Neutral Citation Number: [2026] EWHC 2907 (KB)

Case No: KB-2026-BHM-000315

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY

Birmingham Civil and Family Justice Centre
The Priory Courts, 33 Bull Street
Birmingham B4 6DS

Date: 18 November 2026

Before :

HHJ EMMA KELLY
(Sitting as a Judge of the High Court)

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Between :

Birmingham City Council	**Claimant**
- and –	
(1) Ryan Bridge **(2) Julian Keane (aka "Elon")** **(3) Elliot Stanley** **(4) Ross Child (aka "Ross the Don")** **(5) Billy Allison** **(6) Ben Cullen** **(7) Mark Keating** **(8) Persons Unknown who, or who intend to:** **(i) Attach flags to street furniture in the City of Birmingham,** **(ii) Obstruct the highway for the purposes of attaching flags to street furniture within the City of Birmingham,** **(iii) Obstruct the Claimant's officers or contractors seeking to remove flags from street furniture in the City of Birmingham,** **(iv) Cause harassment alarm and/or distress to the Claimant's members, officers or contractors who are, or have been, involved in the removal of flags from street furniture, including by being involved in the decision to remove them, or** **(v) Cause harassment alarm and/or distress to any person expressing opposition to the attachment of flags to street furniture within the City of Birmingham.**	**Defendant**

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Jonathan Manning and **Charlotte Crocombe** (instructed by the **Legal & Governance Department of Birmingham City Council**) for the **Claimant**
Liam Wells and **Natasha Niccolls** (as direct access counsel) for the **First Defendant**
The Sixth Defendant failed to attend
Mark Hudson, Adam Biggs and **Tony Kaye** appeared in person as interested parties who may fall within the description of the **Eighth Defendant**

Hearing dates: 30 September 2026 and 2 November 2026

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APPROVED JUDGMENT

HHJ EMMA KELLY:

Introduction

1. Birmingham City Council ("the Claimant") seeks an interim injunction and power of arrest ("the Interim Injunction Application") to restrain various activities associated with the unauthorised attaching of flags to street furniture and infrastructure in the City of Birmingham. This judgment concerns the Interim Injunction Application against the First, Sixth and Eighth Defendants only.

2. The claim arises from activity seen in the city since approximately August 2025, when a proliferation of flags started to appear attached to various street furniture, including on lampposts, lighting columns, street signs, railings, bridges and barriers. The Claimant estimates there are now approximately 20,000 unauthorised flags across the city. Many are Union flags (otherwise known as Union Jacks), flags of St George, or flags associated with other countries of the United Kingdom. There are, however, also other unauthorised flags attached to street furniture, including flags of Palestine.

3. It is important to recognise from the outset what the Claimant is not seeking to restrain. It is not seeking to restrain the flying of flags on private property. It is not seeking to restrain the flying of flags it has authorised to be flown from its street furniture or infrastructure. It is not seeking to target the Union flag or flag of St George; rather it seeks restraint of all types of unauthorised flags attached only to its street furniture or infrastructure.

4. The First to Seventh Defendants are individuals alleged by the Claimant to have been involved in the attaching of unauthorised flags to its street furniture and who the Claimant believes to be or have been affiliated to a group known as "Raise the Colours" ("RTC"). RTC has described itself as a "grassroots movement to cover Britain in flags" to promote national pride and patriotism. The Claimant believes the First Defendant to be one of the founding members of RTC. The Eighth Defendant reflects the many other unidentified persons who the Claimant believes have taken part and/or who intend to take part in future flag attaching activities.

5. The Second, Third, Fourth and Seventh Defendants have provided undertakings to the Court in a form acceptable to the Claimant. Those undertakings resolve the Interim Injunction Application against those Defendants but not the claim as a whole. The Fifth Defendant is remanded in custody for very serious criminal offences and the Claimant does not, at this stage, seek interim relief against him given his incarceration.

6. At the hearing on 8 September 2026, the First Defendant offered an undertaking in like terms to that given by other Defendants. The Claimant elected not to accept the same as it wants a power of arrest against the First Defendant, which cannot be attached to an undertaking. The First Defendant continues to offer an undertaking but opposes the grant of any interim injunction and any power of arrest.

7. The Sixth Defendant has not engaged in the proceedings in any meaningful sense. On 30 September 2026, he emailed the Court and Claimant stating, in summary, that he has not raised any flags in the area of Birmingham for many months and has no intention of doing so in the future.

8. Five non-parties, namely Mark Hudson, Adam Biggs, Thomas Greenslade, Timothy Hodge and Tony Kaye (together "the Interested Parties"), filed joint written representations, dated 22 September 2026, opposing the Interim Injunction Application. Mr Hudson and Mr Biggs also made oral representations at the hearing on 2 November 2026. The Interested Parties do not seek to be joined as parties to the claim and the Claimant does not, at this stage, seek to join them as Defendants.

Service of the Interim Injunction Application and notice of the adjourned hearing on the First, Sixth and Eighth Defendants

9. The First Defendant is represented and takes no issue with service. The question of service must however be considered in relation to the Sixth and Eighth Defendants. The Sixth Defendant failed to attend the hearing. The identities of the Eighth Defendant are unknown and some of those will be 'newcomers' of the type identified in *Wolverhampton City Council & Ors v London Gypsies and Travellers & Ors ("Wolverhampton")* [2023] UK SC 47. As such, the interim injunction is necessarily sought without formal service.

10. The question of service is self-evidently important as it is the mechanism by which a defendant is subjected to the Court's jurisdiction: *Barton v Wright Hassall LLP* [2018] UKSC 12 at [8]. The question of notification more generally has particular significance in this case in light of the requirements of s.12 of the Human Rights Act 1998 ("the HRA 1998"). By s.12(1) of the HRA 1998:

> "This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression".

11. The Claimant rightly concedes that s.12 is engaged. As such, the duty of notification under s.12(2) arises:

> "If the person against whom the application for relief is made ("the respondent") is neither present nor represented, no such relief is to be granted unless the court is satisfied—
>
> (a) that the applicant has taken all practicable steps to notify the respondent; or
>
> (b) that there are compelling reasons why the respondent should not be notified."

12. A directions hearing took place on 8 September 2026. Paragraph 2 of my order of 8 September ("the Directions Order") records my determination that the steps taken by the Claimant to serve the named Defendants and to notify the Eighth

Defendant of the Interim Injunction Application and the directions hearing date amounted to good service.

13. Paragraph 1 of the Directions Order provided, in bold type, the date, time and location of the hearing of the Interim Injunction Application.

Service on the Sixth Defendant

14. Paragraph 12 of the Directions Order required the Claimant to serve the said order, a Scott Schedule, the Claimant's updated skeleton argument and supplementary bundle on the named Defendants by first class post. The witness statement of the Claimant's process server, John Ingram, dated 16 September 2026, evidences personal service of various documents on the Sixth Defendant on 15 September 2026. The served documents on that date did not include the Directions Order but did include a covering letter and the updated skeleton argument, both of which referenced the next hearing date on 30 September 2026.

15. The fourth witness statement of the Claimant's Mohammed Khan, dated 25 September 2026, evidences service of the supplementary bundle, which included the Directions Order, by recorded delivery post. The deemed date of service was 26 September 2026. It is apparent that the Sixth Defendant has actual knowledge of the Interim Injunction Application and hearing as he emailed the Court and Claimant on 30 September 2026. As I indicated at the hearing on 30 September 2026, I was satisfied that the Sixth Defendant had been served with the Interim Injunction Application and details of the hearing date such that it was appropriate for the matter to proceed in his absence. Such service meets the notification requirements pursuant to s.12(2) of the HRA 1998.

16. When the hearing was adjourned part-heard to 2 November 2026, I directed the Claimant to serve the Sixth Defendant, by first class post, with the order containing the further hearing date. The sixth witness statement of Mohammed Khan, dated 13 October 2026, evidences such service by the posting of the sealed order on 8 October 2026 to the Sixth Defendant by Royal Mail Special Delivery tracked post. I am therefore satisfied the Sixth Defendant was served with notice of the further hearing, albeit he has again chosen not to participate.

Notification of the Eighth Defendant

17. Paragraph 4 of the Directions Order directed the Claimant to take various steps to provide informal notice of the said order, and thus the hearing date, to the Eighth Defendant by 4pm on 15 September 2026. The witness statements of Mohammed Khan, dated 21 September 2026, and of Fungma Limbu, dated 17 September 2026, evidence the steps taken by the Claimant to comply with paragraph 4:

    i) On 9 September 2026, Mr Khan instructed the Claimant's Press Office to prepare and issue a media release in the terms required by and to the media outlets identified in paragraph 4(i) of the Directions Order. Ms

Crocombe confirmed to the Court that the media release was published the same day.

ii) On 15 September 2026, at approximately 11am, the Claimant published links to the media release on its social media platforms, in accordance with paragraph 4(ii) of the Directions Order. The posts expressly referred to the Interim Injunction Application and date, time and location of the next hearing.

iii) On 15 September 2026, the Claimant updated its dedicated webpage with a copy of the Directions Order together with details of the hearing, as required by paragraphs 4(iii) and (iv) of the Directions Order. Ms Crocombe confirmed to the Court that the updating occurred before 4pm on 15 September 2026.

iv) In accordance with paragraph 4(v) of the Directions Order, Mr Khan confirmed that, as at the date of his statement on 21 September 2026, a direct link to the dedicated webpage was retained in the "recent news" section of the homepage of the Claimant's website.

v) On 15 September 2026, at around 12 noon, the Claimant requested that West Midlands Police post a link to the Claimant's media release on their website and social media, as required by paragraph 4(vi).

vi) On 9 September 2026 at 11.46am, the Claimant emailed a copy of the Directions Order, together with notification in a covering email of the details of the next hearing, to press@raisethecolours.org.uk, as required by paragraph 4(vii). In addition, although not required by the order, a copy was sent at the same time to admin@raisethecolours.org.uk.

18. The combined evidence of Mr Khan and Ms Limbu evidences compliance by the Claimant with requirements for notification of the Directions Order on the Eighth Defendant. Taken with the earlier compliance with the requirements to provide notification of the Interim Injunction Application itself, I am satisfied that the Claimant has taken all practicable steps to notify the Eighth Defendant of the Interim Injunction Application and hearing thereof on 30 September 2026, for the purposes of s.12(2) of the HRA 1998.

19. When the matter was adjourned part-heard to 2 November 2026, I directed the Claimant to notify the Eighth Defendant about the further hearing. Paragraph 6 of the order of 30 September 2026 required the Claimant to serve the new order, which contained details of the next hearing date, time and location, by taking the same steps required by paragraph 4 of the Directions Order. Such steps were to be completed within 7 days of the Claimant receiving the sealed order. The sixth witness statement of Mohammed Khan, dated 13 October 2026, evidences compliance.

The order sought

20. The Claimant seeks an interim injunction to prohibit the Defendants, whether by themselves or by instructing or encouraging any other person, from:

    (i) Attaching any flag, or causing any flag to be attached, or assisting any other person to attach any flag, to any street furniture or infrastructure within the city of Birmingham without the prior consent of the Claimant.

    (ii) Organising, promoting or publicising any event whose purpose is to attach any such flags.

    (iii) Obstructing the highway for the purposes of attaching flags to street furniture within the city of Birmingham.

    (iv) Obstructing, or interfering in any way with, the Claimant's officers or contractors seeking to remove flags from street furniture within the city of Birmingham.

    (v) Causing harassment, alarm or distress to:

        (a) the Claimant's members, officers or contractors who are, or have been, or may in the future be involved in the removal of flags from street furniture, including by being involved in any decision to remove them; or

        (b) any person expressing opposition to the attachment of flags to street furniture within the city of Birmingham.

21. A copy of the Claimant's proposed draft order is attached to this judgment marked "Appendix 1".

22. The Claimant proposes that the term "street furniture or infrastructure" is defined as "any physical structure on the highway, including but not limited to, lampposts, lighting columns, street signs, barriers, railings, bridges, trees, CCTV cameras, traffic lights, telephone boxes, central reservations, pedestrian islands and the central islands or markings of any roundabout". Various other definitions are also proposed.

23. The Claimant seeks a power of arrest, pursuant to section 27 of the Police and Justice Act 2006 ("PJA 2006"), against the First and Eighth Defendants. It does not, at this stage, seek a power of arrest against the Sixth Defendant.

The legal framework

Interim Prohibitory Injunctions

24. The starting point for any application for an injunction in the High Court is s.37(1) of the Senior Courts Act 1981; the Court may grant a final or interim injunction if it appears to be "just and convenient" to do so.

25. An application for an interim prohibitory injunction requires consideration of the principles in *American Cyanamid Co v Ethicon (No. 1)* [1975] AC 396, namely:

    i) Is there a serious issue to be tried?

    ii) If so, where does the balance of convenience lie? This firstly involves consideration of whether, if the Claimant were to succeed at trial, damages would be an adequate remedy for any loss sustained between now and the trial. If damages would not be an adequate remedy for the Claimant, would damages be an adequate remedy for the Defendants if the Court found at trial that interim relief should not have been granted?

26. The Claimant accepts that article 10 (the qualified right to freedom of expression) of the European Convention on Human Rights ("the Convention") is engaged in this case. By s.12(3) of the HRA 1998: "no such relief is to be granted to restrain publication before trial unless the court is satisfied that the applicant is likely to be able to establish that publication should not be allowed".

27. The meaning of "likely" in the context of s.12(3) of the HRA 1998 is generally construed as a probable, that is more likely than not, likelihood of success at trial. There will however be cases, such as where the consequences of publication are particularly grave or further time is required for proper consideration of the merits, where a lesser likelihood will suffice: *Cream Holdings Ltd v Banerjee* [2004] UKHL 44 ("*Cream Holdings*") at [20] and [22].

28. The approach when considering whether to grant a quia timet injunction to restrain future harm was considered in *Vastint Leeds BV v Persons Unknown* [2018] EWHC 2456 (Ch) ("*Vastint Leeds*") by Marcus Smith J. At [31](3), he adopted a two-stage test:

> "(a) First, is there a strong probability that, unless restrained by injunction, the defendant will act in breach of the claimant's rights? (b) Secondly, if the defendant did an act in contravention of the claimant's rights, would the harm resulting be so grave and irreparable that, notwithstanding the grant of an immediate interlocutory injunction (at the time of actual infringement of the claimant's rights) to restrain the acts complained of, a remedy of damages would be inadequate?"

29. The Claimant therefore has to prove not only that there is a serious issue to be tried, but also that it is more likely than not that it will succeed in its claim for final injunctive relief, that the balance of convenience lies in their favour, and that it is just and convenient to grant interim relief.

