IN THE COUNTY COURT AT WINCHESTER

Winchester Combined Court Centre
The Law Courts
Winchester
SO23 9EL

BEFORE:

HIS HONOUR JUDGE BERKLEY

BETWEEN:

JANICE WRIGHT — **CLAIMANT**

- and -

YVONNE ROGERS — **DEFENDANT**

Legal Representation
Mr Trimm (Barrister) on behalf of the Claimant
Defendant not in attendance nor represented

Other Parties Present and their status
None known

Judgment

Judgment date: 2 September 2022
(start and end times cannot be noted due to audio format)

Reporting Restrictions Applied: No

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Number of folios in transcript 95
Number of words in transcript 6,837

His Honour Judge Berkley:

1. On 16 June 2022 I proceeded to hear an application to commit the Defendant, Miss Yvonne Rogers, to prison for contempt of court. I handed down a judgment in which the background to the matter was set out. I direct that a copy of that judgment is appended to this judgment in order that I do not have to repeat all the matters set out there.

2. In summary, the Claimant, Mrs Janice Wright, brought a claim in trespass and nuisance in respect of a right of way over a shared driveway with Miss Rogers. It is irrelevant as to whether the judgment that she obtained in that case is correct or not and I do not make any comment either way.

3. It seems to me that the district judge was perfectly within his rights to find that there had been trespass, no appeal was made from that order and the order was made. The order states:

> **"By 30 September 2021 the Second Defendant must remove the obstructing plants, wheelie bins, rubbish and foliage obstructing the Claimant's right of way over the joint drive. By the same date the Defendant must remove those parts of the overhanging trees that trespass on the Claimant's property. The Second Defendant must also ensure the said trees are maintained so as to avoid further trespass into the Claimant's property. 3) The Second Defendant must not provide herself or by her servants or agents or howsoever otherwise place plants, foliage or wheelie bins or conduct similar acts so as to obstruct the Claimant's right of way."**

4. The findings I made as of 22 June of this year, some nine months after the order was made, was that the Defendant had done nothing whatsoever to comply with that order. Instead she started a campaign which initially was by email to the Claimant and her solicitors, and has subsequently gone into public postings on Facebook and emails to such people as the Attorney General and her MP.

5. I will come to some of the detail of those in due course but I say at the outset that this is not a case which has at its centre an order which was particularly difficult to comply with or particularly onerous; indeed it might be regarded as a simple dispute between neighbours, but the fact is that Ms Rogers never engaged with that case, and she took no notice whatever of the legitimate and proper order made by the district judge.

6. She completely ignored it for at least nine months, and I will come to what happened after the finding I made for contempt but instead, as I have indicated, entered into this diatribe which has been persistent, lengthy and insulting. I will come to the reason I use those adjectives in due course.

7. The Court having made the findings of contempt, some activity took place on the driveway. The individual plant pots were removed together with some of the ornaments. I have seen updated photographs at pages 81 to 84 of the trial bundle which show the historic position at 84 and the position as of 26 July 2022. Clearly, at that date all that had been done was just remove the pots, and no steps had been taken to clear the driveway so that it could be used as a right of way.

8. In fact, the foliage then extended out almost to the centre of the drive. For the purposes of today a further statement has been made by Mrs Wright showing that one or two attempts have been made to cut back some of the foliage. I heard submissions from Mr Trimm of counsel on behalf of Mrs Wright in respect of whether the steps taken mean that Miss Rogers is no longer in contempt of court.

