

**IN THE COUNTY COURT AT WEST CUMBRIA**

Hall Park  
Ramsay Brow  
Workington

**Before DISTRICT JUDGE STONE****IN THE MATTER OF****HOME GROUP LIMITED (Claimant)****-v-****ALEXANDRA SHAW (Defendant)**

**MR M EASTMAN, instructed by LPC Law, appeared on behalf of the Claimant**  
**MS M WEIR, instructed by Brockbanks Solicitors, appeared on behalf of the**  
**Defendant**

**JUDGMENT**  
**23<sup>rd</sup> FEBRUARY 2024**  
**(AS APPROVED)**

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## JUDGE STONE:

1. I thank both Mr Eastman and Ms Weir for the submissions they have made.
2. As I indicated when I spoke to Ms Shaw at the beginning of this hearing, there are two admitted breaches of the injunction of Deputy District Judge McGregor made on 29 November 2023 that were both admitted in court following an arrest by police on the first possible occasion.
3. The first of those is a breach by being in the property of 40 Queen Street Whitehaven on 24 January 2023. That matter was before the court and, on that occasion, it is correct to say there is no recording in the order as to a likely sentence. However, during the hearing I went through the culpability and harm, and I categorised that as a category 2 harm, culpability B scenario on the basis that it was a deliberate breach. It was clear and known that Ms Shaw should not go to that address and although there were mitigating factors in relation to the circumstances that she went there concerning her dog and the seizure earlier in the day, there was a clear choice to go to a property knowing that she was prevented from doing so by a court order.
4. Although it may be said to be at the low end, it is not a very significant very low level of harm because the purpose of the injunction in the first place was, clearly, to prevent nuisance and annoyance to neighbours and at 3.15 in the morning when there is shouting and argument and kicking at a door - there is nuisance and annoyance that arises.
5. So although it may just creep into the category, it does fall, not at the lowest end of harm in relation to the circumstances but I acknowledge there were no direct threats and no direct impact other than the time and the fact that people were subjected to that in the locality and in neighbouring properties at that time in the morning.
6. It is correct that that is not indicated, although I went through the hearing the reason it is not indicated is, of course, the situation was that I was adjourning sentence. That was the correct thing to do. I did indicate the starting point for any sentence would be one month but, of course, that all options would be open, and what option would be taken in relation to the actual sentence would depend on whether or not there were further breaches of the order.
7. There was, of course, a further breach of the order. It is correct to say it may be a different type of breach, namely on 8 February. She acted in a manner so as to cause nuisance and annoyance to Mr Sharp who lived at Jefferson Park. That is, again, indirect breach of the injunction.
8. There are statements from Mr Sharp and there is video footage that, clearly, was not available at the time that she admitted the breach, and it was certainly correct that the matter in the sentence for both breaches be adjourned so that she was able to secure full legal advice as, of course, she is entitled to, given the nature of the allegations and the breaches and that that advice should be able to take into account - not only the statements that were provided but the video evidence by way of the doorbell evidence from Mr Sharp's flat when before there was mitigation and consideration of those breaches. That has taken place.
9. It is clear that there is an active argument that would not only impact upon Mr Sharp but others in the property. It included an open door with another neighbour and although there is a background of the circumstances, with an extended period of time looking after Mr Sharp's carer's cat, there were some significant loud and abusive comments made towards him, including comments that he was not capable of looking after himself let alone the cat;

including saying, shut the fuck up you lazy fat bastard; and including circumstances where he was poor in relation to his mobility – moved around with a zimmer frame and had vulnerabilities.

10. That, of course, does not detract from the fact that there are vulnerabilities so far as Ms Shaw is concerned, as well, which were highlighted in litigation and which I will consider further. But again, it must be known that making comments like that - particularly with the knowledge that she has of Mr Sharp and vulnerabilities - would, as he indicated in his statement, cause him to feel, as a result and as a circumstance of those comments, potentially unsafe in his own home. He lacks mobility if anything did happen, particularly when and, finally, maybe the most significant of the evidence, was, next time I am going to come in and stab you up, was one of the comments that were made.

11. When I consider the culpability and the harm in relation to that breach, it cannot be anything other than deliberate. It may have arisen in particular circumstances and may be something that was as a result of a discussion and impact of the other lady that was involved – being involved, as well, and the intervention and the other flat whose door was opened.

12. But it cannot be said to be lower than the middle category particularly when it is known that there had been an earlier breach of the injunction, and it is known that one should not act in a manner to cause nuisance and annoyance. And it was abundantly clear that this did cause nuisance and annoyance. It is therefore one that falls into culpability B, and this is also one which falls into harm category 2.

13. It is higher in category 2 given the nature and the impact and the particular vulnerabilities of Mr Sharp. It does not just potentially creep in, as the earlier offence did. It is far clearer that this is well within category 2 culpability B. And, of course, the case of *Lovett v Wigan* to which Mr Eastman drew me and, of course, helps the court significantly and guides the court as to how to deal with breaches of injunctions of this nature, indicates that where there is a breach within category B, culpability B, the starting point for sentencing is a period of one month – that is a one month custodial sentence with a category range of adjourned consideration to three months.

14. Of course, the first breach has not been sentenced. The first breach was in that range and the sentencing was adjourned until May for the specific purpose of taking into account whether or not there would be any further breaches of the injunction. And although the second breach is of a different nature, it may be said to be a slightly more serious and significant breach as a whole within that category, given the effect on people.

