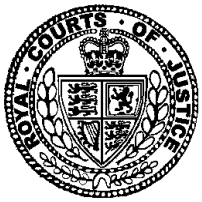

Neutral Citation Number: [2025] EWHC 2067 (Fam)

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
BY TRANSFER FROM THE FAMILY COURT SITTING IN ST HELENS
LV23P00988
IN THE MATTER OF THE CONTEMPT OF COURT ACT 1981
AND IN THE MATTER OF PART 37 FAMILY PROCEDURE RULES 2010

Date: 01/08/2024

Before :

MR JUSTICE POOLE

- -

Re Daniel Hesketh (Contempt in the Face of the Court)

DANIEL HESKETH

Defendant

- -
- -

The Defendant not appearing

Hearing dates: 13 June and 1 August 2025

- -

JUDGMENT

Mr Justice Poole:

1. This judgment concerns the Defendant's committal to prison for contempt in the face of the court. The judgment is in two parts. Part One records the Court's findings on 13 June 2025 of contempt of court. Part Two records the decision on 1 August 2025 to commit the Defendant to prison for a period of four months.

Part One

2. The Defendant, Daniel Hesketh appeared as a party at a hearing at the Family Court in St. Helens before District Judge Gray on 7 January 2025. This was a hearing in private family law proceedings concerning the welfare of the Defendant's two children. The mother of the children appeared by video link. In court, together with the Judge and the Defendant, were a Court Associate, Counsel for the mother, and a security guard, Mr Lowe.

3. The Defendant's conduct at the hearing is alleged to have been in contempt of court. Mr Justice Cobb, as acting Family Presiding Judge for the Northern Circuit, drafted allegations against the Defendant of contempt in the face of the court within a Committal Notice dated 21 February 2025. The allegations are:

> **"PARTICULARS OF ALLEGATIONS AND EVIDENCE**
>
> 1. You attended a Court hearing before DJ Gray ("the Judge") at St Helens Family Court on 7 January 2025.
>
> 2. At the hearing, you used threatening, abusive or insulting words or behaviour towards the Judge while he was conducting the hearing and showed disrespect to the Judge and to all court users within the hearing; in that:
>
> (a) You referred to the Judge as a "twat" (p.21F transcript),
>
> (b) You referred to the Judge as a "cunt" (p.21G transcript),
>
> (c)You referred to the Judge as a "fucking gobshite" (p.19G transcript),
>
> (d) You referred to the Judge and those in court "all of 'youse' as rapists, dirty, horrible bastards" (p.28B transcript);
>
> (e)You referred to the Judge and those in court as "youse are nothing but child offenders" p.20E transcript);
>
> (f) You referred to the Judge and those in court as "all mentally unwell, every one of youse" (p.28G transcript).

3. You repeatedly interrupted the Judge, shouted at the Judge and generally shouted within the court room, while the Judge was conducting court proceedings, and when delivering his judgment, in such a manner as to show disrespect to the Judge and to the court and its users; in that:

(a) From page 5-24 (transcript), you spoke over the Judge, and shouted at him and generally in the court room (see specifically in relation to the shouting referred to at pp.8, 10, 15 of the transcript);

(b) See page 26-30 of the transcript for the interruptions to the judgment ("rambling on a load of shit" p.30F).

4. You threatened the Judge while he was conducting court proceedings in that:

(a) You said to the Judge "I swear to God now if I see you outside this courtroom, Judge, I am gonna punch the fucking lights right out of ya" (p.21F transcript);

(b) You said to the Judge: "'I'll see you off outside this courtroom, you stupid twat… and any soft cunt like you and your family it's fucking on" (p.21F transcript);

(c)You told the Judge to "fuck off" (p.28H transcript);

(d) You said to the Judge "Who the fuck are you to tell me I can't see my kids?" (p.29B transcript).

5. For the reasons set out above, and with specific regard to the transcript and audio recording of the court hearing taken as a whole, it is clear that by your conduct you disrupted the court proceedings and impeded the due administration of justice."

4. Hence, the allegations at paragraphs 2 to 5 of the Particulars are (i) abuse of the Judge and others in Court, (ii) interruptions of the Judge, (iii) threats, including of physical violence, against the Judge, and (iv) disruption of the proceedings. Each is alleged to have constituted a contempt of court.

5. The evidence in support of the allegations was referred to in the Contempt Notice and comprises (i) a transcript of the hearing, (ii) an audio recording of the hearing, (iii) a witness statement from District Judge Gray dated 7 February 2025, and (iv) a witness statement from Paul Lowe, Security Officer, dated 7 February 2025.

6. Cobb J gave directions for a first hearing to take place before Bright J on 21 March 2025. In accordance with FPR Part 37 the Notice included advice to the Defendant about his right to remain silent and to receive publicly funded legal advice and representation. Personal service of the Contempt Notice and evidence was required. On 19 March 2025, on consideration of the papers, Bright J vacated the hearing listed for

21 March 2025 because personal service had not been effected. He listed the adjourned first hearing before me on 16 April 2025. Again, personal service could not be effected and so, after consideration of the papers, I vacated the hearing on 16 April re-listing it for 9 May 2025. On 15 April 2025, after further consideration of the papers, I gave directions permitting service by an email address beginning with "d" which was held on the court file in the family proceedings in the Family Court at St. Helens.