9. He made submissions based on the well known principles as set out in *Emmet v Sisson* [2014] 2 PC&R 3, *Pettey v Parsons* [1942] Ch 653 and the more recent example in *West v Sharp* [2017] P&CR:

> **"There is no actual interference with the right of way if it can be substantially and practically exercised as conveniently after as before the occurrence of the alleged obstructions. Thus, the granting of a right of way in law in respect of the part of the Defendant identifying the area does not involve the proposition that Grantee can in fact object to anything done or any part of the area which would obstruct the passage over that part. He can only object to such activities including obstruction substantially interfering with the exercise of a defined right for the time being is reasonably required by him. The interference or the action would be substantial and it will not be substantial if it does not interfere with the reasonable use of the right of way."**

10. I also bear in mind the principles as set out in the well known case of *B&Q PLC v Liverpool and Lancashire Properties Ltd* [2001] 81 P&CR 20 summarised at *Emmet* at paragraphs 35 and 36:

> **"The test for natural interference is not whether the Grantee is left with is reasonable but whether his insistence on being able to continue the use of the whole of what is contracted for is reasonable. b) It is not open to the Grantor to deprive the Grantee of his preferred modus operandi and then argue that someone else would prefer to do things differently unless the Grantee's preference is unreasonable or perverse. c) If the Grantee is contracted the relative luxury of an ample right he is not to be deprived of that right in the absence of an explicit reservation, mainly because it is a relative luxury and a reduced non ample right can be ordered as reasonably required."**

11. It was submitted on Mrs Wright's behalf that it is not possible for Mrs Wright to use the driveway as a driveway. It is correct, of course, that she has standing for one car in a different place in the vicinity of her house, but this is a right of way that she is entitled to by virtue of a contractual reservation. The foliage, I find from the photographs that I have seen, does prevent vehicular access of the right of way.

12. It has not been argued by Miss Rogers at any point in her extensive correspondence that this is not an interference beyond stating that "this is not a case about flower pots". As I have said, she has not engaged substantively with the matter at all. I can see from the photographs that Mr Trimm is right in his submissions that this is still an obstruction of the right of way and indeed there is still a trespass of the foliage overhanging Mrs Wright's property.

13. Of course, as I pointed out, Mrs Wright is entitled to cut back foliage if it overhangs her property but, as Mr Trimm correctly submitted, why should she go to the expense of doing that and, more importantly, why should she be put to the trouble of it and exacerbate an already very difficult situation between these parties?

14. It is the Defendant that has trespassed in that regard and it must be the Defendant to put it right. I take into account the fact that Mrs Wright has clearly had this right of way being interfered with for quite some time, simply by looking at the photographs. By the extent of the foliage that has been allowed to grow up one might say that Mrs Wright has indeed been very indulgent to Miss Rogers over the years

15. Therefore, any recent usage she might have put to it is not the measure by which the right of way should be judged and that is what the district judge must have found. Therefore, and the reason for going into that detail, is to conclude that despite the finding of this Court that the Defendant was in contempt and despite some steps being taken by her, the fact is that the order has simply not been complied with, even to this date.

16. In respect of proceeding today, I made rulings earlier on in the absence of Miss Rogers. She has not turned up today. I made an order when I made the finding of contempt, which had a notice on it in clear and bold letters on the face of the order making it clear that I had proceeded to make a finding of contempt and that these proceedings would continue unless an application was made to set it aside.

17. Some form of application was made by Miss Rogers but no proper evidence was supplied in support of the application to set it aside. I then made subsequent orders agreeing to treat the papers submitted by Miss Rogers as an application to set aside the contempt finding, but making it absolutely clear that the application would be listed as an attended hearing, and if the Defendant did not turn up or was not represented at that hearing it was likely that the application would be dismissed and the Court would proceed to sentencing under the original finding of contempt.

18. I concluded earlier this morning that the application should be dismissed. Miss Rogers has not turned up. She, very belatedly, tried to instruct counsel who could not make it for the allotted time. As Mr Trimm again pointed out correctly, this matter has been going on for months and it is not acceptable for Miss Rogers to attempt to instruct counsel it seems even as late as last night for a hearing that has been in the diary for many weeks at 10.30am today.

19. In my judgment, it reflects the contempt by which Miss Rogers seems to hold this Court. There has been no let up in the communications with the Court, again I mention that at this stage to satisfy myself that Miss Rogers is completely aware of this hearing. One merely needs to look at the emails, including the one sent at 8.10pm last night informing the Court that counsel could not make it until 2pm today.

