

Committal or Other Order upon Proof of Disobedience of a Court Order or Breach of an Undertaking

In the	
Hull	County Court
Claim No.	Always quote this R0044351

Between Hull City Council Applicant
 Claimant
 Petitioner
 and Scott Appleby Respondent
 Defendant
 Before His (Her) Honour Judge/ District Judge Sarah Richardson
 Sitting at Hull Magistrates Court on (date) 26.2.2021.



- 1 An application having been made by⁽¹⁾ Hull City Council for committal of⁽²⁾ Scott Appleby to prison for disobeying the order [breach of the undertaking] dated 13.1.20. The relevant terms of the order (undertaking) and the allegations made by the applicant are recited on the attached notice to show good reason.
or
- 2 Whereas⁽²⁾ _____ has been suspected of a breach of the attached order dated _____ and has been arrested by a constable and brought before the Judge under section 47(6) of the Family Law Act 1996/section 43 of Crime and Policing Act 2009.
or
- 3 Whereas⁽²⁾ _____ has been suspected of a breach of the attached order [undertaking] dated _____ and has been arrested under a warrant of arrest and brought before the Judge under [section 47(8) of the Family Law Act 1996] [section 3(3) of the Protection from Harassment Act 1997], [section 44 of the Policing and Crime Act 2009].

IMMEDIATE CUSTODIAL ORDER

It is ordered that⁽²⁾ Scott Appleby be committed for contempt to Her Majesty's Prison (be detained under section 9(1) of the Criminal Justice Act 1982) at⁽³⁾ HMP Hull Wood Road, Hull for a (total) period of⁽⁴⁾ 146 days or until lawfully discharged if sooner, and that a warrant of arrest and committal be issued forthwith.

And the contemnor can apply to the (court) (judge) to purge his contempt and ask for release.

~~[And, as the court by order dated _____ dispensed with service of the notice of application for a committal order, it is ordered that the contemnor be brought before a judge of this court as soon as practicable.]~~

ALTERNATIVE DISPOSAL

It is ordered that⁽²⁾ _____ be committed for contempt to prison for a (total) period of⁽⁴⁾ _____
 The order is suspended until _____ 20 _____ and will not be put in force if during that time the contemnor⁽²⁾ _____ complies with the following terms:

And it is further ordered that in the event of non compliance any application for issue of the warrant shall be made to a judge (on notice to the contemnor)

It is ordered that⁽²⁾ _____ be fined the sum of £ _____ Such sum to be paid into the office of the court within 14 days of the date of this order.

It is ordered that consideration of the penalty for the contempts found proved be adjourned until _____ 20 _____ and may be restored for decision if during that time⁽²⁾ _____ does not comply with the following terms

PROVISION FOR COSTS

And it is ordered that

Date 26.2.2021.

For record of service, hearing and contempts found proved, see next page

RECORD OF SERVICE, HEARING AND CONTEMPTS FOUND PROVED

At the hearing

(1) ACE [appeared personally] [was represented by solicitor/counsel] [did not attend]
 (2) SCOTT ADOLBY [appeared personally] [was represented by solicitor/counsel] [did not attend]

The court read the affidavits of (Names)

Date affidavit(s) sworn

And the court heard oral evidence given by Name(s)

And the court is satisfied having considered the facts disclosed by the evidence and/or admitted in court by him/her that (2) SCOTT ADOLBY has been guilty of contempt of this court by disobeying the order (breaking the undertaking) dated 13.11.2020 by (and as set out in the attached schedule)

And for the particular contempt the court imposed the penalty of:

1. ON 19/01/21 AT ABOUT 9.30pm HE SHOUTED ANGRILY FROM HIS PROPERTY + BREACHED PARA (i)
2. ON 19/01/21 AT 3pm HE SHOUTED AT THE TOP OF HIS VOICE FROM HIS PROPERTY + BREACHED PARA (i)
3. ON 06/02/21 AT 5pm HE SHOUTED FROM WITHIN HIS PROPERTY FOR ABOUT 5 MINUTES + BREACHED PARA (i)
4. ON 06/02/21 AT 9pm HE SHOUTED FROM WITHIN HIS PROPERTY + BREACHED PARA (i)
5. ON 11/02/21 HE GRABBED EMMA PEAK BY THE THROAT + SHOOKED HER THROAT CAUSING HER TO PASS OUT + BREACHED CLAUSE PARA (ii)

1. 56 DAYS CONSECUTIVELY WITH (5) BELOW

2. 56 DAYS } CONCURRENTLY

3. 56 DAYS }
 4. 56 DAYS }

5. 140 DAYS
 MAKING A TOTAL OF 196 DAYS WITH 70 DAYS DEDUCTED FOR THE 25 DAYS SPENT IN CUSTODY TO DATE

RECORD OF SERVICE

Service of Injunction Order with Penal Notice incorporated or indorsed

(Order dated 13.11 2020
 (for substituted) (dispensing with) service)

Service proved by

- certificate of service dated 20.11 2020
 certificate of bailiff
 oral evidence of

Service of Notice to show good reason in form N78 or Application for Committal N244

(Order dated 20
 (for substituted) (dispensing with) service)

Service proved by

- certificate of service dated 16.2 2021
 certificate of bailiff
 oral evidence of

Arrest under warrant of arrest

Respondent arrested on

by

in accordance with a warrant of arrest issued on

Service of Immediate Custodial Order

I (name of Officer)

certify that I served the contemnor with a copy of this order by:

- delivery by hand to the contemnor before he was taken from the court building or other place of arrest to the place of detention
 delivery by hand to the contemnor at (time) on (date) 20 at (place)

Where a suspended committal order is made, the applicant is responsible for service. (Rules of the Supreme Court Order 52 rule 7(2).)
 Where there is suspended committal order or penalty is adjourned on terms, personal service is advisable.