7. On 9 May 2025 I attended at the Liverpool Combined Court in Derby Square, Liverpool to conduct the hearing of the committal. DJ Gray and Mr Lowe attended court to give evidence. Mr Hesketh did not appear but I was assisted by helpful evidence from PC Roberts, a Police Liaison Officer, who had made contact at my request with the Investigating Officer who, it transpired, had interviewed Mr Hesketh, in the company of a solicitor, about the events at the hearing on 7 January 2025. The Defendant had given the police a telephone number and an email address beginning with an "h". The Defendant had given a "no comment" interview. I recorded on the face of my order of 9 May 2025 that PC Roberts 4431 had given evidence on oath on 9 May 2025 that:

> "Mr Hesketh had voluntarily attended with a solicitor for a police interview in relation to the events at St Helens Family Court on 7 January 2025 on 28 April 2025.
>
> During the attendance at the police station Mr Hesketh had been played the recording of the hearing on 7 January 2025.
>
> Mr Hesketh's attendance had followed telephone contact with him and he gave a telephone number to the police –[redacted]– and an address at [redacted].
>
> PC Roberts having used the said telephone number, spoke to Mr Hesketh at between 1100 hrs and 1200 hrs on 9 May 2025. Mr Hesketh informed him that he was unaware of the committal hearing and had not received any documents. Mr Hesketh said that post to the address above is often stolen and that contact with him should be at email address (redacted, beginning with H) or by telephone at the said number.
>
> The investigating officer would be able to provide details of the solicitor who attended the interview with Mr Hesketh."

8. At the hearing on 9 May 2025 I also received written witness evidence from Tipstaff officers that they had attended the last known address for the Defendant. It appeared that the address was possibly still occupied by him and there was post addressed to him at the location, but he was not present and a neighbour said he had not been seen for some time. I considered whether to proceed in the absence of Mr Hesketh but on balance, for reasons I gave at the hearing, I decided that I should again adjourn the proceedings and relisted them for the afternoon of 13 June 2025. I could not be sure that Mr Hesketh had notice of the hearing on 9 May 2025. Furthermore, it appeared to me that since it was now known that a solicitor was acting for Mr Hesketh in the criminal investigations, and given that contact details had been given to the police

which had not previously been known to this Court or the Tipstaff, a further attempt at service should be made. I directed that personal service should be attempted but that if it could not be effected then service would be permitted by leaving papers by post at the last known address and by service at both email addresses known to be used by the Defendant.

9. I conducted a further hearing at Liverpool Combined Court on 13 June 2025. Again, the witnesses DJ Gray and Mr Lowe attended. Again, PC Roberts was available to assist the court. In advance of the hearing I had received a statement from a member of the Tipstaff's team which informed the Court that contact with Mr Hesketh had been made by text. Messages had been exchanged making arrangements for officers to meet Mr Hesketh at an agreed location in Liverpool on 31 May 2025. I have seen copies of those texts. In fact, Mr Hesketh did not appear at the agreed venue as arranged and did not respond to calls made to his mobile on the day. I was also provided with a copy of an email sent to Mr Hesketh by the Tipstaff on 3 June 2025 which contains information that Mr Hesketh had not provided a postal or home address to the Tipstaff. The Tipstaff accordingly sent the written evidence (transcript and two statements) to both email addresses on 3 June 2025.

10. PC Roberts had made further enquiries, contacting the solicitor known to have represented Mr Hesketh at his police interview. That contact was by voicemail message on 12 June 2025. On the day of the hearing, 13 June 2025, PC Roberts managed to speak to Mr Hesketh by telephone. Under oath, PC Roberts informed the Court that the Defendant had been angry in his exchange by telephone with him, informed PC Roberts that his solicitor had been in touch with him as requested by PC Roberts, and denied that he had known about the hearing on 13 June 2025. He was told of the time of the hearing but said he was refusing to attend because his employer would not permit him to do so.

11. In *Sanchez v Oboz* [2015] EWHC 235 (Fam) Cobb J considered whether to proceed with a committal hearing in the absence of the defendant. He held at paragraphs [4] and [5]:

> "4. It will be an unusual, but by no means exceptional, course to proceed to determine a committal application in the absence of a respondent. This is so because:
>
> i) Committal proceedings are essentially criminal in nature, even if not classified in our national law as such (see *Benham v United Kingdom* (1996) 22 EHRR 293 at [56], *Ravnsborg v. Sweden* (1994), Series A no. 283-B); in a criminal context, proceeding with a trial in the absence of the accused is a course which will be followed only with great caution, and with close regard to the fairness of the proceedings (see *R v Jones (Anthony)* [2003] 1 AC 1, approving the checklist provided in *R v Jones*; *R v Purvis* [2001] QB 862);
>
> ii) Findings of fact are required before any penalty can be considered in committal proceedings; the presumption of innocence applies (Article 6(2) ECHR). The tribunal of fact is

generally likely to be at a disadvantage in determining the relevant facts in the absence of a party;

iii) The penalty of imprisonment for a proven breach of an order is one of the most significant powers of a judge exercising the civil/family jurisdiction; the respondent faces the real prospect of a deprivation of liberty;