The legal framework of the substantive claim

30. By s.222(1)(a) of the Local Government Act 1972 ("the LGA 1972"), a local authority can institute civil proceedings where it considers "it is expedient for the promotion or protection of the interests of the inhabitants of their area…" Whether it is 'expedient' for the purposes of s.222 to bring legal proceedings is

for the local authority to decide subject to such decision being compatible with usual principles of judicial review.

31. The Claimant relies on the following civil causes of action:

    i) Public nuisance.

    ii) To prevent criminal offences which are deliberate and flagrant and/or cannot otherwise be effectively restrained by the criminal law.

Public Nuisance

32. Section 78 of the Police, Crime, Sentencing and Courts Act 2022 introduced a new statutory criminal offence of public nuisance and abolished the previous common law version of the offence. By s.78(8)(b) the "civil liability of any person for the tort of public nuisance" is not affected. A public nuisance has been defined as a state of affairs which materially affects the reasonable comfort and convenience of life of a class of His Majesty's' subjects within a neighbourhood, but does not necessarily need to injuriously affect every member of that class. It will be a question of fact whether a sufficient cross-section is affected. See *Attorney General v PYA Quarries Ltd* [1957] 2 QB 169 at [184] and [190-191].

Preventing criminal offences

33. The ability of a local authority to rely on s.222 to bring civil proceedings to restrain deliberate and flagrant breaches of the criminal law was recognised in *Stoke on Trent City Council v B&Q (Retail) Ltd* [1984] AC 754 ("*Stoke on Trent*") in the context of proceedings to stop breaches of Sunday-trading laws imposed by the Shops Act 1950. A similar conclusion was reached in *City of London Corporation v Bovis Construction Ltd* [1992] 3 All ER 697. A public authority can also apply for an injunction to prevent conduct which interferes with its statutory functions: *Abbasi v Newcastle Upon Tyne NHS Trust* [2025] UKSC 15 *("Abbasi")* at [75].

34. In *Oxfordshire County Council v Ben Cullen & Ors* [2026] EWHC 2019 (KB) ("*Oxfordshire*") the claimant local authority sought injunctive relief to prohibit individuals, including persons unknown, from attaching unauthorised flags to highway structures and painting or marking flags on the highway. (The First and Sixth Defendants in the instant claim were also named defendants in *Oxfordshire*.) The Court concluded that it was appropriate to grant final prohibitory injunctive relief against named and unnamed defendants. Dias J, at [169] recognised the High Court's power to act to restrain breaches of the criminal law and interference with the local authority's "statutory duties and powers around maintaining the highway…, protecting the rights of the general public of access to and passage along the highways…and removing unlawfully affixed or inscribed material."

35. By s.1(2) of the Highways Act 1980 ("the HA 1980"), outside of Greater London, the council of a county or metropolitan district is the highway authority

for all highways in the county or district. This is subject to any highways, such as trunk roads, for which the Minister or a strategic highways company is the highway authority. The Claimant is thus the highway authority for the vast majority of the highways within its metropolitan district, with the Minister being the highway authority for the motorways (such as parts of the M6) that pass through the Birmingham administrative area.

36. Section 130 of the HA 1980 concerns the protection of public rights over the highway:

> "(1) It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.
>
> (2) Any council may assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority, including any roadside waste which forms part of it.
>
> …
>
> (5) Without prejudice to their powers under section 222 of the Local Government Act 1972, a council may, in the performance of their functions under the foregoing provisions of this section, institute legal proceedings in their own name, defend any legal proceedings and generally take such steps as they deem expedient."

37. A highway authority has an express power to remove unauthorised marks from the highway. Section 132(2) of the HA 1980 provides:

> "(2) The highway authority for a highway may, without prejudice to their powers apart from this subsection and whether or not proceedings in respect of the matter have been taken in pursuance of subsection (1) above, remove any picture, letter, sign or other mark which has, without either the consent of the authority or an authorisation given by or under an enactment, been painted or otherwise inscribed or affixed upon the surface of the highway or upon any tree, structure or works on or in the highway."

38. There are various criminal offences that have potential relevance to the alleged facts of this case.

(1) *Unauthorised inscribing or affixing on highways.* By s.132(1) of the HA 1980: "A person who, without either the consent of the highway authority for the highway in question or an authorisation given by or under an enactment or a reasonable excuse, paints or otherwise inscribes or affixes any picture, letter, sign or other mark upon the surface of a highway or upon any tree, structure or works on or in a highway is guilty of an offence and liable to a fine not exceeding level 4 on the standard scale."

(2) *Obstructing free passage of the highway.* By s.137(1) of the HA 1980: "If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to imprisonment for a term not exceeding 51 weeks or a fine or both."

(3) *Wilfully obstructing those acting in execution of the HA 1980***.** By s. 303 of the HA 1980: "A person who wilfully obstructs any person acting in the execution of this Act or any byelaw or order made under it is, in any case for which no other provision is made by this Act, guilty of an offence and liable to a fine not exceeding level 1 on the standard scale; and if the offence is continued after conviction, he is guilty of a further offence and liable to a fine not exceeding £5 for each day on which the offence is so continued."

(4) *Common assault and battery,* contrary to s.39 of the Criminal Justice Act 1988.

(5) *Public Order Act offences.* Affray, being the use or threat of unlawful violence towards another where the conduct is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, contrary to s.3 of the Public Order Act 1986 ("POA 1986"). Fear or provocation of violence, contrary to s.4 of the POA 1986. Intentional harassment, alarm or distress, contrary to s. 4A of the POA 1986. Harassment, alarm or distress, contrary to s.5 of the POA 1986.

(6) *Encouraging or assisting an offence*. By s.44 of the Serious Crime Act 2007 ("the SCA 2007"): "(1) A person commits an offence if— (a) he does an act capable of encouraging or assisting the commission of an offence; and (b) he intends to encourage or assist its commission."

The implications of the HRA 1998

39. The jurisdiction to grant an injunction must be exercised compatibly with Convention rights. The Claimant accepts both article 10 (freedom of expression) and article 11 (freedom of assembly and association) are engaged in this case. Articles 10 and 11 are qualified rights.

    iii) Article 10 rights may be the subject of restrictions "as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary." [Paragraph 2 of article 10.]

    iv) Article 11 rights can be restricted if prescribed by law and necessary "in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others…" [Paragraph 2 of article 11.]

40. The threshold for restriction in each case therefore requires two conditions to be satisfied. Firstly, that the restriction is prescribed by law. Secondly, that it is necessary in a democratic society to support one or more of the legitimate aims. See *Birmingham City Council v Afsar* [2019] EWHC 3217 (QB) at [102].

41. Section 12(4) of the HRA 1998 requires the Court to have particular regard to the importance of article 10 rights.

42. The approach to be taken to the required enquiry of the implications of the HRA 1998 was considered by the Supreme Court in *DPP v Ziegler* [2021] UKSC 23 ("*Ziegler*"). At [16] the Supreme Court adopted the following approach:

> "…It requires consideration of the following questions:
>
> (1) Is what the defendant did in exercise of one of the rights in articles 10 or 11 ?
>
> (2) If so, is there an interference by a public authority with that right?
>
> (3) If there is an interference, is it 'prescribed by law'?
>
> (4) If so, is the interference in pursuit of a legitimate aim as set out in paragraph (2) of article 10 or article 11, for example the protection of the rights of others?
>
> (5) If so, is the interference 'necessary in a democratic society' to achieve that legitimate aim?
>
> 64. That last question will in turn require consideration of the well-known set of sub-questions which arise in order to assess whether an interference is proportionate:
>
> (1) Is the aim sufficiently important to justify interference with a fundamental right?
>
> (2) Is there a rational connection between the means chosen and the aim in view?
>
> (3) Are there less restrictive alternative means available to achieve that aim?
>
> (4) Is there a fair balance between the rights of the individual and the general interest of the community, including the rights of others?"

43. The Supreme Court recognised at [68] of *Ziegler* that there should be a "certain degree of tolerance to disruption to ordinary life, including disruption of traffic, caused by the exercise of [article 10 and 11 rights]". At [72] of the judgment, the Supreme Court adopted a list of non-exhaustive factors, identified by Lord Neuberger MR in *City of London Corpn v Samede & Ors* [2012] EWCA Civ 160 ("*Samede*") at [39], that are normally taken into account when conducting a proportionality assessment in protestor cases. They include the extent of breach of domestic law, the importance of the precise location to the protestors,

the duration of the protest, the degree of occupation, the extent of actual interference with the rights of others, whether the views giving rise to the protest relate to "very important issues" and the protestors' belief in such views.

44. The general character of the views whose expression the Convention is being invoked to protect can be taken into account when conducting the proportionality assessment: *Samede*" at [41]. Lord Neuberger MR held that "political and economic views are at the top end of the scale, and pornography and vapid tittle-tattle is towards the bottom" but that the character of the views "cannot be a factor which trumps all others, and indeed it is unlikely to be a particularly weighty factor: otherwise judges would find themselves according greater protection to views which they think important, or with which they agree."

45. The right to freedom of expression does not however include a right to protest on privately owned land or upon publicly owned land from which the public is generally excluded. However, if a restriction prevents effective access of those rights or destroys the essence of those rights, one cannot rule out the possibility of the state being obliged to regulate property rights. See *DPP v Cuciurean* [2022] EWHC 736 (Admin) ("*Cuciurean*") at [45].

Newcomer Persons Unknown

46. Interim injunctions can be granted against newcomer persons unknown. They do however require additional considerations, as discussed in *Wolverhampton* at [167], and are only likely to be justified if:

> "(i) There is a compelling need, sufficiently demonstrated by the evidence, for the protection of civil rights (or, as the case may be, the enforcement of planning control, the prevention of anti-social behaviour or such other statutory objective as may be relied upon) in the locality which is not adequately met by any other measures available to the applicant local authorities (including the making of byelaws)…
>
> (ii) There is procedural protection for the rights (including Convention rights) of the affected newcomers, sufficient to overcome the strong prima facie objection of subjecting them to a without notice injunction otherwise than as an emergency measure to hold the ring. This will need to include an obligation to take all reasonable steps to draw the application and any order made to the attention of all those likely to be affected by it…; and the most generous provision for liberty to apply to have the injunction varied or set aside, and on terms that the grant of the injunction in the meantime does not foreclose any objection of law, practice, justice or convenience which the newcomer so applying might wish to raise.
>
> (iii) Applicant local authorities can be seen and trusted to comply with the most stringent form of disclosure duty on making an application, so as both to research for and then present to the court

> everything that might have been said by the targeted newcomers against the grant of injunctive relief.
>
> (iv) The injunctions are constrained by both territorial and temporal limitations so as to ensure, as far as practicable, that they neither outflank nor outlast the compelling circumstances relied upon.
>
> (v) It is, on the particular facts, just and convenient that such an injunction be granted."

47. It matters not that there is no concluded cause of action at the time a 'newcomer' persons unknown injunction is granted. Such an injunction will bind a 'newcomer' who has notice of the injunction even though the individual had no intention and had not threatened to do the act concerned: *Wolverhampton* at [238](ii).

Power of arrest

48. Section 27 of the PJA 2006 applies to proceedings in which a local authority is a party by virtue of s.222 of the LGA 1972. By s.27:

> "(2) If the court grants an injunction which prohibits conduct which is capable of causing nuisance or annoyance to a person it may, if subsection (3) applies, attach a power of arrest to any provision of the injunction.
>
> (3) This subsection applies if the local authority applies to the court to attach the power of arrest and the court thinks that either:
>
> (a) the conduct complained of in subsection (2) consists of or includes the use of threatened use of violence, or
>
> (b) there is a significant risk of harm to the person mentioned in that subsection."

The evidence

49. At this interim stage, the Court has not heard oral evidence and is not making findings of fact. However, some understanding of the evidential position is necessary in order to determine whether the Claimant is likely to succeed at trial. Both Mr Manning and Dr Wells took the Court through the evidence in some detail.

The Claimant's evidence

50. The Claimant relies on witness statements from the following:

> v) Waqar Ahmed, the Claimant's Director of Community Safety, Resilience and Cohesion, by statements dated 18 August 2026 and 29 October 2026.

vi) Mohammed Khan, the Claimant's Community Safety Partnership Manager, by statements dated 20 August 2026, 11, 15 and 25 September 2026 and 28 October 2026.

vii) Mark Shelswell, the Claimant's Director of Highways, by statement dated 24 August 2026.

51. Mr Khan explains that Birmingham is a large and densely populated metropolitan area comprising a diverse range of multicultural communities. In 2024, the total population was 1,183,618. The Claimant is the unitary local authority for the city of Birmingham and also the highways authority within the meaning of s.1(2) of the HA 1980.

52. Mr Khan explains that, since mid-2025, the Claimant has received regular complaints and information regarding disturbances connected with the erection of unauthorised flags, most commonly Union Jack flags, St George's flags, Scottish and Welsh flags, to lamp columns and other highway infrastructure. Mr Khan wishes to make two things clear:

i) The Claimant does not have a view on flying of flags of any description in and of itself. If people wish to fly flags on private property then that is a matter for them.

ii) The legal action is not about flying any particular flag or flags. The Claimant is not seeking to "take sides" in any way or to prioritise the views of one community over another. The injunction sought is to prohibit the flying of any flag from street infrastructure and, for example, would apply equally to Palestinian flags flown from street infrastructure without prior authorisation.

53. Mr Khan explains that flags are attached using ladders, vans and cherry-pickers and without use of appropriate safety equipment. He asserts that the flags are placed without consideration as to how their placement may affect the safety of the road, and those using it.

54. Mr Ahmed explains that the flag activity has had a significant impact on the community, resources and individual residents. He reports heightened tensions within communities linked to the installation and attempted removal of flags. Mr Khan notes that where flag attachments are removed, either by the Claimant, its contractors or local residents, the Defendants rapidly reinstall them.

55. Mr Ahmed asserts that members of RTC, including the seven named defendants and other unidentified individuals, and other groups, have been involved in flag installation activity. He exhibits a series of videos posted to RTC's social media channels, which are said to show the named Defendants involved in erecting unauthorised flags and associated activity. Mr Ahmed explains that concerns have been raised about the conduct of the Defendants, both named and unnamed including:

i) Shouting, chanting and aggressive confrontation with members of the public, including use of a megaphone with amplifier, often occurring on busy streets in close proximity to members of the public.

ii) Verbal abuse, including terms such as "traitor" and "go back to your own country".

iii) Filming individuals during interactions and then sharing content on social media, contributing to ongoing intimidation and targeting of individuals.

iv) Approaching members of the public directly, in an aggressive or confrontational manner, and including individuals being followed, surrounded or challenged in public spaces and their homes.

v) Physical intimidation and violence, with reports of pushing, grabbing, striking individuals and threats of violence.

vi) Obstruction of the highway and public safety risks, including obstructing the pavements and roads through use of vehicles and equipment such as cherry-pickers.

