



**IN THE COUNTY COURT AT SHEFFIELD**

**Claim No: J20SE112**

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

Date: 06/03/2023

**Before:**

**HIS HONOUR JUDGE SADIQ**

**Between:**

**THE GUINNESS PARTNERSHIP**

**Claimant**

**-and-**

**AMY TAYLOR**

**Defendant**

**Cheslea Brooke-Ward** of Counsel appeared on behalf of the **Claimant**

**Ashleigh Heyworth** of Counsel appeared on behalf of the **Defendant**

Hearing date: 6 April 2023

### **JUDGMENT**

This judgment was handed down at 12.30pm on 6 April 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 hearing for contempt brought by the Claimant, a Housing Association, for the alleged breach of the terms of an injunction granted on 1 December 2022 under s4 of the Anti-Social Behaviour Crime and Policing Act 2014. The Claimant was represented by Miss Brooke-Ward of Counsel and Miss Heyworth of Counsel appeared for the Defendant. I am grateful for their assistance.

### Background

2. The Claimant is the owner and landlord of social housing of the property which is the subject of the injunction. The Defendant's ex-partner, Mr Mark Ferriter, is the legal tenant of Flat 3a, Oxspring Bank, Herries Road, Hillsborough, Sheffield, South Yorkshire, S5 8NR ("the Property") provided by the Claimant. The Defendant was the tenant of a separate flat provided by the Claimant, but on 2 December 2021 she terminated her tenancy and moved into Mr Ferriter's flat. The Claimant's injunction application set out allegations of anti-social behavior by the Defendant including arguing, shouting, screaming and fighting at the Property.
3. On 1 December 2022, Deputy District Judge Hawthorne granted an injunction to the Claimant against the Defendant which provided that the Defendant (1) must leave the estate known as Oxspring Bank on Herries Road; (2) upon leaving Oxspring Bank, she must not enter or remain in Oxspring Bank, and (3) she must not, whether by herself or by instructing or encouraging or permitting any other person and whether directly or indirectly, use or threaten to use violence, or cause a nuisance or annoyance against anyone lawfully residing, visiting or working in Oxspring Bank. A power of arrest was attached to paragraphs (1) and (2), and the injunction was to last for 12 months until 12 noon on 1 December 2023. The Defendant was served with a copy of the injunction on 8 December 2022.
4. On Friday 28 January 2023, the Defendant was arrested for allegedly breaching the injunction term by attending the Property. The Defendant should have been brought before the court within 24 hours of her arrest. In fact, she was brought before me on Monday 30 January 2023, which is more than 24 hours after her arrest. I immediately released the Defendant from custody, reminding her of the terms of the injunction, and in particular if she returned to the Property she would be in contempt of court, might be arrested again and brought before the court and fined, imprisoned or remanded in custody.
5. On Monday 13 February 2023, at approximately 1:30pm, the Defendant was brought before me again for the alleged breach of the injunction terms. She was reminded of her right to remain silent and not to say anything, and her right to legal advice and that she might be entitled to Legal Aid. Notwithstanding being reminded of her right to remain silent, the Defendant told me that on Saturday afternoon 11 February 2023 between 3:00pm and 4:00pm she was arrested by the Police for allegedly assaulting her ex-boyfriend, Mr Ferriter, at the Property. Whilst in custody for that matter it became apparent that she had also allegedly breached the injunction term by

attending the Property. A register from the Sheffield Magistrates Court confirms that the Defendant was charged with assaulting Mark Ferriter on 11 February 2023 by beating him contrary to s39 of the Criminal Justice Act 1988. The Defendant pleaded guilty and it appears that taking it account the time she had spent in detention following her arrest, no further penalty was imposed by the Magistrate. The civil contempt matter was adjourned, the Defendant was remanded on bail subject to the injunctions terms and a date was fixed for a committal hearing on 6 March 2023 for 3 hours, with directions including personal service of the of the committal documents at the Defendant's address. The Defendant was again warned that if she returned to the Property again she would be in contempt of court, might be arrested again and brought before the court and fined, imprisoned or remanded in custody.

6. On 6 March 2023, the committal application was listed before me. The Defendant attended and was assisted by Mr Staniforth, Solicitor, who was not at that time on the record as representing the Defendant. The Claimant's Schedule of Breaches contained 21 free-standing breaches of the injunction. The Claimant's bundle of documents contained six witness statements and was not paginated. The committal papers had not been served personally on the Defendant as required by my order and CPR 81.5(1). The Defendant confirmed that she had not received the committal papers and wanted to instruct a Solicitor to represent her. Counsel for the Claimant confirmed that one day was required for the court to deal with the 21 breaches. On balance, the court considered that it would be in accordance with the overriding objective to adjourn the committal hearing. At the hearing, the Defendant was served personally with the Claimant's committal papers by a court officer. The court directed personal service of a copy of the 6 March 2023 order, any updated Claimant statements and amended Schedule of Breaches by personal service at the address given by the Defendant. She was again reminded about the importance of not breaching the injunction terms and the seriousness of this matter.
7. On 12 March 2023 was personally served with the order and the committal papers. On 24 March 2023, the Defendant's Solicitor came on the record as the Defendant's legal representative and served a certificate of Legal Aid and an unsigned witness statement from the Defendant.