iv) By virtue of the quasi-criminal nature of committal process, Article 6(1) and Article 6(3) ECHR are actively engaged (see *Re K (Contact: Committal Order)* [2002] EWCA Civ 1559, [2003] 1 FLR 277 and *Begum v Anam* [2004] EWCA Civ 578); Article 6(1) entitles the respondent to a "a fair and public hearing"; that hearing is to be "within a reasonable time";

v) Article 6(3) specifically provides for someone in the position of an alleged contemnor "to defend himself in person or through legal assistance of his own choosing", though this is not an absolute right in the sense of "entitling someone necessarily to indefinite offers of legal assistance if they behave so unreasonably as to make it impossible for the funders to continue sensibly to provide legal assistance" (per Mance LJ (as he then was) in *Re K (Contact: Committal Order)* (reference above)). The respondent is also entitled to "have adequate time and the facilities for the preparation of his defence" (Article 6(3)(b)).

5. As neither respondent has attended this hearing, and in view of Mr. Gration's application to proceed in their absence, I have paid careful attention to the factors identified in [4] above, and, adapting the guidance from *R v Jones*; *R v Purvis*, have considered with care the following specific issues:

i) Whether the respondents have been served with the relevant documents, including the notice of this hearing;

ii) Whether the respondents have had sufficient notice to enable them to prepare for the hearing;

iii) Whether any reason has been advanced for their non-appearance;

iv) Whether by reference to the nature and circumstances of the respondents' behaviour, they have waived their right to be present (i.e. is it reasonable to conclude that the respondents knew of, or were indifferent to, the consequences of the case proceeding in their absence);

v) Whether an adjournment for would be likely to secure the attendance of the respondents, or at least facilitate their representation;

> vi) The extent of the disadvantage to the respondents in not being able to present their account of events;
>
> vii) Whether undue prejudice would be caused to the applicant by any delay;
>
> viii) Whether undue prejudice would be caused to the forensic process if the application was to proceed in the absence of the respondents;
>
> ix) The terms of the 'overriding objective' (rule 1.1 FPR 2010), including the obligation on the court to deal with the case 'justly', including doing so "expeditiously and fairly" (r.1.1(2)), and taking "any … step or make any… order for the purposes of … furthering the overriding objective" (r.4.1(3)(o)).”

12. Mr Hesketh had provided email addresses to the Family Court and to the police. They had been used on 3 June 2025 to serve him with the Committal Notice, my order of 9 May 2025, the witness statements for DJ Gray and Mr Lowe, and a transcript of the hearing on 7 January 2025. I viewed the email sent to him attaching the papers and was satisfied that he had been served by that means. Furthermore, he had been notified of the hearing on 13 June 2025 not only by that means but also by PC Roberts and, I was satisfied, the solicitor who had represented him during the criminal investigations (but who is not on the record in these proceedings). I had given permission for alternative service because of the fact that Mr Hesketh could not be located and his current address was unknown. He had frustrated the Tipstaff’s efforts to effect personal service.

13. I was satisfied that Mr Hesketh had had sufficient notice, from 3 June 2025, to prepare for his attendance at the hearing on 13 June 2025, and to prepare to address the allegations against him. The evidence in support of the allegations is straightforward. I acknowledge that he had not been sent the audio recording but he had heard it at his police interview. I have listened to it. The transcript is accurate and although the audio recording gives much more colour to the events in court on 7 January 2025, the allegations of contempt rely on the words used which are set out in the transcript. Mr Hesketh had had the transcript for nine to ten days prior to the hearing on 13 June 2025. I note that PC Roberts told me under oath that Mr Hesketh had told him in their conversation on 13 June 2025 that he is “digitally illiterate”. However, Mr Hesketh had given two email addresses to authorities and would have expected them to be used by the police and the court to communicate with him. He had had the assistance of a solicitor and he had had ample time to look at the attachments to the email sent by the Tipstaff. In any event, the Tipstaff included the order regarding the hearing on 13 June 2025 in the body of the email and so Mr Hesketh will have known about the hearing without having to open any attachments.

14. Relying on all the evidence including that of PC Roberts given under oath at the hearing, I was satisfied that Mr Hesketh had chosen not to attend the hearing on 13 June 2025. He could have attended if only to ask for an adjournment. He could have asked his solicitor, from whom he told PC Roberts he had had contact on either 12 or 13 June 2025, to attend and speak for him, or at least to communicate with the court. He did not

do so. The seriousness of the hearing on 13 June 2025 and the committal proceedings cannot have been lost on the Defendant. No good reason for his non-attendance was provided. Mr Hesketh had told PC Roberts that he would not attend because he was going to work instead. That was a choice made by him not to attend in the face of clear information about the importance of this hearing.

15. The hearing of the committal had been adjourned twice on paper and once in court prior to 13 June 2025. Witnesses had now twice attended court to give evidence. The Tipstaff had been in contact with Mr Hesketh and arranged a meeting for personal service which he chose not to attend. Mr Hesketh had been spoken to about these proceedings by PC Roberts on 9 May and again on 13 June 2025. He had been served with the Committal Notice, evidence, and notice of the hearing by email at two email addresses. His solicitor (representing him in respect of the parallel criminal investigation into the conduct alleged to be in contempt of court) was aware of the hearing on 13 June 2025. The order of 9 May 2025 with which he was served by email on 3 June warned him that if he failed to attend on 13 June 2025 the Court could proceed in his absence. That order and the Notice of 21 February 2025 warn him of the possibility of a sentence of imprisonment following a finding of contempt of court. I was satisfied that Mr Hesketh had chosen not to engage in the committal proceedings and was indifferent to the consequences of the case proceeding in his absence.