56. Mr Khan explains that, for approximately one year, the Claimant has been receiving complaints from members of the public either directly or via local councillors, local MPs and the police. Birmingham residents can report incidents of harassment, alarm or distress to the Claimant that arise from unauthorised flag attachment activities. Reports are made using an online database called 'Baserow'. Mr Khan exhibits at MK2 some 52 pages of reports, including photographs, from the Baserow database. The reports typically arise from confrontations between those erecting unauthorised flags and those opposed to it. Mr Khan provides a summary of 17 examples from the reports in respect of incidents between 25 September 2025 and 2 August 2026. The reports relate to various locations across Birmingham including Stirchley, the Queslett Road, Perry Common, Nechells, Erdington, Kingstanding, Moseley and Maypole. Examples of the reports include:

i) A resident in Stirchley being pursued on a bicycle and threatened after signalling disapproval of flag installation activity.

ii) A group of individuals in Stirchley wearing RTC shirts/hoodies being verbally aggressive to individuals at a local family event, including poking someone in the chest and saying words to the effect of "because of people like you paedophiles are allowed into the country".

iii) The Claimant's contractors being verbally abused when working on street furniture in Perry Common, Nechells, Erdington and Kingstanding.

iv) A large scale unauthorised flag installation, with 10-12 individuals installing flags in Moseley using a cherry-picker, whilst others actively

filmed members of the public, questioned bystanders as to their views and subjected them to verbal abuse including calling them "traitors".

v) A resident being physically assaulted in Kingstanding after removing unauthorised flags.

vi) A resident in Kingstanding being kicked to the shins and elbowed in the face during the installation of flags by RTC.

vii) A man in Stirchley sustaining a suspected broken leg after being hit by a cherry-picker being used by RTC to install flags.

viii) A resident in Stirchley being confronted by three individuals, including the First Defendant, who positioned a vehicle to block the pavement to prevent the resident passing, filmed him at close range and who were verbally abusive.

57. Mr Khan explains that there is a pattern of behaviour associated with the erection of unauthorised flags which leads to residents reporting feelings of fear, intimidation and an unwillingness to use public spaces. He exhibits at MK13 a witness statement from "Resident A", dated 20 August 2026, who describes feeling significantly less safe in Stirchley as a result of RTC's actions. They describe having witnessed members of RTC attaching flags whilst being intimidating, aggressive, discriminatory and abusive towards members of the public. The allegations include RTC members driving their van erratically, incompetently directing traffic, calling women "bitch" and "slag", asking people with accents where they are from and questioning their right to live in the UK, making derogatory remarks about people's height, weight, clothing, voice and appearance and, in particular, targeting LGBTQ+ or gender non-conforming people. Further, allegations include the ordering of bystanders around, making threats of violence, such as "I'll spark you out" and "This is your last warning", and using filming and photography to intimidate people by telling them that they are live on social media.

58. Mr Khan exhibits statements from two local councillors; Isobel Knowles and Roxanne Green. They report receiving numerous complaints and concerns from local residents, with Ms Knowles reporting experiencing first-hand aggression from the First Defendant, whilst other RTC members stood nearby and filmed and made comments. The member of parliament for Selly Oak, Al Carns, reports receiving reports from more than 120 constituents raising concerns about groups placing flags on street furniture, including instances of antisocial behaviour in connection with the activity.

59. Mr Khan explains that the unauthorised flagging and associated activity is also having an impact on West Midlands Police. He exhibits, at MK8, MK20 and MK23, statements from PS 1607 Gareth Sankey, PS 22798 Emad Choudhury and PS 20816 Robert McLoughlin of West Midlands Police. The police officers explain the effect on the community and on police resources. PS Sankey notes that, since September 2025, West Midlands Police has recorded a significant number of incidents associated with the placement of flags, together with

community tensions, allegations of intimidation, public disorder and criminal offences. He explains that these incidents have created a sustained and disproportionate demand upon West Midlands Police's resources. Officers have had to spend significant time providing reassurance, engaging with local stakeholders, attending community meetings, dealing with emergency and non-emergency call handling, deploying neighbourhood and response officers, conducting criminal investigations, deploying resources to intelligence work, undertaking public order planning and liaising with other agencies, including the Claimant.

60. Mr Shelswell, as the Claimant's director of highways infrastructure, explains the highway implications of the unauthorised flagging. He states that the Claimant operates an "Attachments on Highway Assets Policy", which is written using best practice from a number of local authorities and guidance from professional bodies. That policy provides guidance on how applications may be made to the Claimant for permission to attach items to the Claimant's assets. He estimates there are approximately 20,000 unauthorised flags installed across the city, a number which continues to grow. He identifies what he describes as serious and foreseeable risks to public safety including obstruction of driver visibility occasioned by flags covering pedestrian guard railings, the risk of a reduction in the structural stability of highway structures and concerns to the personal safety of operatives involved in removal operations, who are being subjected to intimidatory behaviour.

61. Mr Ahmed describes the action taken by the Claimant to date to try to resolve the immediate risks and longer term community impacts. It has adopted a multi-agency approach, working with Community Safety, West Midlands Police, Highways and Regulatory Services to try to address the issue. He explains that the Claimant has attempted to remove unauthorised flags promptly where they were deemed to contribute community tension, environmental concerns, or potential public order issues. The Claimant has also undertaken proactive engagement with affected communities to provide reassurance, and promote community cohesion. Mr Ahmed explains that, despite these interventions, the activity has continued and escalated.

62. Mr Ahmed states that the Claimant has considered alternative remedies, such as a Public Spaces Protection Order, the passing of byelaws, the issuing of Community Protection Warnings and Community Protection Notices, Dispersal Orders, and prosecutions under s.132 of the Highways Act 1980. He provides reasons why the Claimant believes that each of the aforementioned would be an inadequate remedy. The Claimant describes its decision to apply for an injunction as a last resort in order to prevent any further disruption to the wider community, local residents, and the Claimant's resources. Mr Ahmed describes the assessments pursuant to the Equality Act 2010 and HRA 1998 that the Claimant has undertaken before reaching its conclusion that it was appropriate to seek an injunction.

63. Mr Khan updated his evidence with events he states have occurred since the directions hearing on 8 September 2026. He describes being made aware of online material as to further 'flagging activity' at Bartley Reservoir, which appeared to have occurred on or around 5 September 2026. He also refers to

various videos published on RTC's Facebook page, following service of the claim. Mr Khan exhibits a video in which the First Defendant states *"we don't wanna stop what we're doing, we're never going to stop what we doing. I am personally never going to let you down and nor is anyone else at Raise the Colours…I ain't giving up, I ain't stopping, I ain't doing Oxford on this one"*.

64. Mr Khan notes that RTC Kingstanding has changed its name on its social media page to "Kingstanding Patriots". On 22 September 2026, he viewed a Facebook livestream published by the aforementioned group who were carrying out works to a flag display on Kingstanding Circle roundabout. The footage showed an exchange with a passing motorist with the individual recording shouting *"Christ is King…you fucking racist cunt, yeah go on get him"*. In another post from the Kingstanding Patriots, the speaker referred to the Claimant as not being able to touch the flag display and referred to future plans saying *"we've got something big coming off"*.

65. Mr Khan exhibits examples of what he describes as hostile and abusive communications sent by members of the public to the Claimant's elected councillors in connection with the flagging issue. Mr Khan states that the Claimant's contractors provided him with a further update on 14 September 2026 to the effect that the contractors were concerned that, whilst removing flags at Bartley Reservoir, they noticed that some flags were fitted with security alarms and cameras which caused the contractors to feel concerned for their personal safety. The contractors also reported that flags had been re-attached to various locations around the city.

66. Mr Khan exhibits a livestream posted on RTC's Facebook page on 23 September 2026 in which the First Defendant is said to refer to RTC's campaign stating: *"We will never stop. I will never stop. Raise the colours will never stop."* He states that the First Defendant referred to the use of campaign WhatsApp groups, a large number of supporters and asked supporters to continue donating funds. *"to overturn this and fight…this is just the star*t". Mr Khan believes this demonstrates the First Defendant's prominent role within RTC's campaign and his ability to influence and encourage supporters. Mr Khan notes with concern that, during the livestream, the First Defendant refers to Birmingham anti-fascist groups and an individual known as Candice stating: "*your days are numbered because it's you that's the problem.*" Later in the video, the First Defendant states: "*So, if you want flags, we'll send them out in bundles.*"

67. Mr Khan further updated his evidence following the hearing on 30 September 2026. He exhibits a series of videos featuring the First Defendant which have been published on RTC's social media accounts. Exhibit MK31 is said to be a video recorded of the First Defendant outside Court on 30 September, which includes the First Defendant stating: *"We're putting flags up because we are in distress for what's happening…so we'll put the flag up. We'll support everyone."* Exhibit MK32 is a further livestream video featuring the First Defendant and published on RTC's Facebook page following the Court hearing. The First Defendant refers to flags having been erected outside a hotel housing asylum seekers on Penns Lane in Sutton Coldfield and states: *"I would put that flag up at Penns Lane Hotel 10 times a week because I just think it's a massive*

message that we want to get across. I'm currently not going to be putting flags up in Birmingham as well as Oxford. For now they haven't got an injunction on us…"

68. Mr Khan states that, overnight on around 10 October 2026, a number of Union Jacks, St George's and other flags erected on Kingstanding island in Birmingham were removed by a group identifying itself as "Lower the Flags Brum". Exhibit MK33 is a screenshot from the group's Facebook page including a photograph of largely masked and hooded individuals standing in front of a pile of dismantled flags. The group identifying as "Kingstanding Patriots" responded with a Facebook post exhibited at MK34. In the post, those removing the flags are called "traitors" and a request is made for donations to replace the flag display. The post includes a photograph and the name of an individual said to be responsible for removing the flags. Mr Khan states that within approximately 24 hours of removal, replacement flags had been erected.

69. Exhibit MK35 is a further livestream video of the First Defendant that Mr Khan became aware of on 12 October 2026. In the video, the First Defendant states: *"Kingstanding got trashed …I know it did. Do not worry. Do not worry, have I ever let you down? I can't say no more than that as I can't encourage anyone to put flags up but there is only one reason I am here on a Saturday morning getting these babies…"* The Defendant then holds up a number of Union Flags to the camera and laughs and sings.

70. Mr Ahmed also updated his evidence following the hearing on 30 September 2026. He explains that the Claimant is in discussions with its elected members to consider whether there are appropriate, authorised and managed alternatives to the unauthorised flagging activity. This includes discussions with local elected members about the possibility of a permanent flag installation in Kingstanding, which would require consideration of matters such as the proposed design and location, public safety implications and issues relating to installation, maintenance and insurance.

The Claimant's evidence against the named Defendants

71. In accordance with the Directions Order, the Claimant has prepared a series of Scott Schedules particularising the factual allegations against each of the named Defendants, cross-referenced to the Claimant's evidence.

The First Defendant

72. The Claimant believes that the First Defendant is a co-founder of RTC. The Claimant makes 22 allegations against the First Defendant. Allegation 1 concerns the First Defendant's alleged role in RTC and his actions in organising and encouraging unauthorised flagging. Allegation 2 concerns allegedly criminal actions of the First Defendant in Oxfordshire. Allegations 3 to 22 inclusive are specific instances in which the First Defendant was allegedly involved in flagging activity, many of which are supported by video footage or still photographs. The Claimant is unaware of the dates of alleged activity in allegations 3, 4 and 5. Allegations 6 to 22 cover the period from August 2025 to September 2026. The allegations include use by the First Defendant of

cherry-picker lifts to access street furniture, the blocking of the highway, knocking a telephone out of the hand of a member of the public, aggressive verbal abuse to members of the public, and the encouraging of other members of RTC to film members of the public and post such videos on social media.

The Sixth Defendant

73. The Claimant asserts that the Sixth Defendant is associated with RTC and makes 3 allegations against him. The first is a general allegation relating to his association with RTC. Allegation 2 concerns an incident whereby it is alleged the Sixth Defendant stood in the bucket of a cherry-picker to assist in erecting a large flag between two lampposts outside a hotel housing migrants on Penns Lane in Sutton Coldfield. Allegation 3 concerns an incident in March 2026 when the Sixth Defendant is alleged to have fired a firework toward a hotel housing migrants at a RTC event at which a very large Union Jack had been erected across the road.

The Defendants' evidence

74. The First Defendant relies on the following witness evidence:

    i) His own statements, dated 3 September 2026, two dated 22 September 2026, 28 October 2026, 29 October 2026 and 30 October 2026.

    ii) Osama Majid, by statement dated 27 October 2026.

    iii) Laura Ann Maria Fitzgerald, by statement dated 27 October 2026.

75. The First Defendant states that, if the Court considers formal restraint is necessary pending any trial, he remains willing to give an undertaking. He further states that he would comply with any order the Court makes along the lines of the injunction sought by the Claimant, but resists any power of arrest being attached.

76. The First Defendant describes himself as a founder of RTC and accepts that he broadcasts livestreams on its main social media channels. He states that he does not manage or approve ordinary posts, captions, graphics or comments on RTC's social media, and explains that a number of people have access to RTC's admin@raisethecolours.org.uk email address. He accepts that he has personally attached flags, attended flagging activity with some of the named Defendants, and organised some flag-related events. He does not however accept that he has directed or controlled all flagging activity across the city.

77. The First Defendant responds to each of the allegations made by the Claimant in the Scott Schedule, making partial admissions. For example:

    i) He accepts attending flagging activity in Longbridge and being in a cherry-picker basket to attach replacement flags, but denies allegations of unsafe, violent or intimidating conduct.

ii) He accepts attending a protest at a hotel housing refugees in Sutton Coldfield, holding a rope and handling a stop/go traffic sign in a joking manner.

iii) He admits attending a flagging event in Bromsgrove, which he points out is outside the Claimant's administrative area, and telling the police that he thought a hooded man with a ladder had a knife. He denies such an allegation was made maliciously or that he touched the man or knocked his phone from his hand.

iv) He accepts livestreaming flagging activity in Moseley but not that he was directly involved in using the cherry-picker or personally attached flags. He acknowledges an exchange with Councillor Knowles on that occasion but states he was not aware then that she was a councillor.

v) The First Defendant admits attending an event in Penns Lane, Sutton Coldfield, but states he was unaware that another person was going to discharge a firework and denies personal involvement in attaching the flag.

vi) He does not accept that he is part of the Kingstanding group and denies any control over its decisions or actions.

