

**B E T W E E N:**

- 1. WOLVERHAMPTON CITY COUNCIL**
- 2. DUDLEY METROPOLITAN BOROUGH COUNCIL**
- 3. SANDWELL METROPOLITAN BOROUGH COUNCIL**
- 4. WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

**1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**5. Mr ANTHONY PAUL GALE**

**6. Miss WIKTORIA SCZCUBLINSKA**

**7. Mr ISA IQBAL**

**8. Mr MASON PHELPS**

**Defendants**

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**CLAIMANTS' APPLICATION FOR INJUNCTIVE RELIEF  
BUNDLE OF DOCUMENTS FOR USE AT A HEARING LISTED 27 FEBRUARY AND  
28 FEBRUARY 2024**

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**VOLUME FIVE**

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A. SECTION A - Statements of Case For Hearing 20 December 2023

For Hearing 20 December 2023 @ 10.30 am (HHJ Kelly)

B E T W E E N:-

1. WOLVERHAMPTON CITY COUNCIL
2. DUDLEY METROPOLITAN BOROUGH COUNCIL
3. SANDWELL METROPOLITAN BOROUGH COUNCIL
4. WALSALL METROPOLITAN  
BOROUGH COUNCIL

Claimants

-and-

1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

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WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)

4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH

SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR  
OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

5-7 The Named Defendants

Defendants

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CASE SUMMARY ON BEHALF OF  
THE CLAIMANTS ON THE  
OPERATION OF THE INJUNCTION

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*Introduction*

- 1 On 13 February 2023 the Honourable Mr Justice Freedman granted the Claimants an interim injunction that sought to address the issue of Car Cruising/Street Racing that was being carried on in their local authority areas.
- 2 That order continued an urgent without notice injunction that had been granted by the Honourable Mrs Justice Hill on 21 December 2022.
- 3 Subject to the addition of a fourth Defendant those orders were continued by order of the Honourable Mr Justice Ritchie, sealed on 23 May 2023 [H162]

4        Thereafter, following committal proceedings 3 additional named  
Defendants have been added as parties.

5        Following a review hearing on 4 October 2023 Her Honour Judge  
Emma Kelly, sitting as a Judge of the High Court of Justice, directed  
*inter alia* [D2] that:

(1)        There be a further review hearing to be held on 20 December  
2023 [D4/4] at which the court would require information  
regarding

(a)        the Supreme Court proceedings *Wolverhampton CC v  
London Gypsies and Travellers and others*

(b)        the status of any enforcement proceedings; and

(c)        the identities of any further "named defendants"

(2)        The learned judge also ordered [D5/4/d & e] that:

(a)        the Wolverhampton claimants and Birmingham CC  
must give active consideration as to whether the review  
hearing could be converted into a final hearing if the  
judgment of the Supreme Court in *Wolverhampton CC v  
London Gypsies and Travellers and others* [2022]  
UKSC/0046 is handed down in good time prior to 20  
December 2023.

(b)        at the review hearing directions were to be given for a  
final hearing to be held on 27 and 28 February 2024

- 6 This Case Summary aims to address the continuing need for the Injunction and the specific matters raised by the court.
  
- 7 Witness statements and other documents are contained in a bundle filed with the court. References to the bundle appear in square brackets with the page number appearing first followed if appropriate by the paragraph number.

### *Publication*

8 The Sixteenth [D62-67] and Seventeenth [C40-C43] witness statements of Paul Brown address the issue of compliance with the terms of the orders regarding publicity of the orders made on 4 October and this hearing.

### *Operation*

9 The Injunction has now been in effect for almost a year and has achieved a substantial measure of success. While the onset of winter with poor weather and longer nights has seen a reduction in street racing concerns remain particularly over the public holidays around Christmas. Residents remain concerned about the effects of street racing and complaints continue [c.f. witness statement of Pardip Nagra [B1 et seq]].

### *Enforcement*

10 The Claimants have set out in tabular form a record of committal proceedings taken [C1]. Where committal orders have been made they appear at Section I of the bundle.

- 11 Two sets of proceedings are ongoing but it is anticipated they will have concluded before the final hearing.