20. There is no doubt in my mind that the Defendant is fully aware not only of the nature of the hearing, the consequences of not attending the hearing and not instructing someone to act on her behalf despite the date having been set for weeks, and Miss Rogers having been informed of that, and despite Mrs Wright's solicitors repeatedly informing the Defendant that she remains in breach of the order; that Miss Rogers, as I say, is fully aware of the nature and extent of the potential hearing today, and yet she has chosen not to attend and not to instruct anybody until far too late in the process.

21. I therefore proceed with sentencing. Mr Trimm has helpfully identified the authority of *Simon Oliver v Javid Shaikh* [2020] EWHC 2658, a decision of Nicklin J. It is an admirably, if I may say so, concise and helpful template for dealing with matters of contempt of this nature.

22. I will deal first with what has happened and the background to the communications, and the very fact of the communications, because part of Mr Trimm's submissions rely heavily on the conduct and the harm that the Defendant and her agent, Mr Solars, has caused to Mrs Wright and her solicitors, and the contempt in which the Court and the court process is being shown by Miss Rogers.

23. Mr Trimm submitted that he had to identify sufficient examples of the communications and their nature to get across his client's position but without referring to every single one of them. I accept that submission, and it is not feasible for this Court to go into the full detail of what has been sent. In fact, there have been so many emails over the weeks that, ultimately, I was driven to make an order, backed with a penal notice, requiring Miss Rogers to send no more than one email per week – any other communication was restricted to either postal letters or formal applications.

24. However, the emails and other communications, both public and private, have formed the basis for Mr Trimm's submissions as to the seriousness of the contempt of court being demonstrated by Miss Rogers, and so I shall refer to them in some detail.

25. I will deal first with some of the Facebook postings that the Defendant has made and it is right that I should identify at this stage that Mr Carlton Rae is the Claimant's solicitor who, rather like the Claimant in *Oliver v Shaikh*, is self-evidently a member of the legal profession with a local and regional reputation to uphold. As a solicitor, he is also an Officer of the Court. In *Oliver*, it was a judge, but Mr Rae is nevertheless a solicitor, and as such will expect some criticism of his behaviour from a peeved party on the other side, but as was said by Nicklin J in *Oliver*, he is also a citizen of the country and although he is not a Claimant in this case, the harm that is directed at him as well as Mrs Wright has to be taken into account. Of course, she will also be effected by that extremely strong criticism of Mr Rae as someone Mrs Wright has invested a lot of trust and confidence, as well as money, in.

26. The examples that Mr Trimm has identified in the Facebook entries are such as follows. This is dated 17 June 2022, i.e. post the finding of contempt. She refers to:

> **"Whilst I was struggling with this and finding a lump in my breast a CORRUPT member of the legal profession, member of the judiciary and one other were plotting a LAND GRAB PROPERTY SCANDAL to steal my home. A senior politician has remained strangely silent, which is complicity."**

27. She goes on, on the same date, only two hours later:

> **"I have been told that I am a victim of a land grab property scam which involves a lawyer and members of the judiciary and a senior politician who has remained strangely silent. Silence means compliance! Now it is my turn to sit back and watch these people**

sweat. The shit has already hit the fan. Do not trust the Land Registry either? Say no more."

28. Then on 17 June 2022, this is a message posted by Mr Jackie *Solars*. This is someone who the Claimant and her solicitors do not believe exists as a separate person. On the Defendant's case it is someone who she seeks to represent her. He is a US citizen, as I understand it, said to be a retired member of the Armed Forces who regularly posts either in his own name or on behalf of the Defendant. Either way, he is either the Defendant's agent or her alter ego. He writes in a Facebook entry:

> **"The injustice here is that Wright's solicitor, Carlton Rae, the Hampshire law enforcement Judge Dack and now a Judge Berkley in Winchester is railroading a woman. I guess we see how justice is all one sided in the UK and the so called Muslim community and the Christians are so ignorant as to sit on their fannies and ignore it. I don't even know what to think about the UK. It looks like hypocrites to me."**

