

IN THE COUNTY COURT AT SHEFFIELD

Case No. L20SE096

Courtroom No. 4

The Law Courts
50 West Bar
Sheffield
S3 8PH

Wednesday, 16th July 2025

Before:
HIS HONOUR JUDGE HANBURY

B E T W E E N:

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

and

BRIAN WHITTINGTON

MR L DESA (Solicitor) appeared on behalf of the Claimant
THE DEFENDANT appeared In Person

JUDGMENT
(Approved)

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HHJ HANBURY:

1. This is the sentencing decision in the case of Rotherham Borough Council (Rotherham Council) v Mr Brian Whittington (Mr Whittington), who was found to have been in contempt of court at a hearing on 28 February 2025 which came before me. The background to this case is that following information received by Rotherham Council, on 31 May 2024 it sought and obtained an order requiring Mr Whittington to permit access to his property at 61 Toll Bar Road, Swinton (61 Toll Bar Road) in order for a gas safety check to be carried out and an inspection to the roof. This was with a view to ensuring the property was safe and carrying out any essential works to render the gas installations safe and carry out any necessary works to secure the chimney.
2. I imposed an injunction on 31 May 2024, and the injunction was extended following a return date on 30 July 2024. Both the injunctions were the subject of a committal application because, despite being served with the relevant court papers, Mr Whittington continued to refuse to admit Rotherham Borough Council to 61 Toll Bar Road which was required to protect the adjacent property at 63 Toll Bar Road, which is occupied by Mr Allen, one of Rotherham Council's tenants. Specifically, 61 and 63 are divided by a party wall-each half being semi-detached from the other. On 22 July 2024, according to the affidavit evidence which I accepted on the last occasion, Mr Whittington specifically refused admission for that purpose.
3. Therefore, I decided on 28 February 2025, having extended the injunction, that it was appropriate to find him in contempt of court. The decision as to sentence, however, was adjourned to a future date which it was hoped Mr Whittington would attend and the case was adjourned on more than one occasion to allow this. Mr Whittington was also encouraged to be represented. He had been informed of his entitlement to legal aid and to be represented but having been given an opportunity to instruct suitable solicitors and/or counsel did not do so. At this hearing I asked him whether he wished instruct a solicitor and he said he had chosen to instruct a barrister or solicitor that day but was unable to give any details, such as a solicitors' firm or the name of any counsel he had instructed or wished to instruct. In the circumstances, given the history of this matter, I am going to proceed to sentence him for his contempt of court. In particular, access is urgently required to his property both to carry out an inspection of the gas installations but also, if necessary, to carry out works. In treating the matter as urgent I have regard to the fact that Mr Allen, who lives in his neighbouring property at number 63, faces the risk of falling debris onto his property as the dividing chimney between the two properties may well be structurally unsound.
4. Before me this afternoon, Mr Whittington has doubled down on his hostile attitude to the whole court process. First of all, he seems to accept that he has been served with the relevant paperwork. He made a remark about attempting to instruct a barrister this morning. He was not able to name any barrister or any solicitor's firm. However, he does say that he wanted to seek legal advice. No apology whatsoever has been forthcoming from him for his continuing contempt and it is necessary to proceed on the footing that he will continue to be disobey orders of the court. It was clear, having heard his continued objections, that he is not going to comply with any order the court imposes. It is in that context that I have to consider the sentence that is appropriate for his contempt.
5. Mr Whittington's remarks to the Court are aggravating rather than mitigating remarks. He accused numerous persons including Local Authority workers of conspiracy. These matters do not help at all in addressing the purpose for which the injunction was imposed. That was to ensure an inspection to his property to secure its safety for the benefit of his neighbours and others.

6. There is a history of disobedience with court orders in this case. The breach has already been established. The non-compliance is not victimless in that Mr Allen has been affected by his conduct. I have regard to the sentencing guidelines for this type of case and to *Lovett v Wigan Borough Council* [2023] HLR 19. I agree with Mr Desa that the sentencing category as far as today is concerned is Category B, which is a deliberate breach falling between levels A and C, and it is Category 2 which includes cases where harm is done to others, and it is not a case such as Category 3 where there is effectively no harm or stress caused to others. The lack of any contrition or any offer to obey court orders in the future is the most serious aspect of this case as it comes before me today.
7. In the circumstances, I have concluded that a term of imprisonment is appropriate and that it is not appropriate to suspend the term of imprisonment. I have decided to impose 28 days immediate imprisonment for the contempt of court. The injunction which is sought for a further period until midnight on 21 January 2026, will continue in the terms of the proposed draft order at page A13 in the bundle. That is the decision of the Court today.

End of Judgment.

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291-299 Borough High Street, London SE1 1JG
Tel: 020 7269 0370
legal@ubiquis.com

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This transcript has been approved by the judge.