



**IN THE COUNTY COURT AT SHEFFIELD**

**Claim No: J20SE006**

Sheffield Combined  
Court Centre, 50 West  
Bar, Sheffield. S3 8PH

Date: 29/03/2023

**Before:**

**HIS HONOUR JUDGE SADIQ**

**Between:**

**SHEFFIELD CITY COUNCIL**

**Claimant**

**-and-**

**DAVID ROLLINSON**

**Defendant**

**George Leach** Solicitor appeared on behalf of the **Claimant**

The **Defendant** appeared in person

Hearing date: 29 March 2023

### **JUDGMENT**

This judgment was handed down at 11.00am on 29 March 2023 by circulation to the parties or their representatives by email and by release to the National Archives.

## **His Honour Judge Sadiq:**

### Introduction

1. This is a committal application for contempt brought by the C, a Local Authority, for the alleged breach of the terms of an injunction granted on 14 March 2022 under s4 of the Anti-Social Behaviour Crime and Policing Act 2014. The Claimant was represented by Mr Leech, Solicitor, and the Defendant appeared in person.

### Background

2. The Claimant is the owner and landlord of social housing of Elm Tree House which is the subject of the injunction. The Defendant's mother is the legal tenant of 23 Elm Tree House, Ridgeway Road, Sheffield. S12 2TW ("the Property"). She is an elderly person who was approximately 70 years of age at the time of the injunction order. The Claimant's injunction application set out allegations of anti-social behavior by the Defendant at the Property including noise nuisance, shouting, arguing, physical violence and criminal damage.
3. On 9 February 2022, I granted an interim injunction to the Claimant against the Defendant which provided that the Defendant was forbidden from (1) entering or being in the direct vicinity of Elm Tree House, Ridgeway Road, Sheffield. S12 2TW, and (2) engaging or threatening to engage in abusive, insulting and intimidating behaviour likely to cause harassment, alarm or distress, or a nuisance or annoyance to any person residing or lawfully visiting Elm Tree House. The injunction was to last for 12 months until 12 noon on 9 February 2023. The return date of the application was 14 March 2022. The Defendant was served with a copy of the injunction on 9 February 2022 by a Certificate of Service dated 10 February 2022.
4. On 14 March 2022, the return date of the application, the Defendant attended and confirmed that he did not intend to serve any witness statements or any evidence in rebuttal and did not object to the injunction continuing until 12 noon on 9 February 2022. I granted a permanent injunction until this date. The Defendant was served with a copy of this injunction order on 23 May 2022.
5. On 22 November 2022, the Claimant issued a committal application arising from two alleged breaches of the injunction by the Defendant. On 12 January 2023, I listed the matter for a committal hearing before me at 10.00am on 29 March 2023 with a time estimate of 3 hours, with directions.
6. On 29 March 2023, the committal application was listed before me at 10.00am. The Defendant attended court at 10.25am. On 30 January 2023, the Defendant was served with the Schedule of Breaches, the Claimant's witness statements, the notice of hearing, directions order and the Claimant's contempt application. The Defendant has not served any witness statements and supporting evidence in rebuttal, but of course he is not obliged to.

### The Schedule of Breaches and Evidence

7. Although there are multiple incidents of alleged breaches of the injunction in various note book entries from the Claimant from 17 February 2022 to 22 November 2022, the Claimant's Schedule of Breaches contains only two allegations that on 26 July 2022 and 11

August 2022, the D breached the injunction terms by (1) attending the Property and/or (2) was verbally abusive, arguing, and pushed one of the Claimant's Community Officers.

8. The evidence filed in support of the committal application consists of a witness statement from Richard Nicholls, the Claimant's Anti-Social Behaviour Resolution Officer, and Sophie O'Brien, the Claimant's Community Services Officer. They both gave oral evidence. Miss O'Brien witnessed both alleged incidents on 26 July 2022 and 11 August 2022.
9. At the outset of the hearing, I advised the Defendant that he had the right to remain silent and the risk that adverse inferences may be drawn from his silence. I also reminded the Defendant that if he chose to say anything, he had a right against self-incrimination. The Defendant was also reminded of his right to legal advice and legal aid. Although the Defendant had not filed any evidence in rebuttal, he was given the opportunity to give evidence from the witness box. He declined that opportunity, exercising his right to silence.

### Legal principles

10. I apply the criminal standard of proof to each alleged breach, namely, beyond reasonable doubt. I have to be satisfied to the criminal standard that the Defendant knew about the injunction terms and that he carried out acts which were in breach of the injunction terms – see *Kea Investments Ltd v Watson* [2020] EWHC 2599 (Ch), per Nugee LJ at [19]. I remind myself that each allegation in support of the committal application has to be considered separately.
11. I am satisfied that the Defendant has capacity. Capacity is presumed unless proven otherwise. There is no evidence before me that the Defendant lacks capacity.

### Findings in relation to Committal Application

12. I now turn to the specific breaches alleged against the Defendant. Where I say that I am satisfied that I am sure that an allegation has been proved, I mean that I am satisfied beyond reasonable doubt. I take into account the credibility of the witnesses and their demeanor.