16. Given the history of the committal proceedings I had no confidence that a further adjournment would secure Mr Hesketh's attendance or facilitate his representation in the proceedings. Indeed, I was satisfied that he had sought to frustrate the proceedings, at least since contact had been made with him by the Tipstaff, by evading personal service, making alternative service difficult, and by choosing not to attend at the current hearing. His non-compliance with arrangements with the Tipstaff for a meeting to effect personal service caused officers to make a fruitless journey from London to Liverpool and back. Mr Hesketh made no contact to explain let alone apologise for his non-appearance at the arranged site for service of the documents, even though he had exchanged texts with the Tipstaff to make the arrangements. He showed no care for the consequences of ignoring the proceedings. I was satisfied that there would be a significant chance that he would not attend at a fifth arranged hearing.

17. The evidence in support of the allegations against Mr Hesketh is simple. The words used speak for themselves. The evidence that he spoke those words is straightforward. There is no particular disadvantage to the Defendant from proceeding in his absence. Nor is there any prejudice to the forensic process from doing so. In contrast, there would be prejudice to the witnesses from a further adjournment. The witnesses have now twice attended court to give evidence. With respect to Mr Lowe, I am particularly conscious of the impact on other cases of DJ Gray having to repeatedly come to court ready to give evidence and therefore not being available for other court business which requires his judicial attention.

18. I announced at the hearing, albeit to an empty court room (save for court staff), that I would proceed in the absence of the Defendant. Having regard to the very helpful checklist of factors set out by Cobb J (above), I was satisfied that the overriding objective would be served and that it was in the interests of justice by proceeding in the absence of Mr Hesketh.

19. Accordingly, DJ Gray and Mr Lowe, who had been waiting outside court, were called into court individually, took the oath, confirmed their name and role, and verified their witness statement. Neither had anything to add or change to their statements. I had no questions for them. I then released them.

20. Having regard to their evidence but most particularly the transcript of the hearing on 7 January 2025 which, having listened to the audio recording of the hearing is accurate, I was satisfied beyond reasonable doubt that the allegations were proved. I was further satisfied that each set of allegations at paragraphs 2 to 5 of the Committal Notice of 21 February 2025 constituted contempt in the face of the court: abuse, interruption, threats, and disruption. There can be no doubt that Mr Hesketh spoke the words transcribed as being his as set out in the Committal Notice. He did so at the hearing on 7 January 2025. His conduct was a contempt of court in each of the four respects alleged. I was satisfied to the criminal standard of proof that Mr Hesketh was guilty of contempt of court as alleged in the Committal Notice.

21. I decided not to proceed to sentence in the absence of Mr Hesketh. Instead, I listed the proceedings for a sentence hearing on 1 August 2025 at Liverpool Combined Court, Derby Square, Liverpool. I gave directions about service and directed that my order be sent to the investigating police officer whose details were provided to the court by PC Roberts.

Part Two

22. This is my judgment at the sentencing hearing within these committal proceedings. The hearing was listed for 11.00 am on 1 August 2025. By adjourning for sentence for a period of over six weeks I gave Mr Hesketh time to take advice, to secure legal representation, to engage with the committal proceedings, and to put forward any mitigation. I ordered his attendance at the sentencing hearing. I gave directions for service on Mr Hesketh, again, of the Contempt Notice, all the previous orders in the committal proceedings, my judgment of 13 June 2025 (Part One above), and my order of same date, by various means: by email addresses that he had given the court and to the police; by text on a number which he had given to the police and by which he had communicated with the Tipstaff's officers; and by informing the solicitor who had attended with him at his police interview. He had evaded personal service and no address for him was known.

23. The Court has received confirmation from the solicitor who attended the Defendant's police interview not only that he forwarded the documents to Mr Hesketh but that he had subsequent contact with Mr Hesketh who confirmed to him that he had received them. Emails serving the papers were sent by the Court on 19 June 2025 and have not been returned as unsent. The Court also notified the Defendant by text on the same date of this hearing.

24. I am satisfied that service has been effected and that Mr Hesketh knows of the sentencing hearing, and has been provided with the Committal Notice, my judgment of 13 June 2025 and the other papers as ordered.

25. The sentencing hearing was in the public list. A Tannoy announcement for Mr Hesketh to attend the courtroom was made just before 11.00 am and again at approximately 11.15 pm. I started the hearing at 11.30 am. Mr Hesketh did not attend and has not communicated at all with the Court. The case was called on. I gave my judgment in public albeit with no-one attending in court other than the court staff, a security officer and the Police Liaison Officer.

26. In all notices and orders, including my order of 13 June 2025 served upon him, Mr Hesketh has been advised of his right to remain silent, his right to obtain publicly funded legal advice and representation, and of the power of the court to commit him to prison for contempt of court. My order of 13 June 2025 warned him that in the event of his non-attendance on 1 August 2025, the court may proceed in his absence and may pass an immediate custodial sentence. I am satisfied that he has received that Order and therefore that warning.