29. Again, on 28 June 2022:

> **"Well, folks, as many of you know I have been trying to stop a property fraud scene operating in the Portsmouth UK area a solicitor Carlton Rae, Judge Dack and it appears Judge Berkley in Winchester is operating. Fact 1: these three are all in property acquisition. Fact 2: these three are using the courts to legitimise their thefts. Fact 3: I have informed all and none can deny. Fact 4: I have challenged one Carlton Rae and he is playing a game. This is how you idiots operate."**

30. It will be noted in passing that these are now not only comments about the Claimant and her solicitor but also a direct challenge to the integrity of the Court and this is after the finding of contempt.

31. As I have indicated, the emails go wider than just being those sent to the Court and to Mrs Wright and Mr Rae. The Attorney General was sent an email on 28 June 2022, again purported to be from Jackie R Solars, which again sets out the same general level of allegations:

> **"In deductive reasoning a ploy by her solicitor, Carlton Rae, Carlton Rae, Judge Dack and now Judge Berkley all in professional property acquisition are utilising the judicial process to strip Miss Rogers' freedom of possessions. Asserting that Miss Wright has continued to trespass, vandalise and publicly curse Miss Yvonne Rogers. This is religious discrimination, terrorist bigotry."**

32. He goes on to say that he is forced to take this international:

> **"This day and this hour I will be discussing the above issues in my own state and federal offices. I have already begun contacting media channels to expose the fraudulent actions of all involved."**

33. Mr Rae emailed Mr Solars to warn him that this sort of conduct was going to be taken into account in this case.

34. Another email was sent, again by Mr Solars, to Mr Shaun Woodward, who I understand to be the local MP, and he sets out exactly the same level of allegations against Mrs Wright, Mr Rae and the Court.

35. These examples provided by Mr Trimm are examples of harm, and I will come back to the examples he used in relation to the contempt itself. He also submitted a Facebook entry at page 106 of the bundle dated 4 July 2022 from Yvonne Rogers herself who says, referring to Mr Solars' time in prison for an offence that it seems to be accepted was committed by him, goes on to say:

> **"It was a crime he didn't commit due to a personal vendetta committed by a family who didn't tell the truth and she got someone to lie but on learning that she would serve time herself she decided he could do the time instead. But he ended up as a GLADIATOR in prison, meaning nobody Fs with him or those that he loves. So, you now know he is looking forward to meeting you."**

36. This was addressed to Mr Rae:

> **"Oh, and he was a sergeant in an elite force of the American military, starts with D and second word F. He left a voice clip for you, I believe. Something about bend over Billy. Believe me HE is fearless. After 22 years nothing bothers him. Trained in hostage taking too and enlisted to stop extremism on both political and religious grounds and he was able to immediately identify your client's extremism, by the looks of it yours. Put the kettle on, Billy."**

37. I accept Mr Trimm's submission that that is an oblique threat to Mr Rae. An email from Jackie Solars to Mr Rae and to Mrs Rogers:

> **"Subject, mess with me."**

38. This is dated 24 August 2022, so within the last week or so:

> **"You are a typical Brit. You think us Yanks are weak. Well, BOY, hear I am, show me your nuts or are you queer?"**

39. There is an email again from Jackie Solars copying in Mr Rae and the Defendant and indeed generalwinchestercrowncourt@justice.gov.uk:

> **"Dear Honourable Judge Berkley, so feel free to video chat me. I've had enough of this stupid case, flowerpots, let's go??? etc. Hold me in contempt, whatever, I'm no coward from law enforcement. Well, I feel I am right. I will stand. This case is frivolous. I am tired of it. I expect common sense to be addressed. Make (inaudible) asking more than your court can exercise. Freaking flowerpots, pots have been removed yet the frack continues and so on."**

40. Those are the emails that give a flavour of how Miss Rogers and her agent or her alter ego seek to react to the case and seek to threaten, demean, accuse those involved with it and including Mrs Wright. There are many, many more emails which have been

repeatedly sent to the Court, as I have already indicated, I have referred to them in my judgment on 22 June at paragraph 8 and I will just repeat what I said there.