78. The First Defendant states that references in his social media livestreams to *"not giving up"* meant simply that he intended to contest the Claimant's claim, rather than him meaning he would continue attaching flags.

79. The First Defendant explains the personal meaning of the flags to him. He considers the Union Flag to represent his home, identity, belonging, national history, British culture and patriotism. He considers the St George's flag to hold a related but distinct meaning, representing England as his home, English identity and history, and St George as England's patron saint. He regards both flags as capable of carrying a peaceful message about belonging.

80. The First Defendant states the RTC campaign was not originally conceived to be party-political but was about identity, pride and community. He describes the campaign as later acquiring an unavoidable political dimension because public figures, councillors, campaign groups and opponents described the displays and RTC in political terms.

81. He addresses why he believes there needs to be public flag displays. The First Defendant describes having three flagpoles in his own garden but considers that a flag in one person's garden communicates an individual household's message to a limited audience. He believes a visible public display communicates a shared or collective message to the wider community, and conveys collective participation. The First Defendants explains that using streetlamp columns appeared to him to be an obvious and visible place to display flags, and he had noticed other items being attached to them, such as missing pet and community notices.

82. The First Defendant states that RTC has many supporters and independent local groups, and that individual supporters make their own decisions. He views RTC as providing a platform for those who are afraid to speak out publicly through fear of consequences for their employment or personal lives. He states that RTC helps support individuals who want their experiences heard. He provides an example of supporting an individual whose daughter had been murdered, giving her access to RTC's platform and facilitating a meeting with Nigel Farage.

83. The First Defendant accepts that he did not submit a formal application to the Claimant for permission to attach flags to street furniture. He explains that he understood from public accounts that local Councillors, the Claimant's officers and the police had already adopted a firmly adverse position towards RTC's displays such that he did not believe any request for permission would be entertained positively. The First Defendant states that, earlier in 2026, RTC sent written correspondence to Reform UK seeking support for a lawful route through which public flag displays could take place with the agreement of relevant local authorities, but they received no response. The First Defendant describes attending the Reform UK conference on 8 September 2026 and speaking with Nigel Farage about the First Defendant's wish to find a *"legal and lawful"* way forward.

84. The First Defendant disagrees with Mr Khan's analysis of the social media postings in September 2026. He explains that the reference in his video of 23 September 2026 to *"never stopping"* relates to RTC's campaign and platform as a whole, not its activities in attaching flags in Birmingham. He acknowledges that he communicates with RTC supporters by WhatsApp but denies using those groups since 8 September 2026 to instruct anyone to attach flags without permission, obstruct removal or otherwise engage in any unlawful conduct. He points out that he cannot control what members of the public write beneath a public social media post.

85. The First Defendant does not accept that he threatened the individual known as Candice in his livestream in September 2026. He explains that, on 17 September 2026, Candice had posted on social media that she had been locked out of Facebook and seemed to attribute that to the actions of the First Defendant. He exhibits copies of Candice's social media posts, which make derogatory remarks about the First Defendant. The First Defendant explains he had reported relevant material posted by Candice through lawful channels, including to Facebook and the police. He explains that his reference in his video to her *"days being numbered"* meant no more than his belief that her social media posting behaviour would be addressed through the reporting processes.

86. The First Defendant addresses his current and future flagging intentions in a number of his statements.

    i) In his statement of 22 September 2026, he states that he will not, without the prior written consent of the Claimant, attach a flag to the Claimant's street furniture or infrastructure, nor partake in the other activities the Claimant seeks to restrain.

ii) In his statement of 28 October 2026, he states he does not *"presently intend to attach flags to [the Claimant's] street furniture, or to instruct or assist another person to do so, without the [Claimant's] prior written permission or reasonable excuse"*. He states he will not obstruct the Claimant's officers or contractors in lawfully removing unauthorised flags nor threaten or harass any person because of their position concerning the flags.

iii) In his statement of 29 October 2026, he does not accept that Mr Khan's video exhibits MK31, MK32 or MK35 provide evidence of the First Defendant's intention to attach flags to the Claimant's street furniture without permission. He notes that, in video MK31, he made no reference to activities in Birmingham and he was simply expressing his political views as to why national flags carried meaning for him and his supporters. He explains that his reference in video MK32 to putting the flag seen in the Penns Lane protest up *"ten times a week"* is *"rhetorical language expressing the strength of my support for the message displayed at that earlier protest."* He points out that he made it clear he was not currently putting up flags in Birmingham or Oxford. He does not accept the video MK35 evidences any intention to install flags or encourage others to do so in Birmingham, and points out that he told his followers that he cannot encourage anyone to put flags up. He concludes that statement by stating he has not personally attached flags to the Claimant's street furniture or instructed anyone to do so without permission and avers: *"I do not presently intend to do so."*

87. Mr Osama Majid describes himself as an Asian Muslim man who is proud to be British. To him, RTC is an expression of pride for his country and of togetherness, giving a public voice to patriotic beliefs that he shares. He welcomes seeing those beliefs expressed openly and likes seeing the flags displayed in public. It reminds him that everyone can share a British identity, regardless of one's background or religion. He states he lives in a predominantly Asian area of Birmingham, and many people there are comfortable with seeing British flags being displayed. Mr Majid expresses concern about aggression he has personally witnessed from other people towards the First Defendant.

88. Ms Laura Fitzgerald lives in the south of England. She describes her first contact with the First Defendant when she contacted him through his Facebook page to seek assistance in raising her concerns about Government plans to use Crowborough Army Barracks as accommodation for asylum seekers. Ms Fitzgerald describes the First Defendant's encouragement, advice and support, including him making personal visits and promoting the cause on his social media platform. She states that the First Defendant helped her gain the confidence to express her political and patriotic beliefs publicly. She describes herself as a person of colour and explains that the First Defendant has made her feel welcome, respected and included. Ms Fitzgerald describes joining the First Defendant and others from RTC at various events in 2026 including at a St George's Day Parade in Birmingham on 26 April 2026, at a 'Unite the Kingdom' Rally in London on 16 May 2026, and at a 'Stop the Boats' protest

in Brighton on 13 June 2026. Her experience of the First Defendant is that he is calm and peaceful, even when confronted by others being aggressive.

89. Ms Fitzgerald states that the Union flag and St George's Cross represent national identity, history, traditions and previous generations. She views the flags displayed by RTC as taking on additional meaning, and she associates them with the concerns of people who feel that their country is changing and who want their voices to be heard. She believes that flags flying in a public street have a different impact from those displayed in a private garden or on social media, with public displays creating a visible sense of a shared national identity.

The parties' positions

90. I will return to the detail of the parties' submissions in due course but, in summary, the parties adopt the following positions.

The Claimant

91. The Claimant submits that:

i) It is entitled to rely on s.222(1)(a) of the LGA 1972 to bring proceedings for the promotion or protection of the inhabitants of its administrative area.

ii) The merits threshold for interim relief is met and the Claimant is more likely than not to succeed at trial in circumstances where:

a) The Claimant is entitled to rely on causes of action in public nuisance and to restrain the commission of criminal offences which are deliberate and/or which cannot effectively be restrained by use of criminal law sanctions.

b) There is witness evidence, much of it corroborated by video footage or photographs, that the First Defendant has participated in activity involving the attaching of flags to the Claimant's street furniture, organised and encouraged others to act in that way, and that such events often involve anti-social, criminal and unsafe behaviour. There is evidence the Sixth Defendant has participated in flag raising activity, including setting off a firework towards a hotel housing migrants. There is evidence of numerous persons unknown engaging in unlawful flag activity resulting in public safety hazards and harassment, alarm and distress including 'doxing' on social media, verbal and physical abuse.

c) Whilst articles 10 and 11 are engaged, those rights are qualified and the Defendants do not have the right to behave in a manner which causes a public nuisance and/or is contrary to the criminal law.

d) Flags continue to be attached to street furniture and infrastructure in Birmingham.

e) The Court can have no confidence that the named or unnamed Defendants will cease their flag activity and the associated anti-social behaviour.

92. Damages would be an inadequate remedy given the principal risk of harm is to the Claimant's inhabitants, and the Claimant could not seek financial compensation for harm caused to those individuals. A cross-undertaking in damages should not be required in circumstances where the Claimant is seeking to enforce the law in the interests of the public generally.

93. The substantive and procedural requirements in *Wolverhampton* for granting injunctive relief against persons unknown are met.

94. A power of arrest under s.27 of the PJA 2006 should be attached to interim injunctions against the First and Eighth Defendants.

The First Defendant

95. Many of the First Defendant's submissions in respect of his own position are equally relevant to the application against the Sixth and Eighth Defendants. The following submissions are advanced on his behalf:

i) The Court lacks jurisdiction to grant an injunction in circumstances where the Claimant has failed to join those affected as parties to the claim or otherwise bring representative proceedings.

ii) The Claimant cannot demonstrate it is more likely than not to obtain final relief so as to satisfy the merits test for interim relief in circumstances where:

a) The allegations against the First Defendant are largely denied and any admitted acts of flag activity are neither criminal nor tortious, and are de minimis in nature.

b) The granting of injunctive relief to prevent the Defendants from expressing their political views and patriotic feelings in a public place would amount to a disproportionate interference with the Defendants' article 10 and 11 rights.

c) The First Defendant has indicated he has no intention of committing any future breaches of civil obligations or the criminal law, and has offered a suitable undertaking. The test in *Vastint Leeds* for granting a quia timet injunction is not therefore met.

d) The Claimant has failed to proffer a cross-undertaking in damages.

e) The Claimant is guilty of delay.

f) Equity will not act in vain and the criminal law already provides a remedy in respect of the acts complained of.

iii) Alternatively, even if interim relief is prima facie appropriate, the Claimant's proposed form of order is defective in that the proposed terms are insufficiently precise and unduly broad, and offends the *Wolverhampton* requirements for temporal and geographical safeguards.

iv) The test for a power of arrest under s.27 of the PJA 2006 is not met.

The position of the Interested Parties

96. The Interested Parties put themselves forward as individuals who may fall within the description of Eighth Defendant, insofar as they do not want any injunction to curtail their ability to fly flags in Birmingham. They are in no way affiliated to RTC. They describe themselves in their written position statement as "members and active advocates of the LGBTQ+ community in Birmingham." They explain that, from time to time, they engage in peaceful civil expression, including the flying and display of Pride and gay rights flags on public occasions, as an assertion of identity and community cohesion, and to reflect historical civil rights.

97. The Interested Parties consider that the wide wording of the Claimant's proposed injunction would operate as a *"flawed dragnet"* into which peaceful civil actors, minority rights advocates and everyday residents would be dragged, in addition to the intended contentious, political groups. Their primary position is that the application for interim relief against the Eighth Defendant should be refused entirely, alternatively it should exclude those engaging in non-disruptive civil and identity expression that does not cause a physical highway obstruction or public disorder.

98. The Interested Parties submit that the Claimant's proposed form of order falls foul of the approach in *Wolverhampton* that requires injunctions against Persons Unknown should be an extraordinary remedy of last resort. They further submit that relief of such wide scope fails any proportionality assessment in respect of restriction of article 10 and 11 rights, amounts to discrimination under article 14 of the Convention and would breach the Claimant's public sector equality duty.

99. In his oral submissions, Mr Biggs described the scope of the Claimant's claim as giving him PTSD and he started getting weekly anxiety attacks on reading the claim. He believes that an order would stop him putting pride flags in his own garden or wearing a pride flag t-shirt in the street, and prevent others hanging flags from their windows. He considers that the distinction between what is private land and the public highway would not be clear to the public and they would have to steer clear of all flag-flying. He queries what would happen if people wanted to fly flags on winning the World Cup or the King dying. Mr Biggs considers the proposed order as akin to *"a new section 28",* restricting his ability to show his sexuality and political views.

100. Mr Hudson describes himself as a former highway engineer and planner with Wiltshire Council. He submits that the Claimant's proposed order would criminalise the flying of flags and penalise expressions of opinion. He believes the Claimant would be inundated with requests for permission, adding further

costs to the public purse. Mr Hudson submits that the Claimant appears to be adopting different rules for different groups, with flags in Arabic font and showing pictures of mosques being displayed on street furniture in the Balsall Heath area of the city. He notes that some of the roads within Birmingham's administrative area, including the M6 and M6 toll, are not roads for which the Claimant is the highway authority.

Discussion

Jurisdiction

101. Dr Wells submits on behalf of the First Defendant that the Claimant is, in reality, not seeking an injunction to prevent interference with the performance by the Claimant of its statutory functions but is rather seeking to protect the purely private interests of certain persons or groups within the local authority area. He submits that the fact that the Claimant is not the highway authority for all highways within the administrative area it seeks to injunct, is evidence that the Claimant is not simply seeking to prevent interference with the performance of its statutory functions. He contends that *Abbasi* is authority for the proposition that the High Court lacks jurisdiction to grant an injunction without those other persons being named as parties, and without proceedings being brought as representative proceedings. He relies on *Abbasi* at [89] – [90]:

> "89. … if a third party, such as the individuals' employer, were to apply for an injunction in order to protect them from defamation, relying on the width of the court's powers under section 37(1) of the Senior Courts Act and on section 6(1) of the Human Rights Act, the court would not be acting unlawfully if it refused to grant a remedy in those proceedings. The court does not act in a way which is incompatible with a Convention right by insisting that individuals avail themselves of the domestic cause of action which is available to protect that right, and that the action is brought by the individual whose Convention right is in issue.
>
> 90. … Third parties do not normally have standing to apply for a remedy to protect those individuals' interests, and the courts would not normally be acting unlawfully under section 6(1) of the Human Rights Act in declining to grant a remedy on a third party's application. In other words, in this context, in so far as the state is under a positive obligation arising from article 8 to intervene in relations between private persons in order to protect such interests, the obligation is usually satisfied by providing the person affected with the means of seeking legal redress."