27. I am satisfied that the Defendant's non-attendance at the sentencing hearing is by choice and that he knows that if he were not to attend, he might be sentenced to a period of immediate imprisonment in his absence. I similarly found that he had chosen not to attend the hearing on 13 June 2025 when I proceeded to find him guilty of contempt in his absence. He has been informed that he was found guilty in his absence but has chosen not to engage with the Court in relation to these committal proceedings. Considerable efforts have been made notify him both of the previous hearings and of this hearing. He has shown no inclination to communicate or engage with the Court.

28. Before deciding whether to proceed in Mr Hesketh's absence, there is one other matter which I must address. The police were notified of the events of 7 January 2025 which resulted in these contempt proceedings. They interviewed Mr Hesketh in the presence of his solicitor on 28 April 2025. No charging decisions had been made by the time of the hearing before me on 13 June 2025 when I found the Defendant guilty of contempt of court. I directed that my order containing that determination should be provided to the investigating officer. I have now received information from PC Roberts, Police Liaison Officer at the Liverpool Court, that in early July 2025 Mr Hesketh was charged with a Public Order Act 1986 s4A offence (using threatening / abusive / insulting words to cause intentional harassment, alarm, or distress) in respect of which the victim is named as DJ Gray. Mr Hesketh was also charged with breach of a non-molestation order which protected his former partner, the mother in the Family Proceedings. Mr Hesketh was summonsed to appear at Liverpool Magistrates Court on 17 July 2025 but he did not attend and a bench warrant was issued, not backed for bail. It was executed on 23 July and Mr Hesketh was brought before the court. I must presume that Mr Hesketh pleaded guilty to at least one of the offences because, so PC Roberts has informed me, Mr Hesketh was given conditional bail – the condition being not to contact the mother - and a sentencing hearing was listed at the Liverpool Magistrates Court on 22 August 2025.

29. Regrettably therefore, despite this Court's attempts to keep the police informed, there now appear to be parallel criminal proceedings arising out the same facts in which sentencing is due to take place on 22 August 2025. It appears that Mr Hesketh may well have pleaded guilty to the Public Order Act offence in respect of the conduct which I have previously found to have constituted contempt of court. I am satisfied that Mr Hesketh knew that this Court had found him guilty of contempt by the time he attended the Magistrates Court on 23 July 2025 but I have no information as to whether the

Magistrates were informed of these contempt proceedings at that hearing. PC Roberts, Police Liaison Officer, has been most helpful to this Court. I am satisfied that the investigating police officer was made aware of the contempt proceedings and the finding of contempt. However, this Court has had no communication from the Crown Prosecution Service and was unaware of Mr Hesketh's appearance on 23 July 2025 until PC Roberts informed me at court today.

30. It is also a frustration that whilst attempts to locate Mr Hesketh for the purposes of service in these civil proceedings have been in vain, his attendance has been secured both for police interview on 28 April 2025 and at Court on 23 July 2025. There might be lessons to be learned about collaboration and co-ordination between the two branches of the justice system.

31. I have a number of options. One is to stay the contempt of court proceedings to allow the criminal proceedings to take their course. However, it is not axiomatic that the criminal proceedings should take precedence over these civil proceedings. Indeed, the civil contempt proceedings are more advanced. A finding of contempt has been made to the criminal standard of proof and notice of a sentencing hearing has been given. The sentencing hearing is listed today. The sentencing in the criminal case will not take place until 22 August and may not even proceed on that date if Mr Hesketh does not answer his bail. Given his recent history it would not be surprising if he failed to attend that hearing. I do not have clear information as to what offence or offences Mr Hesketh has pleaded guilty nor the basis of any admission he has made at the Magistrates Court. I have the advantage that the allegations of contempt of court, found proved, cover not just threats and abuse, but interruption and disruption of the court proceedings. I have an overview of his conduct and how it impeded the administration of justice which is unlikely to be covered by a single offence under the Public Order Act 1986 s 4A. The findings of contempt provide a fuller picture of Mr Hesketh's conduct. I am satisfied that the powers of this court are sufficient to meet the seriousness of the contempt found against Mr Hesketh.

32. The CPS will take a view on the merits of continuing the prosecution for the Public Order Act offence in the light of the finding of this court and any sentence passed by this court. Any other matters including breaches of orders can still be dealt with by the criminal courts without prejudice to Mr Hesketh.

33. Furthermore I am a High Court Judge in the Family Division dealing with a contempt in the face of the Family Court. I am familiar with the operation of the Family Court and the impact on the administration of justice within the family justice system caused by conduct such as that displayed in this case. I believe that I am well placed therefore to determine the appropriate sentence.

34. A further option is to adjourn this hearing to give the Defendant yet another opportunity to obtain legal representation and to attend court. Unfortunately, he has previously demonstrated no intention to do either in relation to these proceedings.