"*As Mr Rae noted in his first affidavit*:

> **"The Second Defendant denies the jurisdiction of this Court, which she refers to as a private corporate enterprise, which has been conspiring with the Claimant and rather than comply with the order and clear the driveway that she has instead, at various times, sought to rely on the Magna Carta, the Committee of the Barons, the Islamic Law, the jurisdiction of the United States and the Court of International Law."**

He summarised, well I did not go on to say but it seems that very much the same material was being sent but in a much more direct and insulting way and just to list some of the matters that are alleged against the Claimant and Mr Rae, her solicitor:

> **"Betting, treason, sedition, harassment, discrimination, abuse, intimidation, loss of joy and pleasure, trespass, land encroachment, undignified and hostile treatment to terrorism, hate crimes, religious prejudice, property crime, human rights violations, tampering with the mail, property damage and contempt of court."**

41. Then there is reference to the "land grab scam". Those allegations were repeatedly made since the finding of contempt. The Second Defendant has been sending emails which repeat those allegations. They concentrate on reasons why she says she cannot or should not comply.

42. This case, she says in capital letters on very many of them, has never been about flowers in pots and she goes on to say that it is about a campaign of hatred and religious bigotry, discrimination by Mrs Wright and Mr Rae and with the connivance of the Court, several judges and the police.

43. This has led me to the order that I made which has been largely successful in stemming the flow of these emails but there have been several, including one that was sent as recently as 27 August 2022 in which it is just headed:

> **"Magna Carta 1215, article 61, the treason and security clause. To pervert or destroy the constitution of a country is an act of high treason. I, Yvonne Rogers, stand under article 61 invoked on 23 March 2001. I have complied with the court order to remove the pots. I swear that I was too ill to attend the Court."**

44. Then she goes on over 14 pages setting out what she says the case is about, making allegations of threats, malice, hatred, criminal bigotry. That was sent for my attention to the Winchester Diary Manager, Mr Rae and to Jackie Solars on 31 August 2022 seeking:

> **"Mr Solars would like to give evidence by video link. Attached is a defence prepared by myself in the absence of Mr Milton, a skeleton made prior to his now taking a vacation."**

45. In that email, again, accuses Mr Rae and Mrs Wright of:

> **"Behaving in a most appalling manner, stalking and harassing online, defaming and stigmatising my partner, making libellous comments in two social media posts."**

46. In a separate email that I have seen, she requests:

> **"Mr Solars to attend and give evidence by video link because he knows absolutely everything about this case and is in full receipt of the facts."**

47. That confirms my finding that he is synonymous with Miss Rogers and she cannot separate herself from the comments made by Mr Solars, particularly when she has been copied into most of them and she has never sought to distance herself from them. That is a flavour of what has been going on both before and after the finding of contempt.

48. Going back to *Oliver v Shaikh*, Nicklin J set out CPR part 81, which I repeat here, CPR 81.9:

> **"If the Court finds a Defendant in contempt of court the Court may impose a period of imprisonment and order of committal, a fine, a confiscation of assets or other punishment permitted under the law. 2) Execution of an order of committal requires issue of a warrant of committal. An order of committal and a warrant of committal have immediate effect unless and to the extent that the Court decides to suspend execution of the order or warrant. 3) An order or warrant of committal must be personally served on the Defendant unless the Court directs otherwise. To the extent that the substantive law permits the Court may attach a power of arrest to a Committal Order. An order or warrant of committal may not be enforced more than two years after the date it was made unless the Court otherwise directs. The changes to the procedure rules in CPR part 81 have not affected the previous authorities as to the approach to penalties that the Court should adopt."**

49. I am reading directly from Nicklin J's judgment because I do not think it can be summarised more concisely than he puts it. He goes on at paragraph 16:

> **"The decision on sanctions is entirely for the Court (*Attorney General v Hislop* [1999] 1 WLR 514, 522) , similar to the role of the Prosecution in a criminal court where the Court is considering sentence. The party seeking punishment of the Contemnor does not urge the imposition of any particular penalty on the Contemnor. The role is limited to making submissions as to the circumstances and the consequences of the breach and ensuring that the Court's attention is drawn to all relevant authorities."**

17:

> **"The following principles can be derived from *Crystal Mews Ltd v Metterick & Ors* [2006] EWHC 3087 paragraphs 8 to 13:**

(i) The object of sanction imposed by the Court is twofold, 1) to punish the historic breach of the court order by the Contemnor and 2) to secure future compliance with the order. In my judgment if those objectives in any way conflict in terms of sanction then the primary objective is to secure compliance.

(ii) The sanctions available to the Court range from making no order, imposing unlimited fine or the imposition of a sentence of imprisonment for up to 2 years. The Court has the power to suspend any warrant for committal.

(iii) As with any sentence of imprisonment that sanction should only be imposed where the Court is satisfied that the Contemnor's conduct is so serious that no other penalty is appropriate. It is a measure of last resort. A suspended prison sentence equally is still a prison sentence. It is not to be regarded as a lesser form of punishment. A sentence of imprisonment must not be imposed because the circumstances of the Contemnor mean that he will be unable to pay a fine. A sentence of imprisonment may well be appropriate where there has been serious and deliberate flouting of the Court's order.

(iv) The Court's task in determining the appropriate sanction to assess is to assess culpability and harm. The Court will consider all the circumstances but typical considerations when assessing the seriousness of the Contemnor's breach are a) the harm caused to the person in respect of his interests that the Injunction Order was designed to protect that breach. b) Whether the Contemnor has acted under the pressure from another. c) Whether the breach of the order was deliberate or unintentional and d) the degree of culpability of the Contemnor.

(v) Mitigation may come from a) an admission of breach, for example admitting a breach immediately and not requiring the other party to go to the expense and trouble of proving a breach. b) An admission or appreciation of the seriousness of the breach. c) Any co-operation by the Contemnor to mitigate the consequences of the breach and d) genuine expression of remorse and a sincere apology to the Court for his behaviour."

18:

"The mitigating factors may also have a bearing on the Court's view as to the likely risk of repetition of a breach and therefore the assessment of the degree to which the sanction needs to serve the objectives for securing future compliance. If the Contemnor, even belatedly, demonstrates a genuine insight into the seriousness of his prior conduct and his unlawfulness then the Court may well be able to conclude that the Contemnor has learnt his lesson and the risk of future breach is thereby diminished."

50. Nicklin J goes on to refer to *The Financial Conduct Authority v McKendrick* [2019] 4 Weekly Law Reports 65, in which the Court of Appeal stated at paragraph 40:

> **"Breach of a court order is always serious because it undermines the administration of justice. We therefore agree with the observations of Jackson LJ in *JSE BTA Bank v Solodchenko (No.2)* [2011] EWHC 2163 as to the inherent seriousness of the breach of a court order and as to the likelihood that nothing other than a prison sentence will suffice to punish such a serious contempt of court."**

51. Dealing with the length of sentence the Court of Appeal went on:

> **"However, because the maximum term is comparatively short, we do not think that the maximum can be reserved for the very worst of contempt which can be imagined, rather there will be a comparatively broad range of conduct which should fairly be regarded as falling within the most serious category therefore justifying the sentence at or near the maximum."**

52. Nicklin J goes on to refer to CPR 81.10, which now provides that:

> **"(1) A Defendant against whom a Committal Order has been made may apply to discharge it.**
> **(2) Any such application should be made by an application notice under part 23 in the contempt proceedings.**
> **(3) The Court hearing such an application shall consider all the circumstances and make such an order under the law as it sees fit."**

53. Finally, it goes on:

> **"The effect of this is that where the punishment imposed by the Court contains elements of punishment from previous breaches and encouragement to a later compliance the Court may reduce a previously imposed penalty on an application made under CPR 81.10."**

54. I then turn to applying those legal principles to the facts that I have found in this case. I re-emphasise that the issue here is the failure to comply with a court order. It is not the seriousness or otherwise of what the court order was imposed to obtain. There is an element of punishment for failure to do so and there is a requirement to secure future compliance with the order and it is because of those that the matters that are set out in paragraph 17 of *Oliver v Shaikh* are relevant.