102. Mr Manning, on behalf of the Claimant, rejects the First Defendant's application of *Abbasi*. He submits that, unlike on the NHS Trust claimant in *Abbasi,* the Claimant is able to rely on the express right under s.222 of the LGA 1972 to take action for the promotion or protection of the interests of the inhabitants of their area. He highlights that the Supreme Court in *Wolverhampton* was content that proceedings under s.222 were legally permissible, and that the Supreme Court in *Abbasi* cast no doubt at all on its

decision in *Wolverhampton.* He refers to *Broadmoor Special Hospital Authority v Robinson* [2000] 1 WLR 1590 in which Lord Woolf MR held at [25]: "…A statute can expressly authorise a public body to bring proceedings for an injunction to support the criminal law. This is the position under the [LGA 1972]: section 222." He submits it has long been accepted that s.222 allows local authorities to bring proceedings for the benefit of its citizens. He relies on the decision in *Stoke on Trent* at [p22H – 23C] where Lawton LJ held:

> "…Parliament in 1972 entrusted local authorities with limited powers to institute legal proceedings. These powers are ancillary…to the discharge of their statutory duty of administering their areas. They must concern themselves with the environment and the enforcement of a number of statutes creating criminal offences for a regulatory kind. They must safeguard their resources, and avoid waste of their ratepayers' money. It is in everyone's interest, and particularly so in urban areas, that a local authority should do what it can within its powers to establish and maintain an ambience of a law-abiding community; and what should be done for this purpose is for the local authority to decide…Its power under section 222 to institute proceedings for injunctive relief is not limited to restraining public nuisances…"

103. I am not persuaded by the First Defendant's categorisation of this claim as being one designed primarily to protect the private interests of certain individuals or groups. Rather, it serves to protect the Claimant's performance of its statutory duties under s.130(1) of the HA 1980, to prevent public nuisance and to support the upholding of the criminal law. The fact that some individuals or groups may benefit from any injunctive relief would be an indirect product of the remedy. It is no more than the expected outcome of a claim that seeks to ensure that statutory duties are performed and criminal offending does not occur. The First Defendant's submission to the effect that the inclusion by the Claimant of highways, such as the parts of the M6 motorway that flow through its administrative area but for which it is not the highway authority, amounts to evidence that the claim is primarily to protect private interests is a bad one. The Claimant is entitled to protect the rights of the public over highways in its area for which they are not the highway authority: s.130(2) of the HA 1980.

104. Moreover, it matters not if the Claimant is seeking to protect individuals' interests. It was recognised in *Abbasi* at [90] that "third parties do not <u>normally</u> have standing to apply for a remedy to protect … individuals' interests." [My emphasis.] The inclusion of the word 'normally' clearly qualifies what would be an otherwise absolute statement. In other words, it envisages there will be some circumstances where third parties do have standing. The express statutory power under s.222 of the LGA 1972 permits local authorities to bring proceedings "in their own name" for the "promotion or protection of the interests of the inhabitants of their area". That therefore provides the jurisdictional footing to depart from the otherwise 'norm'. It is noteworthy that the claimants in both *Abbasi* and *Broadmoor* were not local authorities and thus could not avail themselves of s.222. I am fortified in my conclusion by the fact that in the recent case of *Oxfordshire*, this Court accepted that a claimant local

authority could rely on s.222 as the jurisdictional basis for their claim for similar injunctive relief to prevent the attaching of flags to highway structures.

Merits assessment at the interim relief stage

105. It is agreed that article 10 is engaged on the facts of this claim. The onus therefore rests on the Claimant to establish not only that there is a serious issue to be tried, but also that it is more likely than not that it will succeed in obtaining final relief at trial: *American Cyanamid* as modified by *Cream Holdings*.

106. Determining whether it is more likely than not that the Claimant will obtain final relief at trial inevitably involves some consideration of the likely factual evidence and how that evidence is likely to be applied to the legal framework. It is not however the function of the Court at this stage to make findings of fact and the Court must guard against conducting a mini-trial.

The factual cases against the Defendants

107. The Claimant's factual case against the First Defendant is summarised in the 22 allegations that appear in the Scott Schedule, which in turn is cross-referenced to the Claimant's witness evidence. A number of the allegations are supported by video or photographic evidence, others depend on hearsay statements from identified or unidentified third parties. The First Defendant makes a number of admissions in his statements as to his involvement including that:

i) He is a founder member of RTC.

ii) He has been involved in some activities involving attaching flags to the Claimant's street furniture, e.g. using a cherry-picker in Longbridge, holding a rope and joking around with a stop/go road sign at the Sutton hotel protest.

iii) He was present at other flag attaching events but did not personally attach the flags e.g. livestreaming in Moseley, asking where a flag could be placed at Penns Lane.

iv) He regularly livestreams and posts on RTC's social media pages, including making references to putting up flags.

108. The First Defendant seeks to minimise his involvement and denies any unsafe, violent or intimidatory conduct. He does not accept that any of his social media posts since 8 September 2026 have encouraged flag activity in Birmingham.

109. Findings of fact will need to be made at trial as to the allegations against the First Defendant. However, in light of the partial admissions made by the First Defendant, and the Claimant's video and photographic evidence, it appears more likely than not that the Claimant will be able to establish that the First Defendant has been involved in attaching flags to the Claimant's street furniture, and encouraged or assisted others to do so. Whilst Dr Wells seeks to

categorise the First Defendant's admissions as being to only trivial matters of fact, I do not consider that position realistic. Subject to any defence of 'reasonable excuse', at least some of the admissions are likely to amount to a breach of s.132(1) of the HA 1980 (Unauthorised marks on the highway) and/or s.44 of the SCA 2007 (Intentionally encouraging or assisting an offence).

110. The Claimant's case against the Sixth Defendant is limited to three allegations; a general allegation of his association with RTC, a specific allegation of using a cherry-livepicker to attach a flag to the Claimant's street furniture in Sutton Coldfield and a specific allegation of setting off a firework towards a migrant hotel at a RTC flag protest in Penn's Lane, Sutton Coldfield. The Claimant's witnesses exhibit video footage in support of the alleged specific incidents. The Sixth Defendant has not, at this stage, filed an acknowledgment of service, served any evidence in response or otherwise sought to refute the factual allegations. In light of the lack of evidence from the Sixth Defendant, it is more likely than not that the Claimant will be able to establish its factual case against him at trial. Subject to any defence of 'reasonable excuse', his actions in attaching the flag are likely to amount to a breach of s.132(1) of the HA 1980. The setting off a firework towards a hotel is likely to amount to breach of one of the public order offences under the POA 1986.

111. The Claimant's case against the Eighth Defendant covers both the alleged affixing of around 20,000 flags of all types to street but also the alleged linked adverse consequences in the form of public safety hazards, highway obstruction, incidents of verbal, physical and online abuse, and a general rise in community tensions. The Claimant's evidence includes a considerable body of video and photographic evidence, documentary evidence in the form of online posts, and witness evidence from elected councillors, a local member of parliament and serving police officers. The breadth of that evidence makes it more likely than not that factual findings will be made at trial to the effect that a considerable number of unauthorised flags of different types (not just Union and St George flags) have been and remain attached to street furniture, and that there have been at least some adverse consequences associated with that activity. That would, prima facie, give rise to the conclusion that it is likely that various criminal offences have been committed of the type discussed in the context of the First and Sixth Defendants and/or public nuisance occasioned.

Article 10 and 11 considerations

112. Even if some factual findings consistent with the Claimant's case are likely to be made at trial, whether the Claimant is more likely than not to obtain final injunctive relief requires consideration of the alleged disproportionate interference with Defendants' article 10 and 11 rights.

113. Mr Manning submits that any interference with the Defendants' article 10 and 11 rights is legally justifiable. He submits that the proper analysis of the first four *Ziegler* considerations leads to a conclusion that (1) the flagging activity can be seen as the exercise of article 10 and 11 rights, (2) the Claimant's proposed injunction would be an interference with those rights, (3) the interference is prescribed by law in that s.222 of the LGA 1972 entitles the

Claimant to bring proceedings to uphold the criminal law and in public nuisance and (4) the interference is in pursuit of a legitimate aim, namely the prevention of disorder and crime, the protection of health and the protection of rights of others.

114. The Claimant further submits that the interference is necessary in a democratic society in that:

(1) The aims are sufficiently important to justify interference.

(2) There is a rational connection between the means chosen and the legitimate aims in view insofar as the injunction would prevent further flags being attached and allow the Claimant's contractors to remove existing flags.

(3) There are no less restrictive alternative means available. The Claimant points to the evidence of Mr Ahmed, who has considered whether a Public Spaces Protection Order, byelaws, Community Protection Warnings or Notices, Dispersal Orders or criminal prosecution under s.132 of the HA 1980 would provide alternative means of addressing the issue and provided reasons why each is not a realistic solution. Mr Manning highlights that the granting of the injunction in *Oxfordshire* has not alleviated the problem in Birmingham.

(4) A fair balance is struck between the rights of the Defendants and the general interests of the community, including the rights of others. Mr Manning submits that the proposed restrictions are limited to the activities associated with flags being attached to street furniture or infrastructure, and to the obstructing of contractors removing such flags. He highlights that the Defendants would not be prevented from attaching flags on private land, from holding protests on public land, from attaching flags to items other than street furniture or infrastructure, or from attaching flags to street furniture or infrastructure with the Claimant's consent. He submits that the Interested Parties have misunderstood the nature of the proposed injunction insofar as they believe it would stop them flying flags from windows of their private properties or wearing a Pride t-shirt on the highway. Mr Manning submits that the factual context of this case is relevant. He notes that in protestor cases involving the likes of Insulate Britain and Just Stop Oil, the disruption is the purpose of the protest. He submits that the disruption caused in this case, such as the anti-social behaviour and unsafe work practices, is not the political protest but simply incidental to the political protest, which is the attaching of flags.

115. Dr Wells submits that the First Defendant's and RTC's flag activities are genuine political activities. He points to the First Defendant's statement of 28 October 2026, in which the First Defendant describes the political nature of RTC's campaign and importance of being able to display flags in public spaces. It is submitted that the balancing exercise required by the *Ziegler* considerations leads to the conclusion that the proposed interference with the article 10 and 11 rights would be unlawful on the facts of his case, taking into account the First Defendant's evidence as to the importance of the public location of the flag activities. Dr Wells distinguishes the present case from the decision in

Oxfordshire to grant injunctive relief on the basis that the defendants in *Oxfordshire* had not filed any evidence. In *Oxfordshire*, Dias J noted at [141]:

> "… As for protest, in the absence of any filed defence, the nature of the protest remains unclear. In the filed evidence and in particular the video footage, claims are made by named defendants that the affixing of flags is an expression of patriotism and a celebration of Englishness."

116. Dr Wells submits that the proposed restriction would 'destroy the essence' of the right to freedom of expression and would be inconsistent with the approach in *Cuciurean* at [45]. He points out that the street furniture and infrastructure is located on land accessible to the public rather than on privately owned land or that from which the public are generally excluded. He submits that any disruption associated with the attaching of flags is concentrated on the short periods of time when flags are being attached, with any other disruption, such as flags being distracting to highway users, being de minimis. It is submitted that the level of disruption caused by the affixing of flags falls within the degree of tolerance that local authorities should show: *Samede* at [43].

117. The focus of the submissions made by the Claimant and First Defendant (and to a lesser extent, the Interested Parties) was on how the proportionality assessment should be conducted. An assessment of that issue will inform whether the Claimant is more likely than not to obtain final relief at trial. However, it is important to take a step back and consider how one reaches that stage.

118. The starting point is that article 10 and 11 rights are not absolute but qualified in certain circumstances by restrictions set out in paragraph (2) of each article. Section 12(4) of the HRA 1998 however requires the Court to have particular regard to the article 10 rights. With that in mind, the enquiry envisaged at [16] of *Ziegler* needs to be undertaken:

i) The attaching of flags to street furniture can be considered to be an act of political expression and thus an exercise of the right to freedom of expression and, although perhaps to a lesser extent, the exercise of the right to freedom of assembly for the purpose of doing so.

ii) The Claimant's proposed restriction on the affixing of flags and in preventing the obstruction of the removal of flags would amount to an interference with the rights.

iii) The Claimant's interference is 'prescribed by law' given my conclusions at [104] above as to the availability of s.222 of the LGA 1972.

iv) The interference is in pursuit of a legitimate aim, namely the prevention of disorder and crime, the protection of health and the protection of rights of others. The extent to which those matters need protecting will be a matter for factual determination at trial.

119. The determination of whether the interference is necessary in a democratic society involves the consideration of the sub-questions adopted in *Ziegler*:

i) The aims are sufficiently important to justify interference with the article 10 and 11 rights. Although the factual evidence has not yet been tested in detail, there is no real dispute that serious incidents, such as a man suffering a suspected broken leg following an incident with a cherry-picker, a firework being directed towards a hotel of migrants and general community tensions, have occurred. Who has perpetrated any incidents will be a matter for trial.

ii) There is a rational connection between the proposed injunction and the aims. An injunction is likely to have a deterrent effect, given the implications of breach. If flags cannot be attached to street furniture or infrastructure, the alleged criminal offence under s.132 of the HA 1980 cannot be committed and the alleged associated consequences, such as the anti-social behaviour, the health and safety considerations and community disharmony, would not arise.

iii) The Claimant has considered less restrictive means and Mr Ahmed provided reasoned explanations as to why each would not achieve the aims. That evidence will no doubt be tested at trial but it is noteworthy that the First Defendant, through Dr Wells, did not really focus on the adequacy of alternative means. Whilst Dr Wells refers in his skeleton argument to the availability of the criminal law and makes the submission that it would seem counterintuitive to suggest the civil law would provide a stronger remedy, that is not readily borne out by events. It is apparent from the alleged extent of unauthorised flags at around 20,000, a figure not challenged by the Defendants, that the existence of a criminal offence under s.132 of the HA 1980 has provided no significant deterrent effect. The maximum penalty of a level 4 fine on commission of such an offence no doubt impacts on the level of deterrence provided.

120. The final sub-question of the proportionality assessment requires consideration as to whether a fair balance is struck between the rights of the individual and the general interest of the community, including the rights of others. On the facts of this case, there are various competing considerations.

121. The affixing of flags or other marks to a structure on the highway is prima facie a criminal offence under s.132 of the HA 1980 and interferes with the Claimant's statutory duties as highway authority. The starting point therefore is that the activity the Defendants seek to undertake is not something permitted by domestic law, subject to any defence of reasonable excuse.

122. There is evidence, albeit not yet tested at trial, that the flags and the manner in which they are installed create risks to road safety and can distract users of the highway. There is also significant evidence, again not yet tested, that the circumstances of the erection and removal of flags are resulting in anti-social behaviour including verbal and physical assaults, intimidation, online abuse and heightened tensions within the local community. The foregoing is said to be putting a substantial and ongoing demand on police resources.

123. Whilst political views are to be afforded importance when considering where the fair balance lies, they are not a 'trump card' that beats all other considerations: *Samede* at [41]. The latter proposition is clearly logical as it would otherwise be open to individuals to justify obviously egregious conduct by asserting their right to political expression. It is not in dispute that the First Defendant's actions are in part political expression and that factor is afforded importance but is not determinative.