35. A third option would be to exercise my power to issue a warrant for the Defendant's arrest so that upon his arrest he is brought before the court for sentence. This would give him a further opportunity, after his arrest, to obtain representation and/or to put any mitigation before the court. There are a number of factors to consider in relation to this option. Firstly, there are practical difficulties. The contempt application has been

listed now five times: it has been twice adjourned in advance of the hearing but there have been three hearings which I have conducted (including the present hearing) at which the Defendant has not appeared, for two of which I could be sure he had had notice. If I issued a bench warrant for his arrest without sentencing him there would be further delay and at least one further hearing. A High Court Judge would have to be found, probably in August or September, to attend court at short notice. That Judge ought to be me since I am the Judge who has found the Defendant guilty of contempt. It might well be impractical to make arrangements allowing for Mr Hesketh to be sentenced on the day of, or very soon after, the execution of a bench warrant. Further delay would be likely.

36. Secondly, in my judgment it would be in the interests of justice for there to be certainty and clarity given the unfortunate situation of there being parallel proceedings. There is more opportunity for further confusion if it is unknown when Mr Hesketh might be arrested on a bench warrant. He might be arrested shortly before, after, or on the day of his scheduled court appearance at Liverpool Magistrates Court on 22 August 2025. If it is preferable for this Court to sentence him for contempt rather than to give way to the Magistrates Court, then issuing a bench warrant for his arrest without sentencing him might well defeat that aim.

37. Thirdly, Mr Hesketh has had ample opportunity already to secure representation and make representations to the Court.

38. Fourthly, Mr Hesketh has had ample warning that he might be sentenced in his absence today.

39. The final option is to proceed to sentence Mr Hesketh in his absence. If an immediate sentence of imprisonment were passed, the warrant of committal would be executed and upon his arrest he would be taken directly to prison. This option would avoid delay and produce clarity. It would bring an end to the contempt proceedings and allow the CPS and Magistrates Court to know of the outcome. On the other hand it would deprive Mr Hesketh of any further opportunity to put any mitigation before the court.

40. In considering which course to adopt, Mr Hesketh's Article 6 rights must be respected. He has a right to a fair and public hearing and to be able to defend himself in person or through legal assistance of his own choosing. But I am satisfied that those rights have been afforded to him. He has had ample opportunity to secure legal representation at no cost to himself and to attend court to defend himself in person. I remind myself of the principles set out by Cobb J in *Sanchez v Oboz* (above) and I again adopt them.

41. The contempt of court was committed on 7 January 2025, nearly seven months ago. The process of committal for contempt in the face of the court has involved one High Court Judge drafting the summons and another High Court Judge dealing with the hearings. There is no party to prosecute the application and that can cause difficulties and delay. Out of an appropriate need to protect the Art 6 rights of the Defendant, there has been strict compliance with the rules under FPR Part 37. The Court has erred on the side of caution so as to ensure that the Defendant has had sufficient notice of hearings. Again, compliance with these important rules can cause delay. But Mr Hesketh has himself contributed significantly to avoidable delay by evading service and then by disregarding notices and orders to attend court.

42. Allegations of contempt in the face of the court should be dealt with fairly and expeditiously. One of the purposes of bringing proceeding for committal for contempt in the face of the court is to protect the administration of justice. It does not send a clear message to court users that such conduct is treated seriously, if allegations are not dealt with appropriate expedition.

43. Mr Hesketh has a right to remain silent. He does not have to give evidence in these proceedings, but his conduct in evading service and his non-attendance should not be permitted to delay and frustrate the progress of the contempt of court. He has had ample notice of the hearing. He has been given full warning of the potential consequences of not attending. His Article 6 rights have been fully protected. Court procedures have been fully complied with. There is no prejudice to him by proceeding to sentence in his absence. The criminal proceedings will take at least a further three weeks, and possibly longer, to conclude. The allegations of contempt found to have been proved provide a fuller view of Mr Hesketh's conduct than a single Public Order Act charge can do. With respect, I am better placed that the Magistrates to determine the appropriate sentence. I have adequate powers. There should be no further avoidable delay. Considering all the options available to me, weighing all the relevant matters, and having regard to the overriding objective and the interests of justice I have decided to proceed to sentence Mr Hesketh in his absence.

44. Upon my sentencing Mr Hesketh for contempt of court, the CPS will be informed and will take a view on the continuation of the criminal proceedings arising out of the same events. His breach of a non -molestation order, if any, is a separate matter.

45. Therefore, I now turn to the issue of sentence.

46. I have a witness statement from DJ Gray who has described the impact of the Defendant's behaviour on him. He says that he is conscious when outside his court and of the presence of men who look like the Defendant – of whom he says there are many. He is constantly unsettled when he leaves the court building. He is conscious of his vulnerability and that of other judges and staff for example when using facilities outside the court which are not secure. He has had to spend time dealing with the aftermath of the Defendant's conduct and has had a police visit at home which caused concern and distress to his very elderly father. He says that during the hearing he was fearful that the Defendant would resort to violence against him, staff or the Mother's Counsel. The Judge had stood the matter down to consider his judgment and was worried about re-entering court – he says that he was gravely concerned as he began to give his judgment. It was, he says, impossible to conduct the hearing in any normal way and to marshal his thoughts and deliver judgment. I should record that it is to the Judge's credit that he managed to conclude the proceedings and to reach a decision without delay and in the best interests of the subject children.