55. I take into account the fact that there is a range of possibilities in this case. I shall now turn to deal with the factors set out by Nicklin J in paragraph 17 (iv) of *Oliver v Shaikh*.

56. Harm: I find that the harm caused to the person in respect of the interests of the Injunction Order was designed to protect by the breach has been serious. The conduct which the Defendant has chosen to engage with this matter has been conduct which has brought severe distress, worry, fear, and expense to Mrs Wright.

57. The allegations have been serious and repeated; they are insulting and they are distressing. She also has had to endure the more serious allegations made against her own solicitor to whom she is looking, to protect her interests. Thankfully Mr Rae has

shown himself to be a man of considerable fortitude, because Mrs Wright must have been worried that at some point he was going to give up and refuse to take further instructions and get further involved in the matter, because it must have been extremely distressing for a professional man in a local practice to face public and widespread allegations of this nature.

58. Has the contemnor acted under pressure from another? No. There is no indication that Miss Rogers has been forced by anybody. In fact, what she has done is rather the reverse: she has engaged Mr Solars, and I will assume for these purposes that he does exist, to act on her behalf and double down on her insults and allegations. Not only that, but he has made oblique threats, which she repeats and engages in, so in fact she has engaged others to assist *her* with this conduct.

59. Deliberate Conduct? Clearly, the conduct comprising the breach of the order has been deliberate and, as was pointed out by Mr Trimm, Miss Rogers chose to do absolutely nothing for nine months, save to deny the jurisdiction of the Court and to insult all those involved with the process, including alleging that members of the judiciary (and this was before my involvement) were corrupt and involved with fraudulent scams and religious bigotry and prejudice.

60. Clearly, Miss Rogers decided to deliberately refuse to comply with the order until the finding of contempt was made. There has since been some movement, but it is clear from that that she was always capable of taking those steps, which she should have done from the moment the order was made.

61. Degree of Culpability. In terms of the degree of culpability of the contemnor there is little needs to be said than simply to review the emails that she has written and posts that she has made. She is fully culpable. She has claimed ill health. I accept that but, as Mr Trimm pointed out and I accept, there has been no evidence of an appropriate or proper sort served by Miss Rogers, despite her approaching and engaging a myriad of medical practitioners, if she is to be believed.

62. She has claimed in her emails that the medical practitioners are also in cahoots to make her life difficult and to refuse to diagnose her. She has spent money in employing others to do some of the work that is required to comply with the Order but also to put a padlock on her door and to put garden meshing on it so in order to try and avoid service of court documents. She has been seen going out in taxis, going to the supermarket. She has clearly engaged in this activity, and it is clear that she is capable of conducting herself in day to day activities, and is capable of engaging contractors (and can apparently afford to do so) when she feels like it.

63. The most recent attempt to submit evidence was a letter from, we think it is Dr Hassan Omran of Square Health, a private medical establishment, and he sets out a whole list of complaints that Miss Rogers says that she has, which list includes a lot of complaints of failure by other medical practitioners to deal with her complaints. Dr Hassan says that "*on examination the patient sounds well in a telephone consultation*". He concludes that she seems to have capacity and he advises her regarding A&E, and also that she should get a face to face assessment from a neurological consultant. That is far from anything like cogent evidence to suggest that she is not culpable for her failure to abide by the Court Order, and that she is not responsible for the conduct in which she has engaged as part of that failure.