124. I recognise the merit in the First Defendant's submission to the effect that a degree of tolerance needs to be shown in respect of disruption arising from the exercise of article 10 and 11 rights. I am not however persuaded by Dr Wells' submission that any disruption is short-lived and limited to the time taken to attach the flags to the street furniture. The essence of the Claimant's evidence is that there is a much wider disruptive impact resulting in ongoing tension in the community. To that extent, the disruption is more extensive than seen in the typical protest causing highway obstruction, which is highly disruptive for the duration of the protest but imparts no or limited longer term disruptive effects.

125. I recognise that the ability to express political views in a public place is important to the Defendants. One can understand how a flag on a private property may make a lesser statement to the public than a flag in a public space. However, the proposed injunction would not prevent the flying of flags in public, including on highway land. It would restrict only flags being attached to street furniture or infrastructure on the highway without the Claimant's consent. There would remain multiple ways in which flags could be displayed to a public audience. Firstly, it would not restrain flags being affixed to private property, whether on flag poles or attached to structures or buildings or otherwise. Secondly, it would not restrain flags being attached to anything other than street furniture or infrastructure on the highway. Thirdly, it would not restrain other forms of protest, including using flags, on the highway in Birmingham. For example, the proposed injunction would not prevent the Defendants meeting to protest on the highway with flags or banners on handheld poles. Fourthly, it would not restrain flags being attached to street furniture or infrastructure on the highway if prior written consent is obtained from the Claimant. For example, the evidence from Mr Ahmed indicates that conversations are taking place about more permanent or managed authorised public flag displays, including in Kingstanding. The submissions made by Mr Biggs and Mr Hudson were both articulate and passionate. However, many of the concerns they expressed about not being able to fly flags from their homes or walking down the highway wearing t-shirts with Pride flags are unfounded. The proposed order would not prevent such behaviour. Similarly, it would not prevent the 'missing cat' type of notice being attached to a street lamp, as it is not a flag.

126. Undertaking a proportionality assessment at an interim stage necessarily brings with it the complication that findings of fact have not yet been made. However, taking account of the competing considerations, I am persuaded that the proposed interim restriction, in principle and subject to the further considerations below as to each of the three defendants, strikes a fair balance and would not offend articles 10 or 11. The interim injunction simply seeks to

restrain what is not permitted by domestic law in any event and does not prevent the flying of flags in public in numerous other ways.

127. In conclusion, from a merits perspective, I am therefore persuaded that the Claimant is likely, that is more likely than not, to obtain injunctive relief at trial.

Damages and the lack of cross-undertaking

128. Damages would clearly not be an adequate remedy for the Claimant. It may be possible to quantify losses arising from the Claimant being obstructed in the removal of flags from its street furniture or in respect of damage to its street furniture. However, the Claimant brings the proceedings as part of its public duties to protect the interests of its inhabitants and it does not seek damages as its primary relief. Any psychological or physical harm to inhabitants would not sound in damages recoverable by the Claimant.

129. It is difficult to see how the Defendants could sustain loss that would sound in damages should interim injunctive relief be granted that the Defendants subsequently show should not have been. To address the risks that damages may need to be paid, applicants seeking interim relief typically proffer an undertaking in damages. The Claimant, as a local authority, does not proffer one at this stage. It was recognised in *Kirklees Metropolitan BC v Wickes Building Supplies Ltd* [1993] AC 227 and *Financial Services Authority v Sinola Gold plc* [2013] UKSC 11 at [30-31] that a public authority seeking to enforce the law in the interests of the public is not generally required to give a cross-undertaking in damages. That is not to say a central or local government body should never be required to give an undertaking but they should not be required as a matter of course: *Birmingham City Council v Afsar* [2019] EWHC 1619 (QB) at [3](3). Given that the current action is brought by a local authority under s.222 of the LGA 1972 for the protection of the interests of the inhabitants of the area, I am not persuaded that the absence of an offer of a cross-undertaking is a reason not to grant interim relief.

Delay

130. Dr Wells submits that the Court should take into account what is alleged to be delay on the part of the Claimant in issuing the application for interim relief given that flag attaching activities appear to have been ongoing since August 2025. This submission is not entirely consistent with other criticisms the First Defendant makes of an alleged inadequacy of pre-action engagement by the Claimant with him.

131. I am not persuaded that the Claimant is culpable of delay such that it would be appropriate to refuse relief on that basis. The instituting of proceedings of this nature is a considerable financial and resource commitment for a local authority. When flag attaching conduct first arose in August 2025, it was reasonable to first wait and see if the issue resolved itself as time progressed, and to explore with local councillors and third parties, such as the police, whether a resolution could be found. The public harm risks escalated in May 2026 when a member of the public was alleged to have sustained a suspected broken leg. The evidence from Mr Khan explains that the Claimant considered

whether the injunction and undertakings obtained in the *Oxfordshire* claim had any deterrent effect in Birmingham but concluded it had not. The alleged conduct, together with associated anti-social behaviour, continued into the summer of 2026. The claim and Interim Injunction Application were issued on 26 August 2026. There is evidence of post-issue flag attaching activity, including in the period between Court hearings. The final determination of the claim will take months to reach trial, not least because the First Defendant has indicated his intention to file a Defence and seek transfer of the claim to part 7. The question of interim relief is thus pertinent and not tainted by delay.

Matters specific to the First Defendant

132. Dr Wells submits that the Claimant cannot satisfy the Court that there is a strong probability that, unless restrained by the injunction, the First Defendant will act in a manner contrary to the proposed injunction. He emphasises that the First Defendant remains willing to give an undertaking in the terms of the proposed injunction. He notes that the First Defendant has evidenced that he is able to abide by an undertaking, having given a similar one in *Oxfordshire* and there being no suggestion of breach.

133. Dr Wells is critical as to an alleged lack of pre-action engagement by the Claimant with the First Defendant. Even if correct, it appears unlikely to have achieved anything different to the current position, namely that the First Defendant offers an undertaking but the Claimant wants an injunction and power of arrest.

134. In my judgment, there is reason to be sceptical as to the First Defendant's stated current intentions and as to his ability to abide by an undertaking. Some of his accepted recent social media content is very curious for an individual who has avowed that he is stepping back from the attaching, or encouraging of others attaching, of flags to street furniture and infrastructure in Birmingham. For example, in a video message thanking his followers, filmed on the pavement outside Birmingham Civil Justice Centre after the hearing on 30 September 2026, he concludes his message by saying: "*we'll put the flag up, we'll support ever more…*" In a second video interview, published on RTC's Facebook page on the same day, the First Defendant is defiant about the Claimant's application and states: "*I would put that flag up at Penn's Lane Hotel 10 times a week cos I just think that it's a massive message that we want to get across. I'm currently not going to be putting flags up in Birmingham as well as Oxford. For now, they haven't got an injunction on us…"* In his livestream video in mid-October 2026, he reassures his followers following the removal of flags in Kingstanding, and tells them "*do not worry, have I ever let you down…*" Although then he states he cannot encourage others to put flags up, that message is immediately diluted as he says "*but there is only one reason I am here on a Saturday, getting these babies…*" and holds flags up to the camera, singing and laughing.

135. There is clearly a high risk that the First Defendant's messaging would be understood by others as encouraging the ongoing attachment of flags to street furniture in Birmingham, even if he is prepared not to personally engage in that conduct. His attitude risks coming across to others as one of defiance. I am therefore persuaded that there is a strong probability that, unless restrained by

injunction, the First Defendant will act in breach of the Claimant's rights. For the reasons already discussed above, damages would be an inadequate remedy. Notwithstanding the First Defendant's offer of an undertaking, I am therefore satisfied that the two-stage test in *Vastint Leeds* at [31] is met as regards the First Defendant. Taking all of the aforementioned matters into consideration, it is just and convenient to grant interim injunctive relief in principle. I will return to the appropriate terms in due course.

Matters specific to the Sixth Defendant

136. The Sixth Defendant has not offered an undertaking, attended any of the hearings or filed any evidence in response to the Interim Injunction Application. His email to the Claimant and Court on 30 September 2026, indicating he does not plan to be involved in attaching flags in Birmingham in the future, falls woefully short of any meaningful assurance. One would expect an individual committed to that position to have provided reassurance to the Claimant and Court by offering an undertaking or providing a witness statement to that effect with a signed statement of truth. In the absence of his proper engagement with the application, I am satisfied that there is a strong probability that, unless restrained, he will act in breach of the Claimant's rights. Damages would again be an inadequate remedy. It is therefore just and convenient also to, in principle, grant injunctive relief against the Sixth Defendant.

Matters specific to the Eighth Defendant

137. The Eighth Defendant covers the unidentified individuals who have engaged in unauthorised flag attaching activity to date and those who intend to do so in the future i.e. newcomers. Newcomers cannot, by definition, be formally served in advance, although the Claimant has taken the steps described above to provide advance public notification of the application. As recognised in *Wolverhampton* at [167](i), newcomer injunctions are only likely to be justified if the Claimant can demonstrate a compelling need for the protection of civil rights that cannot be adequately met by other measures.

138. The totality of the evidence from Mr Ahmed, Mr Khan and Mr Shelswell, including that from the Claimant's councillors and from police officers, alleges that the conduct associated with the widespread attaching of flags to the Claimant's street furniture is causing health and safety issues, resulting in anti-social behaviour and increased community tensions, and putting strain on the Claimant's and police's resources. There is evidence that the activity is ongoing, see for example, the alleged activity in October 2026 relating to the dismantling and re-erecting of flags in Kingstanding by opposing groups of largely unknown individuals. The threat of further action is thus real and imminent.

139. Mr Ahmed has put evidence before the Court as to why alternative measures will not address the problems. The unknown identities of some of those engaging in the unauthorised activities exacerbates the difficulties in trying to address the issues by other measures.

140. I am therefore persuaded there is a compelling need for the restraint of persons unknown. However, any relief against newcomer persons unknown

requires stringent procedural protections. This involves consideration of the factors identified in *Wolverhampton* at [167] and [221] – [232].

Identifying persons unknown

141. The claim form identifies the Eighth Defendant in the following way: "PERSONS UNKNOWN (for full definition, see attached Particulars of Claim)".

142. The Particulars of Claim define the Eighth Defendant by reference to five sub-categories of conduct. The conduct is referable to flag attaching activity in the context of "street furniture".

143. The Claimant's amended draft order extends the definition of the Eighth Defendant to make the conduct referable to "street furniture or infrastructure". The revised definition more accurately describes the mischief the Claimant seeks to restrain and avoids uncertainty. For example, the grassed area in the middle of a roundabout may not be thought of as street furniture in the way that a lamppost or pedestrian railing is, but it is nonetheless part of the highway infrastructure. I note that the definition "highway structures" was approved by this Court in *Oxfordshire* as being appropriate to include in the description of the categories of persons unknown. The Claimant's proposed description in the amended draft order is more particularised and reduce the risk of uncertainty. I am persuaded that the proposed sub-category definitions of the Eighth Defendant will ensure that those who may be affected can make an assessment as to whether their past or intended conduct will fall within the scope of the Eighth Defendant. I am therefore satisfied that the descriptions satisfy the requirement at [221] of *Wolverhampton* that persons unknown defendants must be defined as precisely as possible.

The prohibited acts

144. The prohibited acts must be spelt out clearly, precisely and in everyday terms, must correspond as closely as possible to the actual or threatened unlawful conduct and must extend no further than the minimum necessary to achieve the purpose: *Wolverhampton* at [222]. The misunderstandings on the part of Mr Biggs and Mr Hudson as to what activities would be restrained by an interim injunction underline the need for the wording of any order to be as clear as possible.

145. The objections made on behalf of the First Defendant as to the wording in the Claimant's amended draft order are equally relevant to the position of the Sixth and Eighth Defendants. Dr Wells submits, in summary, that:

i) The definition of "street furniture or infrastructure" is insufficiently precise, unduly broad, and not coterminous with the definition in s.132 of the HA 1980.

ii) The inclusion of a restraint in proposed para. 1(ii) on the organising, promoting or publicising events is unnecessarily wide and would shut down RTC's online political publications.

iii) The inclusion of a restraint in proposed para. 1(iii) on obstructing the highway goes beyond the criminal offence in s.137 of the HA 1980.

iv) The definition of what is meant by "obstructing" is exceptionally broad.

v) The inclusion of a restraint in proposed para. 1(v) on the causing of harassment, alarm or distress to the Claimant's members, officers or contractors, or to any person expressing opposition, is not a targeted measure. The defined term "harassment, alarm or distress" is wider than similar acts under the Protection from Harassment Act 1997 and seems to state that certain acts would automatically be deemed as such without any need to show that a victim felt these.

146. Para. 1 of the Claimant's amended draft order is the operative clause restraining conduct. Para. 2 contains definitions of six terms used within the draft order. The proposed form of order is significantly more verbose than the final injunction order approved in *Oxfordshire*. There is a balance to be struck to ensure the drafting is clear and precise whilst not requiring undue cross-referencing to definitions so as to understand what is meant by the restraining clauses.

147. The focus of the relief sought is on the attaching of flags to highway street furniture or infrastructure. [My emphasis]. It is not to other lampposts, railings or such that fall within privately owned land, or indeed within other land of the Claimant not associated with the highway. It is not clear from reading para. 1(i) and (ii) alone that the street furniture and infrastructure concerned is that associated with the highway, as opposed to that on other land within the administrative area of Birmingham. The reader has to delve into the definitions at para. 2(ii) and (iii) to understand the nexus to the highway. In order to be clear and precise, it is preferable to adopt the expression "highway street furniture or infrastructure".

148. I do not accept Dr Wells' submission that any definition of the relevant street furniture should be aligned with the definition in s.132 of the HA 1980. Firstly, the wording of s.132 is very wide and would not aid a Defendant's understanding. Section 132(1) refers to "the surface of a highway or upon any tree, structure or works on or in a highway…" Providing greater particularity as to what those structures or works include will assist the reader. Secondly, there is no justification for restraining the Claimant to any definition in s.132 of the HA 1980. The Claimant's case is that it seeks to restrain public nuisance and wider breaches of the criminal law than just s.132 offences, including public order offences. I am fortified in my conclusion by the wording of the definition of "highway structures" in *Oxfordshire* final injunction, which extends beyond the s.132(1) definition.

149. The proposed restriction in para. 1(ii) of the Claimant's draft amended order restrains the organising, promoting or publishing of events. That will not shut down legitimate political expression by RTC or otherwise. The current wording refers to the events "whose purpose is to attach any such flags". Rather than relying on the reader to reference back to "such" flag activity previously

referred to, para. 1(ii) should make it clear that it relates to "events whose purpose is to attach any flags to the highway street furniture or infrastructure within the City of Birmingham without the prior consent of the Claimant". That wording addresses any concern about readers misunderstanding the restriction to relate to events concerning all flag attaching activity.