### Allegation 1

13. The first allegation is that on 26 July 2022 at approximately 2.30pm, the Defendant was seen inside the Property. I am satisfied so that I am sure that the facts alleged in Allegation 1 have been proven and that as a result there has been a breach of the injunction. I accept the evidence of the Claimant's Community Services Officer, Miss O'Brien, that she attended the Property and found the Defendant present in the kitchen. When she informed the Defendant that he should not be present because of the injunction, the Defendant said that he knew he should not be there and was leaving and would not come back. Miss O'Brien's evidence is corroborated by a notebook entry dated 26 July 2022.

### Allegation 2

14. The second allegation is that on 11 August 2022 at approximately 12.15pm, the Defendant was seen standing directly outside the Property on the ramp, arguing with his mother over his mother's landline telephone which the Defendant had in his hand; that he became verbally aggressive and told Miss O'Brien to "fuck off"; that the Defendant was shouting at

his mother to get his money and pushed her, telling her to “fuck off” and “fucking get me my money”, and that he pushed Mr Garrett, a Neighbourhood Officer, who was also present. I am satisfied so that I am sure that the facts alleged in Allegation 2 have been proven and that as a result there has been a breach of the injunction. I accept the evidence of Miss O’Brien who witnessed all these incidents. Miss O’Brien’s evidence is corroborated by a notebook entry dated 11 August 2022. I also accept her evidence that the Police attended and Miss O’Brien and Mr Garret gave statements to the police. No further action was taken by the Police regarding this incident.

15. For all these reasons, I find both breaches proven to the criminal standard, beyond reasonable doubt. In mitigation, the Defendant told me that he was born on 24 December 1986 and is now 37 years of age. He is disabled and suffers from a curvature of the spine since birth. He had undergone numerous operations for this condition and uses a breathing machine at night because of the impact of the spine curvature on his lungs. He lives alone and has no siblings. His only close relative is his mother. He is not working and receives disability benefits. He said he no longer had any drug and/or alcohol problems.

### Sentence

16. I remind myself of the recent guidance given by the Court of Appeal in *Lovett and others v Wigan Borough Council* [2022] EWCA Civ 1631, regarding the proper approach to sentencing for breaches of anti-social behaviour injunctions made under Anti-Social Behaviour & Crime and Policing Act, in particular:

- (i) the objectives of sentencing is ensuring future compliance with the order, punishment and rehabilitation, in that order;
  - (ii) the options are available to the court are: an immediate order for committal to prison; suspended order for committal to prison with conditions; adjourning consideration of a penalty; a fine, or no order;
  - (iii) the maximum sentence in the civil jurisdiction for contempt is two years imprisonment. Custody should be reserved for the most serious breaches, or for less serious cases where other methods of securing compliance has failed. A custodial sentence should never be imposed if an alternative course is sufficient and appropriate, and any custodial sentence has to be the shortest necessary to achieve the court's purpose;
  - (iv) although a suspended sentence is often used as the first means of securing compliance, an alternative first option is to adjourn consideration of sentence;
  - (v) distinct consideration should be given to harm and culpability, and the three-level scheme proposed by the report of the Civil Justice Council dated July 2020 entitled “Anti-Social Behaviour and the Civil Courts” is a valuable tool, and the CJC report grid at Annexe 1 of that report is appropriate.
17. Step 1: is to determine the seriousness of the breach. That depends upon the assessment of culpability and harm. Regarding culpability, on the evidence I am satisfied that the Defendant’s behaviour falls within culpability Band B since it involves a deliberate breach falling between A and C (Band A is a very serious breach or persistent serious breaches,

and Band C is for minor breaches). Regarding harm, on the evidence I am satisfied that the Defendant's behaviour falls within Category 2 of harm since it falls between Categories 1 and 3. Category 1 is where the breach causes very serious harm/distress, which does not apply here. Category 3 is where the breaches causes little or no harm/distress, which also does not apply here.

18. Stage 2: having determined the categories at Stage 1, the court should use the corresponding starting point to reach a preliminary penalty. The CJC Report grid provides that the starting point for a Category 2 offence with culpability level of Band B is 1 month, with a category range of adjourned consideration to three months. The preliminary penalty may then be adjusted to take account of any aggravating or mitigating factors, which would result in an upward or downward adjustment. I must be careful not to "double-count" factors namely take into account a factor which I have already taken into account in arriving at the preliminary penalty.
19. I take into account the following aggravating factors: the second breach involved the Defendant (i) verbally abusing one of the Claimant's officers and pushing another, and (ii) pushing and verbally abusing his mother who is an elderly and vulnerable person. I take into account the following mitigating factors: (i) the Defendant's previous good character, namely no previous committal proceedings have been brought against him; (ii) there were only two breaches relied upon, and (iii) the actual harm caused was actually limited.
20. In all the circumstances, I have decided to adjourn sentencing for 3 months namely to 29 June 2023. On that date, I will consider sentencing again. Since the injunction expired on 9 February 2023, I will also grant an injunction on the same terms for 6 months until 12 noon on 29 September 2023. If the Defendant does not breach the injunction between now and 29 June 2023, no order might well be the result when I consider sentence again. However, if further breaches take place between now and 29 June 2023, a custodial sentence is likely, which might or might not be suspended. I trust the Defendant will now understand the seriousness with which breaches of the injunction will be considered by the court and that there will be no repetition. The Defendant is entitled to appeal this decision without permission. The appeal court is the High Court. Any appeal must be commenced within 21 days of the order reflecting this judgment. The Defendant has the right to purge the contempt.