### *The Supreme Court*

- 12 The Supreme Court handed down judgement in *Wolverhampton CC v London Gypsies and Travellers and others* [2023] UKSC 47 on 29 November and the Claimants discharged their Undertaking by notifying this court forthwith [B132 & B134].
- 13 A copy of the judgment appears in the bundle [B55-131]

### *Matters Arising*

- 14 It is not thought that anything in the judgment affects the Injunction and Power of Arrest currently in force or would prevent its continuation to a final hearing.
- 15 At para 238 [B129/238] Lord Reed giving the Court's judgment summarised their conclusions.
- (1) An injunction may grant an injunction against newcomers i.e. persons unknown.
  - (2) Such orders will bind anyone who has notice of it.
  - (3) In deciding whether to grant an order the court will consider:
    - (a) If existing remedies are inadequate;

- (b) Substance rather than form;
  - (c) Remedies should be flexible;
  - (d) New circumstances will require new remedies not necessarily constrained by rules or procedure.
- (4) Specific considerations will apply to orders against Travellers.

#### *Active Consideration*

16 Having discussed matters with counsel in the *Birmingham* case it is the view of all parties that it is not appropriate to convert the review hearing to a final hearing. The reasons include:

- (1) the fact that there are two distinct claims before the court;
- (2) both claimants will seek to broaden the categories of defendants to include spectators at and planners of car cruise events requiring further evidence to be filed;
- (3) the claimants are likely to argue that the geographical and temporal limits identified by the Supreme Court [B126/225] are inappropriate for car cruise injunctions.

#### *Draft Orders and Directions*

17 A suggested order is attached. It will no doubt require the insertion of appropriate recitals and will need to accommodate the *Birmingham* case. The references to the Birmingham case are for

convenience only and not intended to be submissions on the part of  
Birmingham City Council.

## *Conclusions*

- 18 All four Claimants support the continuation of the Injunction and regard it as effective in reducing anti-social behaviour and promoting public safety.

[ORDER]

Case No: KB-2022-BHM-000188  
KB-2022-BHM-000221

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

In the matter of an application for an injunction under s.37(1), Senior  
Courts Act 1981, s.222, Local Government Act 1972 and s.130,  
Highways Act 1980.

B E T W E E N

- (1) WOLVERHAMPTON CITY COUNCIL
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL

Claimants

and

(1) PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

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(3) PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR

RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE  
DRIVING WITHIN THE BLACK COUNTRY AREA  
SHOWN ON PLAN A (ATTACHED)

(4) PERSONS UNKNOWN BEING DRIVERS, RIDERS OR  
PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE  
BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING  
OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA  
SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH  
DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS  
OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

(5) Mr ANTHONY GALE

(6) Miss WIKTORIA SZCZUBLINSKA

(7) Mr ISA IQBAL

Defendants

AND

BETWEEN

BIRMINGHAM CITY COUNCIL

Claimant

-and-

- (1) AHZI NAGMADIN
- (2) JESSICA ELLEN ROBERTS
- (4) RASHANI REID
- (5) THOMAS WHITTAKER
- (6) ARTHUR ROGERS
- (7) ABC

(8) PERSONS UNKNOWN WHO PARTICIPATE OR INTEND  
TO PARTICIPATE IN STREET-CRUISES IN BIRMINGHAM,  
AS CAR DRIVERS, MOTORCYCLE RIDERS, PASSENGERS  
AND/OR SPECTATORS

(9) PERSONS UNKNOWN WHO, OR WHO INTEND TO,  
ORGANISE, PROMOTE OR PUBLICISE STREET CRUISES  
IN BIRMINGHAM

(10) PERSONS UNKNOWN WHO PARTICIPATE OR INTEND  
TO PARTICIPATE IN STREET CRUISES IN BIRMINGHAM AS  
CAR DRIVERS, MOTORCYCLE RIDERS OR PASSENGERS IN  
MOTOR CARS OR ON MOTORCYCLES

(11) MOHAMMED SHABBIR

(12) ZOE LLOYD

(13) CALLUM BLUNDERFIELD

Defendants

BEFORE Her Honour Judge Emma Kelly, sitting in the High Court of Justice at the Birmingham District Registry, Birmingham Civil and Family Justice Centre, Priory Courts, 33 Bull Street, Birmingham B4 6DS on 20 December 2023.