150. The First Defendant's objection to proposed para. 1(iii) is that it goes beyond the criminal offence in s.137 of the HA 1980, which concerns the wilful obstruction of the highway. There is however a more fundamental issue with the proposed paragraph. In the context of relief against newcomer persons unknown, the Court is concerned with going no further than the minimum necessary to achieve the purpose. The reality is that if someone is obstructing the highway for the purpose of attaching flags to highway street furniture or infrastructure, they will invariably also be attaching, or assisting or encouraging another person to attach, such a flag. Para. 1(iii) adds nothing of substance to the restraint in para. 1(i). It therefore goes beyond the minimum necessary such that it should not be included.

151. The inclusion at para. 1(iv) of the Claimant's amended draft order to restrain the obstruction of the Claimant's officers or contractors seeking to remove flags is appropriate in principle. It is required to address the allegations that contractors have suffered abuse when trying to remove unauthorised flags. The First Defendant takes issue with the Claimant's attempt to define "obstructing". For example, Dr Wells submits that including "standing close to" is unclear as it provides no specific perimeter, and "engaging in unwanted conversation" is not something capable of proof.

152. Definitions designed to assist can sometimes over-complicate and detract from the reader's understanding. They are not always appropriate or necessary. In *Manchester City Council v Lawler* 31 HLR 119, the Court of Appeal considered whether, in the context of contempt proceedings, the words "in the locality" were defined with sufficient precision. At 124, Butler-Sloss LJ held:

> "In each case it will be a question of fact for the judge whether the place in which the conduct occurred was or was not within the locality. There will be, as Sir John Vinelott said during argument, fuzzy edges. The issue as to the fuzzy edges or grey areas and whether the injunction stretches to a particular place which may be within or without the locality will be decided by the judge."

153. I am not persuaded that it is appropriate to define the term "obstructing" in any interim injunction. The term "obstructs" is enshrined in the HA 1980 without definition. It is a word in everyday use and one well capable of understanding by members of the public. Any dispute about whether actions did or did not amount to obstructing would be a question of fact capable of determination by a judge. One has to remember that the Claimant would bear the burden of proving a Defendant was guilty of "obstructing" to the criminal standard of proof.

154. The inclusion at para. 1(v) of the amended draft order to restrain "harassment, alarm or distress" to the Claimant's members, officers or

contractors, or to any person expressing opposition, is necessary to achieve the Claimant's purpose. The expression "harassment, alarm or distress" is one used in the POA 1986 without definition. It is an expression frequently adopted by Courts when making orders under the Anti-Social Behaviour Act, Crime and Policing 2014 and Protection from Harassment Act 1997. It is a question of fact whether conduct causes harassment, alarm or distress and a concept readily understandable by members of the public. The order does not need to attempt to define "harassment, alarm or distress" and to do so risks detracting from the clarity of the order. I am fortified in my view by the fact that the final order in *Oxfordshire* did not seek to define "harassment, alarm or distress" nor, for that matter, "obstruct".

155. Subject to the Claimant further amending the draft proposed order to reflect my aforementioned conclusions, I am satisfied that the terms of the prohibited acts are clear and precise and go no further than the minimum that is necessary.

Geographical and temporal limits (and review)

156. The interim order would be subject to clear geographical limits extending to the Claimant's administrative area only. That is geographically consistent with the area over which the Claimant can assert and protect the rights of the public under s.130(1) and (2) of the HA 1980. It also accords with the Claimant's evidence that flag attaching issues are city-wide. The geographical limit would be identifiable by a colour plan to be attached to the order.

157. The interim order would be time limited until the final hearing of the claim. The importance of regular reviews of newcomer injunctions was emphasised in *Wolverhampton* at [255] to ensure there remains proper justification for their continuance. The claim should reach a final hearing within a year but, in the event it does not, any order can include provision for a review at 12 months.

Advertising the application in advance

158. For the reasons discussed at [17] – [19] above, the Eighth Defendant has been provided with advance notice of the Interim Injunction Application and hearing thereof.

Effective notice of the order

159. The Claimant's draft order details at Schedule 2, para. 1, a series of steps the Claimant would undertake to notify the Eighth Defendant as to the terms of any interim order. Those steps are similar to the actions taken by the Claimant to date of the Interim Injunction Application. I am satisfied that the proposed steps are a proportionate and effective manner of publicising any interim order.

Liberty to apply

160. The proposed order would provide any person served with or affected by the order with the express right to apply to the Court to vary or discharge the same on giving 48 hours' written notice to the Claimant. Such provision addresses the need identified at [232] of *Wolverhampton* for there to be a

generous liberty to apply provision. The inclusion of 48 hours' notice to the Claimant is a sensible requirement to ensure that the Claimant can assist the Court and other parties by providing an informed response to any such application.

Conclusions on the application for an interim injunction

161. Balancing the various factors discussed above, I am persuaded that the Claimant has established that it is more likely than not to obtain final injunctive relief to restrain activities associated with the unauthorised attachment of flags to highway street furniture and infrastructure, and that the balance of convenience falls in favour of interim relief. I am further satisfied it is just and convenient to grant interim relief, and that there is a compelling need to do so. Whilst I recognise the genuine anxiety that this application has brought to the Interested Parties, their concerns that their ability to express themselves will be unduly restricted are unwarranted.

162. Robust procedural protections will be incorporated into the terms of the order, in the manner discussed above.

Power of Arrest

163. The Claimant seeks a power of arrest against the First and Eighth Defendants only.

164. Mr Manning submits that, in passing s.27 of the PJA 2006, Parliament recognised that where an injunction is granted to prohibit conduct capable of causing nuisance or annoyance, there may be a need to support the injunction with a power of arrest to remove the perpetrator from the locality immediately, without the need to consider if a criminal offence has been committed. He submits it is imperative that a power of arrest is available given the type of conduct evidenced, including unsafe activities on the highway, confrontations with third parties and the risks of harm arising therefrom.

165. As to the Eighth Defendant, Mr Manning submits that there is clear evidence of both use or threats of violence, and a significant risk of harm through the evidence of threats, verbal and physical abuse and online revealing of the identities without consent, for the purposes of satisfying s.27(3). He points out that, without a power of arrest, the Claimant would have no way of enforcing the injunction given its lack of knowledge of the identity of many of the perpetrators.

166. Mr Manning submits that it is clear from the First Defendant's own evidence and that seen in the Claimant's evidence, particularly the Claimant's social media video postings, that the Court can have no confidence that the First Defendant will not attempt to push the boundaries of any order made.

167. Dr Wells and Ms Niccolls are critical of what they submit is the Claimant's lack of particularisation as to the case for a power of arrest against the First Defendant in respect of each limb of the proposed injunction. They do not accept that the legal test in s.27 is satisfied. They suggest that it is difficult to

see how filming a council worker removing flags or the promotion of a flagging event online could give rise to a significant risk of harm. Ms Niccolls emphasised in her oral submissions that the First Defendant does not accept he has engaged in any use or threat of violence. She points out that the First Defendant's compliance with the undertaking he gave in the *Oxfordshire* case suggests there is no need for a power of arrest. She submits the power of arrest sought is disproportionate in light of the importance given to the First Defendant's article 10 and 11 rights.

168. The power under s.27 of the PJA 2006 is discretionary. By s.27(3), the ability to attach a power of arrest under s.27(2) only arises if one or more of the two conditions in s.27(3)(a) or (b) is satisfied. If at least one of those conditions is met, the Court may attach a power of arrest to any provision of an injunction which prohibits conduct capable of causing nuisance or annoyance.

169. There will be four provisions of the interim injunction prohibiting variously the (i) attaching of flags, (ii) organising, promoting or publicising attaching, (iii) obstructing removal of flags and (iv) causing harassment, alarm or distress. Each of those provisions will restrain conduct that is capable of causing nuisance or annoyance and, as such, is in principle a provision that a power of arrest could be attached to.

170. The allegations against the First Defendant include those of him being directly involved in erecting flags in unsafe circumstances, of blocking the highway, of accosting and knocking a phone from a third party's hand, grabbing another by the elbow, of being verbally abusive and intimidating to numerous individuals, and of permitting RTC's social media account to be used to identify and abuse those whose views differ. Whilst that evidence has not yet been tested at trial, the allegations are clearly of such a nature that they give rise to a significant risk of harm to the third parties caught up in such events. This is not 'nuisance or annoyance' at the inconvenience end of the scale but rather that which creates a significant risk of harm. For example, the average person on the receiving end of the type of verbal abuse alleged is placed in a position of direct conflict and likely to be extremely fearful for their personal safety. Even if no physical harm eventuates, the psychological harm is likely to be significant. I am therefore satisfied that, as to the First Defendant, the condition in s.27(3)(b) is met. It is not necessary at this interim stage to consider whether the condition in s.27(3)(a) is also met.

171. It is then necessary to consider whether the Court should proceed to exercise its discretion under s.27(2) and, if so, to what extent. For the reasons already discussed in [134] – [135] above, I have doubts as to the cogency of the First Defendant's stated future intentions. His social media posts are increasingly combative in nature and there is merit in the Claimant's assessment that there is a risk the First Defendant will attempt to push the boundaries of any injunction. A subtle but important shift in his position is seen within his own witness evidence. In his statement of 22 September 2026, he stated that his present position was unequivocal and he "will not, without the prior written consent of [the Claimant] attach a flag to [the Claimant's] street furniture or infrastructure..." By his statement of 28 October 2026, his position had moved. He stated that he did "not presently intend to attach flags… or to instruct or

assist another person to do so…without the [Claimant's] prior written permission or reasonable excuse…" [My emphasis] Use of the word "presently" implies his position may change. The inclusion of the words "reasonable excuse" has to be read in the context of his primary case being that he believes his article 10 and 11 rights give him reasonable excuse for attaching unauthorised flags to street furniture.

172. In light of the significant risks of harm to third parties if the First Defendant's alleged conduct continues, I am persuaded it is appropriate to grant a power of arrest to the interim injunction. I have given careful consideration as to whether it is appropriate to attach a power of arrest to all of what will be four limbs of a prohibitory injunction. I conclude that it is. I do not accept the analysis on behalf of the First Defendant that it is difficult to see how significant harm could arise from filming one of the Claimant's workers removing a flag or promoting a flagging event online. An integral part of RTC's alleged approach is the publicising on social media the details of those individuals they believe oppose RTC's actions. One can easily foresee how one of the Claimant's contractors would suffer significant psychological harm, or worse, if 'outed' in a hostile public social media environment. Similarly, any action taken to encourage RTC's supporters to attend unauthorised flag attaching activity in Birmingham risks increasing the intimidatory nature of these gatherings.

173. Although the Claimant, and indeed the police, would likely have little difficulty in identifying the First Defendant should he breach the injunction, the bringing of a contempt application on paper would not be an expeditious way of enforcing compliance. The First Defendant would be free to remain at the scene of the alleged breach, and there would invariably be delay whilst the papers were drafted and a paper contempt application listed for hearing. Even if the police made an arrest for an offence under s.132 of the HA 1980, it is unlikely that the same would result in a remand in custody and immediate production before the Magistrates' Court. The offence itself attracts a modest penalty of a level 4 fine. Furthermore, any decision to prosecute would be in the hands of the prosecuting authorities and not the Claimant. In conclusion, a power of arrest has a deterrent effect and is likely a far more effective means of ensuring compliance with the interim injunction.

174. The case for a power of arrest to be attached to the injunction as against the Eighth Defendant is even stronger. At the very least, the condition in s.27(3)(b) is made out in light of the nature of the allegations. In addition to the considerations applicable to the First Defendant, the practical reality is that the Claimant would find it near impossible to enforce an injunction against persons whose identity is unknown. A power of arrest will enable the police to take immediate action to arrest those breaching the order, enable identification and provide a mechanism for them to be brought before the High Court within 24 hours. The question of arrest will not be contingent on consideration of criminal offences being committed and the question of enforcement of the injunction order will remain under the Claimant's control.

Conclusion

175. This application has, at times, been surrounded by the use of very emotive language. The interim injunction needs to be understood for what it is. It is not the Court nor the Claimant 'banning the Union Jack' or the display of Pride flags or anything of the like. Whilst the interim injunction order will cover flags of all types, it is limited in scope to the restraint of unauthorised flags attached to highway street furniture or infrastructure, and to the restraint of associated conduct, within the administrative area of Birmingham. Examples of the many different ways in which flags of all types can still be displayed in Birmingham are discussed in [125] above. The order is interim only and will last until trial or further order of the Court.

176. In conclusion:

v) An interim prohibitory injunction will be granted against the First, Sixth and Eighth Defendants. The Claimant is required to further amend its draft order, as discussed in paragraphs [146] to [155] above.

vi) A power of arrest will be made against the First and Eighth Defendants only, to be attached to all four limbs of the prohibitory interim order.

Appendix 1

The Claimant's draft amended injunction order (see below)

Claim No: KB-2026-BHM-000315

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY

In the matter of an application for an injunction and power of arrest under s.1, Localism Act 2011, s.222, Local Government Act 1972, s.130 of the Highways Act 1980 and s.27, Police and Justice Act 2006.

B E T W E E N

BIRMINGHAM CITY COUNCIL

Claimant

-and-

(1) RYAN BRIDGE
(2) JULIAN KEANE (aka "ELON")
(3) ELLIOT STANLEY
(4) ROSS CHILD (aka "ROSS THE DON")
(5) BILLY ALLISON
(6) BEN CULLEN
(7) MARK KEATING

(8) PERSONS UNKNOWN WHO, OR WHO INTEND TO:
(i) ATTACH FLAGS TO STREET FURNITURE OR INFRASTRUCTURE IN THE CITY OF BIRMINGHAM,
(ii) OBSTRUCT THE HIGHWAY FOR THE PURPOSES OF ATTACHING FLAGS TO STREET FURNITURE OR INFRASTRUCTURE WITHIN THE CITY OF BIRMINGHAM
(iii) OBSTRUCT THE CLAIMANT'S OFFICERS OR CONTRACTORS SEEKING TO REMOVE FLAGS FROM STREET FURNITURE OR INFRASTRUCTURE WITHIN THE CITY OF BIRMINGHAM
(iv) CAUSE HARASSMENT ALARM OR DISTRESS TO THE CLAIMANT'S MEMBERS, OFFICERS OR CONTRACTORS WHO ARE, OR HAVE BEEN, INVOLVED IN THE REMOVAL OF FLAGS FROM STREET FURNITURE, OR INFRASTRUCTURE WITHIN THE CITY OF BIRMINGHAM INCLUDING BY BEING INVOLVED IN ANY DECISION TO REMOVE THEM

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(v) CAUSE HARASSMENT ALARM OR DISTRESS TO ANY PERSON EXPRESSING OPPOSITION TO THE ATTACHMENT OF FLAGS TO STREET FURNITURE OR INFRASTRUCTURE WITHIN THE CITY OF BIRMINGHAM

Defendants

INTERIM INJUNCTION ORDER

PENAL NOTICE

IF YOU THE WITHIN NAMED PERSONS, INCLUDING PERSONS UNKNOWN, DO NOT COMPLY WITH THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND IMPRISONED OR FINED, OR YOUR ASSETS MAY BE SEIZED.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS ANY OF THE DEFENDANTS TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.