47. Mr Lowe, the security staff, also had a difficult day because of Mr Hesketh's conduct, which he describes in his statement. Fortunately, the mother in the case was attending remotely but she had to witness, not for the first time, the Defendant's rage and abuse. Counsel for the Mother was present and, although I do not have a statement from them, they too would inevitably have been affected by the Defendant's conduct.

48. The Defendant has not attended Court to put forward any mitigation. I take into account that he would be likely to say that he was frustrated and stressed. He felt, as he made

evident during the hearing, that he was not being listened to. He could probably sense that he was going to be deprived of contact with is children. As the hearing went on, he no doubt wished that the hearing could be brought to a swifter conclusion. He said as much, albeit in his own words. Its continuation was painful to him. He lost his self-control.

49. None of that amounts to any kind of excuse for Mr Hesketh's conduct. I have listened to the recording of the hearing at least three times. The Defendant was quite meek for the first five minutes but then he began to be increasingly argumentative, aggressive, hectoring, and abusive. His irritation became anger and then his anger became what I can only describe as rage. Over a prolonged period there was hardly any let up in his rage.

50. The Defendant was repeatedly warned about his conduct but he did not relent. His conduct was highly disruptive and made the hearing extremely difficult to manage. The Judge responded by doggedly continuing to consider the evidence and then, after a break, to deliver a detailed judgment. As the Judge determinedly continued, Mr Hesketh clearly felt that he was not being listened to and his behaviour only worsened. The Judge's attempts to maintain order and not to be diverted only served to aggravate Mr Hesketh further. Overall his interruptions, disruption, anger, abuse and occasional threats continued for a total period of well over half an hour. The verbal abuse of the Judge was extremely unpleasant and insulting. The level and duration of the abuse, interruptions and disruption are features of the Defendant's contempt of court that I must take into account.

51. The Defendant was not physically violent but he made direct threats of physical violence against the Judge and his family. I accept that the Defendant's threats were made when he was in a rage. They were not pre-meditated. But no-one carrying out their duties at work should be subjected to abuse and threats in any circumstances. Certainly not a Judge carrying out their public duties, and certainly not the extent of the abuse or the nature of the threats meted out by the Defendant in this case.

52. I adopt paragraphs 21 to 23 of Cobb J's judgment in *Re Greg Hazeltine* [2024] EWHC 2982 Fam where he said:

> 21. In respect of penalty for these proven contempts I have a range of powers under section 14 of the Contempt of Court Act 1981 and the Family Court(Contempt of Court)(Powers) Regulations 2014, supported by rule 37.9 FPR 2010. I can of course impose no penalty at all.
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> 22. Any penalty for these contempts is entirely in my discretion. In exercising that discretion, I have had in mind the Court of Appeal's comments about sentence in contempt cases in *Liverpool Victoria Insurance Co Ltd v Khan* [2019] EWCA (Civ) 392 at paragraphs 57 to 71. I have also had regard to the more recent Supreme Court decision in *HM Attorney General v Crosland* [2021] UKSC 15 where Lord Lloyd Jones, Lord Hamblen and Lord Stephens in a joint judgment directed judges in these circumstances to adopt the following approach (see [44]):

"1. The court should adopt an approach analogous to that in criminal cases where the Sentencing Council's Guidelines require the court to assess the seriousness of the conduct by reference to the offender's culpability and the harm caused, intended or likely to be caused.

2. In light of its determination of seriousness, the court must first consider whether a fine would be a sufficient penalty.

3. If the contempt is so serious that only a custodial penalty will suffice, the court must impose the shortest period of imprisonment which properly reflects the seriousness of the contempt.

4. Due weight should be given to matters of mitigation, such as genuine remorse, previous positive character and similar matters.

5. Due weight should also be given to the impact of committal on persons other than the contemnor, such as children of vulnerable adults in their care.

6. There should be a reduction for an early admission of the contempt to be calculated consistently with the approach set out in the Sentencing Council's Guidelines on Reduction in Sentence for a Guilty Plea.

7. Once the appropriate term has been arrived at, consideration should be given to suspending the term of imprisonment. Usually, the court will already have taken into account mitigating factors when setting the appropriate term such that there is no powerful factor making suspension appropriate, but a serious effect on others, such as children or vulnerable adults in the contemnor's care, may justify suspension."

23. I bear in mind that the sanction which I impose, if any, has a primary function of marking the disapproval of the court and deterring others from engaging in conduct comprising contempt (see *Patel v Patel & O'rs* [2017] EWHC 3229 (Ch) at [22] and [23]). I have also had regard to the comments of Hale LJ (as she then was) in *Hale v Tanner* [2000] EWCA Civ 5570; she listed ten points relevant to committals in family cases, including (and those which follow are those which are potentially relevant to the instant case):

"i) It is a common practice, and usually appropriate in view of the sensitivity of the circumstances of these cases, to take some other course [than imprisonment] on the first occasion" [26];

> ii) "If imprisonment is appropriate, the length of the committal should be decided without reference to whether or not it is to be suspended. A longer period of committal is not justified because its sting is removed by virtue of its suspension" [28];
>
> ….
>
> iv) "The length of the committal has to bear some reasonable relationship to the maximum of two years which is available" [30];
>
> v) "The court has to bear in mind the context. This may be aggravating or mitigating" [33]."