The court office is open from 10 am to 4 pm Monday to Friday.

When corresponding with the court, please address forms and letters to the Court Manager and quote the case number.

completion of page 2

OF SERVICE, HEARING AND CONTEMPTS FOUND PROVED)

REPRESENTATION (At the hearing)

ie the parties or their legal representative (advocate only).

AFFIDAVIT EVIDENCE (The court read the affidavits)

List only those affidavits which the judge has considered at the hearing. There is unlikely to be any affidavit evidence offered where the respondent has been brought to court under a power of arrest.

ORAL EVIDENCE (And the court heard oral evidence)

Give the names of only those witnesses sworn and examined.

CONTEMPTS FOUND PROVED (And the court is satisfied)

List and give exact details of only those allegations of contempt which the judge has found proved.

If separate penalties are imposed for each contempt found proved these are to be recorded in the right-hand column showing whether or not periods of detention are to run consecutively or concurrently.

If necessary, annex additional page and continue list on it. If an additional page is not used, delete the words (*and as set out in the attached schedule*).

JUDGE'S APPROVAL



The Judge must be asked to initial the order indicated by the dotted line.

RECORD OF SERVICE

Enter details of certificates of service.

Record of delivery of an undertaking need not be made on this document as it can be found on the form of undertaking.

A sealed copy of the approved order must be served on the contemnor.

Order 29 rule 1(5) CCR states:

If a committal order is made, the order shall be for the issue of a warrant of committal and unless the judge otherwise orders:-

- (a) a copy of the order shall be served on the person to be committed either before or at the time of the execution of the warrant; or
- (b) where the warrant has been signed by the Judge, the order for issue of the warrant may be served on the person to be committed at any time within 36 hours after execution of the warrant.

where the respondent is brought before the court under a power of arrest delete record of service of form N78/N244.

where the respondent is brought before the court under a warrant of arrest delete record of service of form N78/N244 and complete record of service of warrant of arrest.

Terms or names that may be used more than once in the order are numbered in bracket follows:

- (1) Person making application for committal
- (2) Person against whom the committal order made (contemnor)
- (3) Name of prison or young offender institution
- (4) Period of detention

Notes for Guidance on completion of form N79

(Disobedience of a Court Order or Breach of an Undertaking)

The Court Officer responsible for the form completion should note the following:

- Where the respondent is brought before the court after being arrested under a power of arrest a sealed copy of the injunction order giving the power of arrest (not Power of Arrest form FL406/N110A) with penal notice indorsed becomes part of form N79 and must be attached to the approved order.
- Where the respondent is brought before the court after being arrested under a warrant of arrest a sealed copy of the injunction order becomes part of form N79 and must be attached to the approved order.
- In all other cases Form N78 (notice to show good reason why an order for committal should not be made or N244 Application for Committal) becomes part of form N79 and a sealed copy of N78 or N244 must be attached to the approved order.
- In all cases the warrant is in form N80.
- When the form has been fully completed it must be passed to the judge for approval. If the judge is available he/she should be asked to approve and initial or sign the final (typed) version. If this is not possible the judge must be asked to initial or sign the final hand-written draft. In either case the document endorsed by the judge must be retained on the court file.
- Before the order is served it must also be checked by an officer of no less than HEO grade.
- Before the order is served these notes should be detached, they are for the guidance of Court Staff only.

When an immediate custodial order is made:

- A copy of N79 (with attached N78, N244 or injunction) must be sent to the Office of the Official Solicitor.
- A sealed copy of the approved order must be served on the contemnor. Order 29 rule 1(5) CCR.

Notes for completion of page 1

Terms or names that may be used more than once in the order are numbered in brackets as follows:

- (1) Person making application for committal
- (2) Person against whom the committal order is made (contemnor)
- (3) Name of prison or young offender institution
- (4) Period of detention

CLAUSES 1 TO 3

If the respondent has been brought before the court under a power of arrest (Family Law Act 1996) (Policing and Crime Act 2009) delete 1 and 3.

If the respondent has been brought before the court under a warrant of arrest (Family Law Act 1996 or Protection from Harassment Act 1997 or Policing and Crime Act 2009) delete 1 and 2.

In all other cases delete 2 and 3.

Enter the date of order (with penal notice incorporated or indorsed) or undertaking.

Date of form N78 Notice to show good reason, or N244 Application for committal (applies to 1 only).

Date of the warrant of arrest (applies to 3 only).

Note: A warrant of arrest cannot be issued on an undertaking under the Protection from Harassment Act 1997.

IMMEDIATE CUSTODIAL ORDER

Complete this section if an immediate custodial order is made otherwise delete and complete section below

Section 9(1) of CJA is for persons aged less than 21 and at least 18.

The total period of detention must be specified by the Judge. The maximum period for contempt of court (including a county court) is 2 years.

If the offence is failure to do a specific act and the judge decides that the application may be made to a district judge upon proof that the act has been done delete (judge) otherwise delete (court).

Complete only if order dispensing with service of notice of application was granted otherwise delete.

ALTERNATIVE DISPOSAL

Delete this section if an immediate custodial order is made otherwise delete alternatives not selected by judge.

Enter the exact terms of any suspended committal order or adjournment of penalty.

There are further possible alternative disposals, eg under sections 35, 37 and 38 of the Mental Health Act and sequestration.

COSTS

Enter any order for costs here or show that no order for costs has been made if applicable.

Give the date of the order.