If you do not fully understand this Order you should go to a solicitor, Legal Advice Centre or Citizens' Advice Bureau.

BEFORE Her Honour Judge Emma Kelly, sitting as a Judge of the High Court at the High Court of Justice, Kings Bench Division, Birmingham District Registry The Priory Law Courts, 33 Bull Street, Birmingham, B4 6DS on 30 September 2026 at 10.30 am.

UPON hearing Counsel Mr Manning and Ms Crocombe for the Claimant, counsel, Mr Wells, for the First Defendant and [INSERT DETAILS OF DEFENDANT REPRESENTATION]

AND UPON the Court considering an application for an interim injunction brought by the Claimant pursuant to the above statutory provisions, inviting the Court to exercise its discretion to grant injunctive relief pursuant to s.37(1) Senior Courts Act 1981.

AND UPON the application having been made on notice to the First-Seventh Defendants, and on informal notice to the Eighth Defendants.

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AND UPON the Court concluding that there is a compelling need for the protection of civil rights and the enforcement of public law by the grant of the injunction sought, which is not currently being adequately met by any other remedy available to the Claimant.

AND UPON the Claimant having brought to the attention of the Court any matter which the Eighth Defendants might wish to raise by way of opposition to the making of the order.

AND UPON the Claimant confirming that this Order is not intended to prohibit lawful protest and/or expression of patriotism.

AND UPON the Court considering section 12(2) and (3) of the Human Rights Act 1998 and being satisfied that:

(i) the Claimant has taken all practicable steps to notify the Defendants including the Eighth Defendant; and

(ii) so far as the relief granted by this Order involves restraining publication, the Claimant is likely to establish at trial that such publication should not be allowed.

AND UPON the Court having particular regard to the importance of the Convention right to freedom of expression.

AND UPON the Court considering that it is just and convenient and proportionate in all the circumstances that the interim relief granted by this Order be granted.

AND UPON the Court being satisfied for the purposes of s.27(3), Police and Justice Act 2006, that there is a significant risk of harm to a person or persons from the conduct prohibited by this Order and that a power of arrest should therefore be granted.

AND UPON it appearing to the Court that the means of notifying the Eighth Defendants of the making of this injunction Order and the attached Power of Arrest set out at Schedule 2 to this Order are appropriate and sufficient and that there is good reason to authorise service of this Order and Power of Arrest by the alternative means set out at Schedule 3 pursuant to CPR rr.6.15, 6.27 and 81.4(ii)(c) and (d).

IT IS ORDERED THAT:

Injunction and Power of Arrest

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1. The Defendants whether by themselves or by instructing or encouraging any other person, are prohibited from:

(i) Attaching any flag, or causing any flag to be attached, or assisting any other person to attach any flag, to any street furniture or infrastructure within the City of Birmingham without the prior written consent of the Claimant.

(ii) Organising, promoting or publicising any event whose purpose is to attach any such flags

(iii) Obstructing the highway for the purposes of attaching flags to street furniture within the City of Birmingham.

(iv) Obstructing, or interfering in any way with, the Claimant's officers or contractors seeking to remove flags from street furniture within the City of Birmingham.

(v) Causing harassment, alarm or distress to:

(a) the Claimant's members, officers or contractors who are, or have been, or may in the future be involved in the removal of flags from street furniture, including by being involved in any decision to remove them; or
(b) any person expressing opposition to the attachment of flags to street furniture within the City of Birmingham.

Definitions

2. Within this order, for the avoidance of doubt:

(i) An item that includes a depiction of a pattern that shows it represents a country or group is a flag regardless of the material from which it is composed.

(ii) "street furniture or infrastructure" means any physical structure on the highway, including but not limited to, lampposts, lighting columns, street signs, barriers, railings, bridges, trees, CCTV cameras, traffic enforcement cameras, traffic lights ~~and~~ telephone boxes, central reservations, pedestrian islands and the central islands or central markings of any roundabout.

(iii) "highway" means the whole or part of any highway (including any roundabout) to which the public has access and includes any vehicular carriageway or cycle

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lane, any pavement or footway abutting a vehicular carriageway or cycle lane and any land, abutting a vehicular carriageway or cycle lane, on which any central reservation, pedestrian island or any central island or central marking of a roundabout has been constructed.

(iv) "the City of Birmingham" means the Claimant's local government area, the boundaries of which are delineated in red on a map attached to this Order at Schedule 1.

(v) "obstructing" includes, but is not limited to, approaching, standing close to, engaging in unwanted conversation with or otherwise taking any action with the aim of seeking to persuade a person not to remove a flag

(vi) "causing harassment, alarm or distress" includes, but is not limited to, approaching, following, standing close to, filming and/or recording by any means, threatening, physically and/or verbally abusing, making malicious allegations towards, sharing personal information (including images) whether online or otherwise in respect of, and/or restraining, a person.

3. A power of arrest, pursuant to s.27 Police and Justice Act 2006 shall apply to paragraph 1 above.

4. This Order and attached Power of Arrest shall come into force at 4.00 pm on 30 September 2026 and remain in force until the hearing of the claim unless varied or discharged by further Order of the Court.

Liberty to Apply

5. Any person served with a copy of, or affected by, this Order may apply to the Court to vary or discharge it, on 48 hours written notice to the Claimant at the address set out at the foot of this Order.

Anonymous Witnesses

6. Pursuant to CPR r 39.2(4), for all purposes in this case the witnesses whose witness statements are included in Exhibits MK13, MK24 and MK14 to Mohammed Khan's witness statement dated 8 June 2026 shall be referred to only as Resident A, Resident B and Resident C respectively, and reporting restrictions apply as to the disclosing of any information that may lead to the subsequent identification of any of the said witnesses.

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Service on the Eighth Defendants

7. Pursuant to CPR rules 6.15, 6.27 and 81.4(2) (c) and (d), the Claimant shall be permitted to serve the Claim Form, Particulars of Claim, witness evidence and this Order and Power of Arrest, on the Eighth Defendants by the alternative methods specified at Schedule 2 to this Order.

8. The deemed date of service of this Order and Power of Arrest on the Eighth Defendants shall be the date of completion of the steps described in paragraph 1 of Schedule 2 to this Order. The completion of those steps is to be verified by a witness statement or certificate of service to be filed at Court and uploaded to the Claimant's dedicated webpage referred to at para.1(iii) of Schedule 2 to this Order within 7 days of completing those steps. Service of the said witness statement on the Defendants is dispensed with.

Service of Future Amended Claim Documents

9. Service of amended claim documents on existing defendants is dispensed with hereafter in all cases where the only amendment is the addition of a new defendant pursuant to paras 2 and 3 of Schedule 2 to this Order (i.e. enforcement proceedings against the Eighth Defendants).

Further Case Management

10. This Order and attached Power of Arrest shall be reconsidered at a further hearing at [TIME] on [DATE] at Birmingham District Registry The Priory Law Courts, 33 Bull Street, Birmingham, B4 6DS by a Judge of the High Court with a time estimate of 1 day ("the return date").

11. The Claimant shall have permission to file and serve any updating evidence not less than 7 days before the return date.

12. Any person who wishes to appear at the hearing referenced in paragraph 10 above must file and serve on the Claimant an Acknowledgement of Service not less than 7 days before the return date.

Costs

13. No order as to costs.

The Claimant's Contact Details

Birmingham City Council Legal and Governance
Ref: [INSERT]

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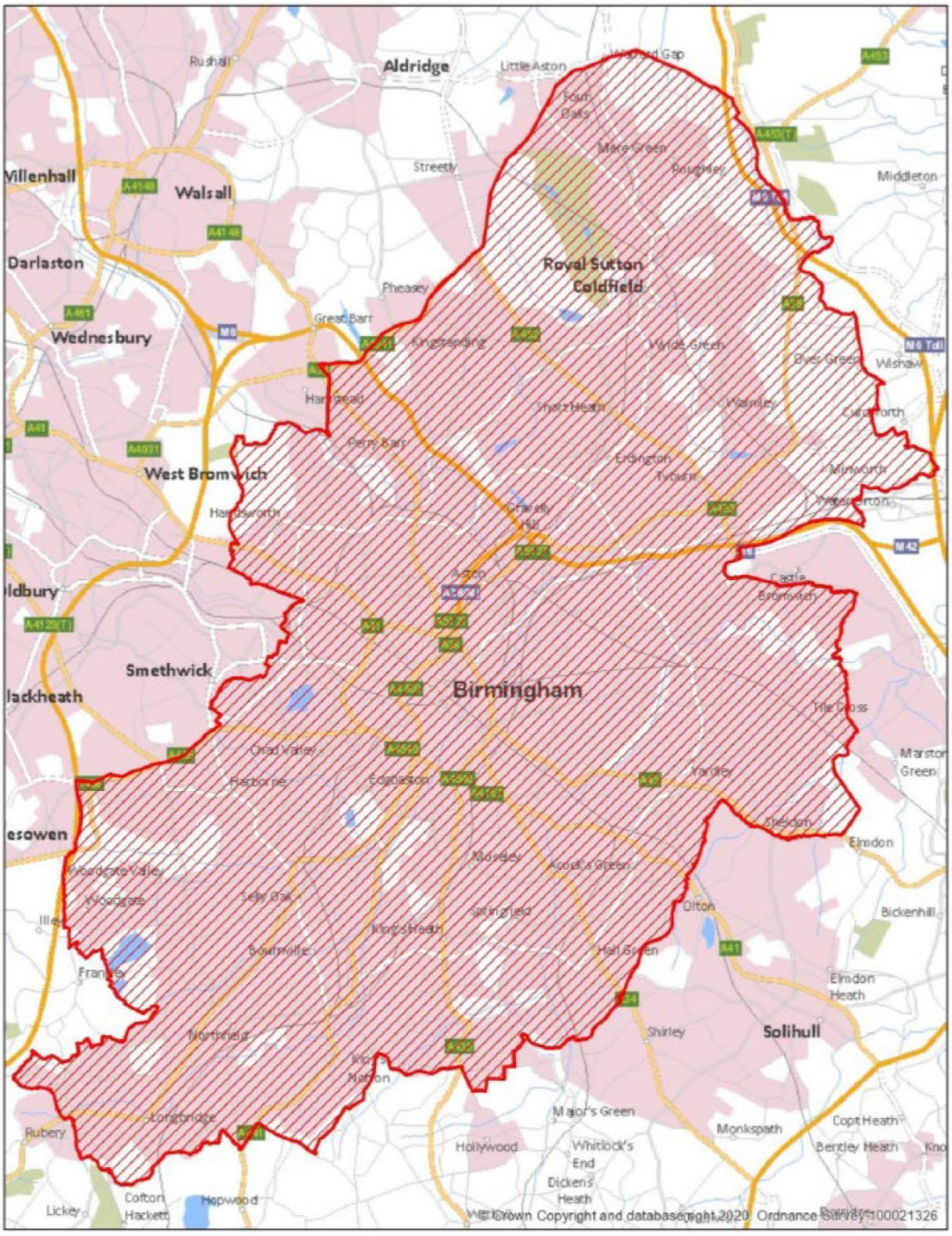
PO Box 15992
Birmingham B2 2UQ
E: [INSERT]@birmingham.gov.uk
T: 0121 303 2808
DX: MDX 326401 Birmingham 87

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SCHEDULE 1

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Birmingham Administrative Boundary



The thick red line indicates the Birmingham administrative boundary.

Birmingham City Council

0 1.25 2.5 5 Kilometers

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SCHEDULE 2
SERVICE

1. Service of this Order on the Eighth Defendants shall be effected by

(i) Issuing a media release stating that the High Court has made an Injunction and Power of Arrest.

Such release must:

(a) Summarise this Order and attached power of arrest;
(b) The date, time and location of the next hearing;
(c) The addresses of the dedicated webpages maintained by the Claimant regarding attaching flags to street furniture;
(d) The Claimant's contact details;
(e) Details of where and how copies of the documents and evidence filed in the case may be obtained.

Such release shall be made to, but is not limited to, local print publications including the Express and Star, Chronicle Week, the Birmingham Mail, Halesowen & Dudley News and Stourbridge News; local radio stations including BBC WM, Free Radio, Signal 107, WCR FM and Heart; the website Birmingham Live (aka) BLive; and the following television stations, BBC (to include the Midlands Today programme) and ITV Central by [TIME] hours on [DATE].

(ii) Placing on the Claimant's social media including Twitter, Facebook and Instagram links to the above media release regarding this Order and the power of arrest by [TIME] hours on [DATE].

(iii) Updating the dedicated page on the Claimant's website about this application:

[INSERT WEB ADDRESS]

Such page shall carry a link to this Order and the power of arrest by [TIME] hours on [DATE].

(iv) Ensuring that the home (or landing) page of the Claimant's website have and retain a prominent direct link to the dedicated webpages referred to above [TIME] hours on [DATE].

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(v) Ensuring that hard copies of this Order and the power of arrest can be made available at the front desks of the Claimant's main office upon request by [TIME] hours on [DATE].

(vi) Request that West Midlands Police post on their website and Instagram, Twitter and Facebook accounts a link to the media release referenced at (i) above. Such request to be made by [TIME] hours on [DATE].

(vii) Notifying the group known as "Raise the Colours" of this Order and the dedicated webpage at which all documents relating to this application can be found by email.

2. If the Claimant takes enforcement proceedings against any of the Eighth Defendants in respect of this Order, the Claimant shall, if so directed by the Court, serve on that Defendant:

(i) a copy of the Claimant's application and all supporting documents relied on to obtain this Order and power of arrest; and

(ii) a copy of this Order and power of arrest.

The Claimant shall not, however, be required to (although it may) serve copies of any video evidence relied on to obtain this Order, or to divulge to the Defendant served the names or addresses of the witnesses whose statements are served in accordance with this paragraph.

3. The Court will consider whether to join the Defendant to the proceedings as a named Defendant and whether to make any further Order.

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