;
- no chain-of-custody record disclosed **(E6, E7)**;
- no audit trail produced **(E6, E7)**;
- no confirmation of current custody status **(E7)**;
- no explanation for the absence of such records **(E6, E7)**.

These matters constitute administrative failures, not disagreements with judicial decisions.

7. Public Law and Public Interest

Courts increasingly control digital devices containing extensive volumes of sensitive information. Public confidence in the justice system depends upon assurance that such material is preserved, traceable, auditable, and lawfully managed.

Where the administrative system cannot account for the handling or whereabouts of court-controlled electronic evidence, the issue raises systemic public-law questions. Judicial Review is the appropriate mechanism to address such failures.

8. Potential Criminal Relevance of the Material

The Imerman devices were identified, at the time of disclosure, as containing data of **potential criminal relevance**. That fact was communicated:

- a) within a court-controlled expert process (**E1**);
- b) to the Secretary of State for Justice (**E2**);
- c) to the High Court (**E3**); and
- d) to Members of Parliament and parliamentary committees following the absence of effective administrative response (**E4**).

The same underlying data has been independently assessed by overseas tax-enforcement authorities, who confirmed that it warranted further investigation (**E1, E2**).

No finding of criminal liability is asserted in this note. However, once public authorities are on notice that court-controlled material may contain potential criminal evidence, the importance of proper preservation, custody, and auditability is materially heightened.

9. Relationship to the Judicial Review

This note assists understanding of Grounds 6 and 7 of the Judicial Review in **Zahmoul v Secretary of State for Justice & HMCTS (AC-2025-LON-004293)**, in which the Administrative Court is asked to determine whether the administrative handling of the Imerman material was lawful.

PART B — EXHIBIT INDEX

Exhibit Ref	Date	Description	Relevance to Administrative Duties
E1	8 Feb 2024	Correspondence to the court-appointed Single Joint Expert (cryptocurrency) drawing attention to information derived from the Imerman material and its potential relevance to serious financial and tax matters.	Demonstrates that the significance of the Imerman material was raised within a court-controlled expert process, engaging heightened duties of preservation, oversight, and auditability.
E2	11 Apr 2024	Correspondence to the Secretary of State for Justice notifying him of the potential criminal relevance of information contained on the Imerman devices.	Demonstrates notice at ministerial level to the executive authority responsible for HMCTS and court administration, engaging public-law duties of oversight and safeguarding.
E3	12 Apr 2024	Correspondence to the High Court (Family Division) drawing attention to the potential criminal relevance of the Imerman material.	Shows that the court system itself was placed on notice of the nature and sensitivity of the material.
E4	12 May 2024	Mass correspondence to Members of Parliament and parliamentary committees drawing attention to the potential criminal relevance of information contained on the Imerman devices, following the absence of effective administrative response.	Demonstrates escalation to parliamentary oversight mechanisms in the absence of documented administrative handling, reinforcing the public-interest dimension of the issue.
E5	Apr 2021 – Jun 2022	Open solicitor correspondence relating to the handling of Imerman material, including express acknowledgment that review was required and not optional, and that court	Establishes knowledge of legal duties and the requirement to engage court supervision.

Exhibit Ref	Date	Description	Relevance to Administrative Duties
		directions were necessary under the Imerman / UL framework.	
E6	Apr 2021 – Jun 2022	Consolidated timeline and solicitor correspondence evidencing repeated acknowledgment of the duty to review the Imerman material and the absence of any completed review or administrative resolution.	Demonstrates prolonged failure to discharge acknowledged duties over time.
E7	12 Dec 2025	Formal written request to the Respondent's solicitors seeking confirmation of custody, authority for any release, and the existence of any audit trail in respect of the Imerman devices (unanswered).	Evidences a direct administrative enquiry and the absence of any response or records.