64. Mitigation? I then look at whether there has been any mitigation, an admission of the breach, for example. Admitting a breach immediately and not requiring another party to go to the expense and trouble of proving a breach is a constructive step. That could not be much further from this case. There has been no admission of a breach, instead Miss Rogers makes angry and contemptuous denials that this case "*is not about flowerpots*".

65. To this date it appears that Miss Rogers does not admit that she was in the wrong. She certainly has not admitted the breach. She has never done so, save for very reluctantly after a period of nine months, taking some steps to remove the pots. In contrast Mrs Wright has had to come to court on numerous occasions, always getting Costs Orders but none of them having been satisfied. She has had to try to prove the breach on several occasions. The Court has been doing its best to indulge Miss Rogers to satisfy itself that her non-attendance is, in fact, culpable behaviour, which I am afraid it is. She has made Mrs Wright jump over more hurdles than would otherwise would be the case, particularly if there had been an admission of the breach and the sheer length of time over which the breach has been maintained by Miss Rogers.

66. There has clearly been no such admission or appreciation of the seriousness of the breach: the emails; the ongoing declarations under the Magna Carta; the references to treason and the exclamations that this case is not about flowerpots all point in the opposite direction. I even went to the trouble of pointing out in one my orders that this case was indeed about flowerpots and a right of way, but she has continued to deny that they are relevant.

67. There is simply no appreciation that an order of the Court is an order of the Court and it must be obeyed, as has repeatedly been said in this case. To ignore and to minimise these orders and their requirement for compliance undermines the rule of justice in this country.

68. Moving on with Nicklin J's considerations: has there been any co-operation by the Contemnor to mitigate the consequences of the breach? In fact, there has been anything but that; indeed there has been the opposite of that. I accept that *some* steps have been taken now to remove *some* of the obstructions, but Miss Rogers still has not complied with the order, so again there is nothing to go in the scales in her favour in that regard.

69. Remorse? Has there been any genuine expression of remorse or sincere apology in a court for the behaviour? Again, I have pretty well covered that in my previous comments. There has been nothing of the sort. As Mr Trimm submitted in his concluding remarks, here the culpability and harm is considerable and the mitigation is nil. I accept those submissions.

70. The conduct of the Defendant in failing to comply with the order shows a complete contempt for the Court, which is ongoing since the finding I made of her being in contempt of court. She denies the jurisdiction of the Court. She denies the purpose of the order and what the case is about. She has insulted and threatened the Complainant, Mrs Wright, and her legal advisors and the Court.

71. This is considerable culpability and harm, and there is nothing to speak of in mitigation. As per paragraph 40 of *The Financial Conduct Authority v McKendrick* case, do I consider that this case has reached the custody threshold? I conclude that it has.

72. I gave myself pause for thought to consider this point carefully. But on reflection and looking at the authorities and looking at the extremely serious nature of how the Defendant and Mr Solars have conducted themselves in resisting this order and compliance with it brings that conduct into sharp focus, and then I have to consider the harm that has been caused, which I have already covered.

73. For those reasons, I consider that a period of imprisonment is appropriate. I go on to consider whether that period should be suspended. Given the seriousness of the railing against the court order and everything and everyone connected to it, I am afraid I do not consider that a period of suspension is appropriate. This is a flagrant, persistent and serious ignoring of the court order and very bad treatment of someone who is entitled to rely on it.

74. The allegations are horrible and they must have caused Mrs Wright an extreme amount of distress. I reiterate, it is not about what the seriousness of what Miss Rogers was being asked to do, it is the seriousness with which she took the court order and the fact that she still has not complied with it. I am going to order an immediate custodial sentence.

75. Taking all those matters into account, I take into account, however, that Miss Rogers is 72 years old, she clearly is somewhat obsessed with the Magna Carta and other matters that are going on in her life and this, of course, is her first, so far as I am aware, finding of contempt against her, so taking all those factors into account I am going to commit Miss Rogers to a period of imprisonment for 6 months.

76. There will be a power of arrest attached to this order and a warrant for her arrest will be issued.