15. It is correct to say that there is not, in the order that resulted from the adjournment of sentencing on 24 May, any indication of what the sentence may be.

16. There was, however, in the sentencing comments leading to the adjournment, a clear indication in the same way that I am going through matters now, of the ranges and what sentences would be possible and the fact that it was adjourned, of course, leads to the fact that there was no sentence imposed at that time.

17. The position today is, in reality - save that there was adjournment - no different from the lack of recording of what was said because if she came before me on the first occasion the range would be the same – the sentencing options would be the same. She is not coming before me, of course, for the first occasion.

18. In relation to that first offence, I consider that it crosses the custody threshold when one takes into account the harm, the circumstances, and when I take into account the three reasons in order. The first and main reason, being secure compliance with court orders, the second being punishment, and the third being rehabilitation.

19. When there is a deliberate breach with some harm and where there was adjourned sentencing to consider what would be appropriate, and that opportunity to continue to fully comply with the order was not taken. It is a breach for which the custody threshold is crossed. In relation to that offence, given that that starting point is one month, the appropriate sentence would be a custodial sentence for one month.

20. So far as the second breach is concerned, as I have indicated, it was deliberate; it had a greater harm within the same category. The starting point and the ranges are the same. The starting point of one month with category range of being adjourned consideration, up to three months. It is a more significant offence than the first offence and breach, and the appropriate sentence, when taking into account all of the factors, would be a sentence of six weeks in custody.

21. In reaching those conclusions, I take into account the mitigations that have been put forward and, in particular, the medical information and the background circumstances that, of course, Ms Shaw faces herself, and all of the factors that I have set out in this judgment already.

22. The total sentence I have to step back and consider is what is appropriate in totality. I would not consider that adding those sentences together would be appropriate in relation to the totality. The circumstances would be such that those sentences should be consecutive.

23. It is also important that I reflect that there was an admission on the first occasion and that would be appropriate to reduce any sentence as part of mitigation or whether – although it not mentioned in *Lovett v Wigan* in accordance with the criminal justice act - whether there should be a deduction automatically, by reason of admitting a breach on the earliest occasion.

24. For both of those reasons and given the admission was made at the earliest possible opportunity, I consider that a third should be taken off of the sentence, in any event, and that I do by way of taking the third off of the consecutive sentence and, therefore, making the total period of time, when I also deduct four days for the time spent in custody. Each day, of course, counting as two, because any sentence would lead to a discharge from the committal after a period of half of the time served, but that is not reflected when days are deducted for time already spent in custody, and Ms Shaw has, of course, already been in custody for, effectively, what is a day for each of the breaches. That leads, effectively, to two days deduction for each of the breaches. That, therefore, leads to a total sentence consecutively of 24 days' imprisonment.

25. It is important that I consider whether the custody threshold is met separately from whether or not it is appropriate to suspend any sentence. I have taken into account the positions of both parties and, indeed, I considered very carefully that the claimant's position in submissions was that a further adjournment may be necessary.

26. The court does not feel that that is appropriate, because it is a second breach where there was a clear warning, and deliberate and, given the harm, it would be wrong for such a breach to, effectively, suggest that one can have an adjourned sentence, breach the injunction, come back to court, and expect to get a further adjourned sentence. That is not appropriate,

and the court has already considered, when taking each of the offences, the custody threshold is crossed. Therefore it is appropriate to make a custodial order.

27. It is necessary, having reached that conclusion, to then go on and consider whether or not there are grounds to suspend that order because, of course, a breach of a suspended order is a higher significance and a greater risk to a person such as Ms Shaw if there were to be a further breach.

28. Given mitigation that is put forward, the particular circumstances, the health circumstances and, of course, it is not the court's desire to send people actually into custody unless it is necessary to do so, and as a last resort. There are particular mitigating circumstances in this case. There is assistance being sought for those medical circumstances and, indeed, to deal with any necessary reliance or abuse of alcohol or other substances. Taking into account those matters, I consider that it is appropriate, in this case, to suspend that sentence upon terms that there is continued compliance.

29. That means, of course, that if there is a further breach – it is not only adjourned – there is a suspended sentence that the court can taken into account and although no court is bound to activate, it is extremely likely that a court would activate a suspended sentence if there were a further breach of the order.

30. For all of those reasons I will make those penalties. Ms Shaw, can you please stand up. Ms Shaw, you have heard what I have said. I am going to sentence you, in total, to a period of one month in custody, reduced by a third in relation to the first breach on 24 January 2024, for being in the property at 40 Queens Street Whitehaven in breach of the injunction. And I am going to sentence you to a period of six weeks with a third deduction in relation to the second breach on 8 February 2024. Both of those will be served consecutively, that means at the same time rather than being added to each other.

31. When I deduct a third for your early admissions of the breaches and when I deduct time that you have already served which, necessarily, would need to be deducted so that you are released at an appropriate time, if the sentence is actually put into effect, I sentence you to a period of custody – a total of 24 days.

32. I suspend that custodial sentence on terms that you continue to comply and there is no further breach of the injunction order in place.

33. You know that what that means is that if there is a further breach there is already a custodial sentence that the court will consider activating in addition to any ability for the court to sentence for any other breach.

34. Do you understand what I have said and the sentence I have imposed, Ms Shaw?

MS SHAW: Yes.

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This transcript has been approved by the Judge