#### The Schedule of Breaches and Evidence

7. The Claimant's Schedule of Breaches still contains 21 allegations that between 18 December 2022 to 16 February 2023, the Defendant breached the injunction terms by (1) attending the Property and/or (2) engaging in fighting and/or or shouting and arguing at the Property.
8. At the outset of the hearing, I was informed that the Defendant had now admitted 14 out of the 21 alleged breaches of the injunction. They were breaches 1, 6, 7, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19 and 20. Counsel for the Claimant invited me to proceed to sentence instead of determining the remaining eight breaches which were denied by the Defendant. It was reasonable and proportionate for me to proceed to sentence in the circumstances.

## Sentence

9. 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.
10. 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). I am not satisfied that the Defendant’s behaviour falls within Band A because (i) although there are persistent breaches, they were not serious; (ii) there is only incident of violence on 11 February 2023, and (iii) this is the first time committal proceedings have been brought against the Defendant. 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 and none of the Category 1 examples apply here.
11. Stage 2: having determined the categories at Stage 1, I 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 for 3 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 i.e. take into account a factor which I have already taken into account in arriving at the preliminary penalty.

12. I take into account the following aggravating factors: (i) the persistent breaches of the injunction: the Defendant has admitted breaching the injunction 14 times since the injunction was made on 1 December 2022; (ii) breaches 17, 18 & 19 were committed whilst the Defendant was remanded on bail on 30 January 2023, and breach 20 was committed whilst the Defendant were remanded on bail on 13 February 2023; (iii) breach 19 on 11 February 2023 involved an assault on the Defendant's ex-partner, Mr Ferriter, at the Property; (iv) breach 20 on 13 February 2023 at approximately 6.15pm occurred a couple of hours after the Defendant had appeared before me in the morning on 13 February 2023 after I had warned her that if she returned to the Property again she would be in contempt of court, might be arrested again and brought before the court and fined, imprisoned or remanded in custody, and (v) as evidenced by the admitted breaches, the Defendant has shown a complete disregard for the injunction order.
13. I take into account the following mitigating factors: (i) the Defendant's previous good character, namely no previous committal proceedings have been brought against her; (ii) there is some information that the Defendant might be suffering from a mental illness and has alcohol addiction problems, and (iii) since the last hearing on 6 March 2023, there have been no further breaches of the injunction. As regards the Defendant being homeless, that is not adequate mitigation for breaching the injunction terms. There is no evidence before me about what steps, if any, the Defendant has taken to obtain local authority housing and other sources of accommodation available. The Defendant has a six year old son who has been taken into the care of the local authority. He lives with the Defendant's mother, who is his foster carer, and not the Defendant.
14. For breaches 1, 6, 10, 12, 13 and 14, the appropriate penalty is a term of imprisonment of 8 weeks to run concurrently. Breaches 17, 18, 19 and 20 occurred in breach of the Defendant's bail conditions. Breach 19 involved an assault on Mr Ferriter at the Property. Therefore, for these breaches the appropriate penalty is a term of imprisonment of 10 weeks to run concurrently. All the sentences are to run concurrently, which therefore means a total period of imprisonment of 10 weeks.
15. Step 3: is to reduce the penalty for any admissions made. The Defendant admitted 14 of the breaches and the remaining breaches were not pursued by the Claimant. I reduce the custodial sentence by a third. Therefore, 10 weeks becomes 6 weeks and 5 days.
16. I must also give credit for the time the Defendant has spent on remand. That period is two days (two days from 28 January 2023 to 30 January 2023 plus two days from 11 February 2023 to 13 February 2023). Because of the effect of s258 of the Civil Justice Act 2003, I must double that period to 8 days and deduct that from the period of 6 weeks and 5 days imprisonment. The result is an effective custodial sentence of 5 weeks and 6 days.
17. Step 4: I must then consider whether this sentence can properly be suspended. I have concluded that an appropriate punishment can only be achieved by an immediate custodial sentence in the circumstances of this case. You deliberately and persistently breached the injunction on 14 admitted separate occasions. You knew

the risk of imprisonment for breaching the injunction and decided to carry on nonetheless. The likelihood is that you will continue to breach the injunction unless you are restrained by an immediate custodial sentence. For all these reasons, the appropriate punishment can only be achieved by an immediate custodial sentence. Accordingly, you will be sentenced to an immediate term of imprisonment for 5 weeks and 6 days for the contempts. You will be entitled to be released from prison having served half this sentence. You are entitled to appeal this sentence without permission. The appeal court is the High Court, Any appeal must be commenced within 21 days of the order reflecting this judgment. You have the right to purge the contempt.