53. I bear in mind the stressful context of family proceedings in which the Defendant was liable to be deprived of contact with his children but in my judgment the Defendant's conduct was at the higher end of the scale of abuse of a judge and disruption to court proceedings. The Judge persisted with trying to conduct the hearing even as the Defendant expressed his rage with abusive and sometimes threatening language. The Judge could have left the courtroom when the abuse began and could have excluded the Defendant before resuming. He did not do so but the Defendant used the opportunity afforded by the Judge's determination to continue with the hearing only to interrupt and abuse the Judge further, threaten him, and to disrupt the hearing. The Defendant was repeatedly warned about his behaviour but he continued it - indeed it escalated during the hearing. The threats made to the Judge were made in rage but they were designed to intimidate. They included a threat against the Judge's family. They referred to the Judge being attacked outside court. The threats were intended to make the Judge afraid when going about his daily life outside the courtroom.

54. The Defendant has not attended these contempt of court proceedings and has made no admissions and offered no mitigation. There has been no apology. DJ Gray and the security guard have had to attend court to give evidence.

55. There ought to be consistency in sentences passed for contempt in the face of the court. I note the sentence passed by Cobb J in *Re: David Duggan* [2022] EWHC 2529 (Fam) which was a suspended sentence of imprisonment for a contrite defendant whose contempt was much less serious than in the present case. I also note the sentences passed by Cobb J in *Hazeltine* for similar conduct which ranged between one month and two months but to run consecutively for a total period of five months. That defendant had committed a serious physical assault on the Judge concerned for which he had received a 3 year custodial sentence in the Crown Court. Cobb J was dealing with his other conduct in contempt of court both on the same occasion and two other hearings before a different judge. Here I am concerned with sustained abuse and threats at a single hearing. Mr Hazeltine accepted the allegations and had written to the Judge he had assaulted to apologise. He had agreed to undertake an anger management course. Mr Hesketh has not attended or otherwise engaged with the court to apologise or express remorse. He has not accepted his guilt even though the recording of the hearing speaks for itself. Both *Duggan* and *Hazeltine* were, as here, cases of contempt in the face of the Family Court.

56. Mr Hesketh's conduct was highly disruptive to the proceedings. It was intimidating and very unsettling for those in court. It was extremely abusive towards the Judge. He made direct threats of physical violence against the Judge and threatened his family. The threats were designed to make the Judge fearful for his safety when outside the courtroom. This is a serious contempt in the face of the Court. Judges come into court in difficult and highly charged cases and have to ensure that every party has a fair hearing and to uphold the administration of justice. Due process allows for an individual to make their case to the court. In family cases it is expected that some litigants in person will speak with emotion even passion. But without the maintenance of certain standards of conduct and respect of the role of the Judge, the court staff, lawyers, and other participants at a hearing, justice cannot be done. That is why conduct such as that displayed by Mr Hesketh is so serious: it disrupts and intimidates those who are trying to uphold justice and therefore undermines the justice system itself. All litigants should understand that disrupting proceedings and directing abuse or threats at Judges or others in court is unacceptable.

57. The Defendant's conduct in this case is so serious that only a custodial sentence will suffice. The maximum term of imprisonment that I can pass is two years – Contempt of Court Act 1981 s 14. The allegations are i) of abuse, (ii) of interruption and disrespect, (iii) of threats, and (iv) of disruption. Adopting Cobb J's approach in *Hazeltine* I shall consider the appropriate sentence for each form of contempt of court committed in this case and set out in the Contempt Notice, and I have close regard to the proportionality of the overall sentence. Having considered all the circumstances, the seriousness of the conduct found proved, and the aggravating and mitigating factors, the minimum sentences of imprisonment that I can impose, and which I do impose are:

    i) In respect of allegation at paragraph 2 of the Committal Notice, for abuse – a period of four months imprisonment;

    ii) In respect of the allegation at paragraph 3 of the Committal Notice, for interruption and disrespect: one month imprisonment;

    iii) In respect of the allegation at paragraph 4 of the Committal Notice, for threats against the judge: four months imprisonment;

    iv) In respect of the allegation at paragraph 5 of the Committal Notice, for disruption of the proceedings – a period of three months' imprisonment;

    The sentences shall run concurrently. I therefore commit Mr Hesketh to prison for a total of four months.

58. I have considered whether there are circumstances that allow me to suspend these sentences. Mr Hesketh has not attended to provide any mitigation or information about circumstances relevant to the decision whether to suspend. Having careful regard to all the circumstances, I find that there are none that persuade me that it would be right to suspend the sentences: the offences are sufficiently serious that an immediate period of custody is required.

59. There has been no time in custody to take into account.

60. Mr Hesketh shall therefore be sentenced to imprisonment for contempt of court for a period of four months. I shall issue a warrant of committal accordingly. When the warrant is executed, Mr Hesketh will be taken directly to prison.

61. Mr Hesketh has a right of appeal to the Court of Appeal (Civil Division) pursuant to section 13(2)(c) of the Administration of Justice Act 1960, read with section 53(3) of the Senior Courts Act 1981. He does not require permission, or leave, to appeal against this order for his committal for the proven contempts. Any notice of appeal must be filed with the Court of Appeal, and also the High Court, within 21 days: CPR 52.12 and paragraph 9.1 of CPR PD 52D.

62. A copy of my judgment will be posted on the Judiciary website.