**UPON** hearing:

(i) Mr Singleton of counsel for the Claimants in Claim No. KB-2022-BHM-000188 (respectively the "Wolverhampton Claimants" and the "Wolverhampton claim") and

[(ii) Mr Manning and Ms Crocombe of counsel for the Claimants in Claim No. KB-2022- BHM-000221 (respectively "Birmingham CC" and the "Birmingham claim"),]

**AND UPON** there being no appearance by any Defendant, and no other person having notified the Court, the Wolverhampton Claimants or Birmingham CC that they wished to be joined as a party or heard.

**AND UPON** Birmingham CC's application for an interim injunction and power of arrest dated 9 December 2022 pursuant to section 222 Local Government Act 1972 and section 130 Highways Act 1980 and the Wolverhampton Claimants' like application dated 13 December 2022

**AND UPON** the Court reviewing the grant by the Honourable Mrs Justice Hill of Interim Injunctions and Powers of Arrest dated 22 December 2022 as amended by the Honourable Mr Justice Ritchie on 16 May 2023 in both the Wolverhampton claim and the Birmingham claim.

**AND UPON** the Court having dispensed with the need for Birmingham CC to serve the Eighth, Ninth and Tenth Defendants via the method stipulated in paragraph 13(6) of the Order of Mr Justice Richie dated 16 May 2023 on 4 September 2023, the Court having found on that occasion that paragraph 13(6) was impossible to comply with.

**IT IS ORDERED THAT:**

1. In both the Wolverhampton claim and the Birmingham claim, the Interim Injunctions and Power of Arrest granted by the Honourable Mrs Justice Hill, sealed on 22 December 2022, and as amended by the Honourable Mr Justice Ritchie on 16 May 2023 shall remain in force until the hearing of the claim unless varied or discharged by further Order of the Court.

**Case Management**

2. There shall be a final hearing as set out below at which hearing the court will consider the Wolverhampton claim and the Birmingham claim together. For the avoidance of doubt, the Wolverhampton claim and the Birmingham claim have not been consolidated but it is convenient for them to be heard together as they raise similar issues.

3. The final hearing, shall be before a Judge of the High Court on 27 February 2024 in the High Court of Justice at the Birmingham District Registry, Birmingham Civil and Family Justice Centre, Priory Courts, 33 Bull Street, Birmingham B4 6DS. Time estimate 2 days, reading time 1 day in addition to the hearing time. The reading day does not have to be consecutive to the hearing days.

(a) The Judge may direct that the time estimate be amended.

(b) The Wolverhampton claimants and Birmingham CC have permission to file updating evidence not less than 7 days prior to the hearing. Alternative service of any such evidence may be effected by

taking like steps to those set out at 12 and 14 of this Order in the Wolverhampton claim and 16 and 18 in the Birmingham claim

(c) Not less than 7 days prior to the hearing the Wolverhampton claimants and Birmingham CC shall file with the Court:

- a. bundles containing all the Orders, application documents and evidence relevant to the application;
- b. It should also include drafts of the orders sought.

(d) Not less than 3 days prior to the hearing the Wolverhampton claimants and Birmingham CC shall file with the Court:

- a. Skeleton Arguments;
- b. A common bundle of authorities

4. Any person served with a copy of, or affected by, this Order including, for the avoidance of doubt, the Interim Injunctions and Powers of Arrest, may apply to the Court to vary or discharge it, on 48 hours written notice to the Wolverhampton claimants or Birmingham CC, whichever be the relevant claimant, at the applicable address set out at the foot of this Order. Further information is contained at paragraphs 19-21 of and Schedule 1 to this Order.

## **Service**

5. In both the Wolverhampton claim and the Birmingham claim, and pursuant to CPR r.6.27 and CPR r.81.4, the steps that the Wolverhampton claimants and Birmingham CC have taken to serve the order of Ritchie J sealed on 16 May 2023; notice of this hearing and the further evidence filed in advance of this hearing shall amount to good and proper service on the each of the Defendants.

6. Personal service of this Order and the amended Claim Form, Particulars of Claim, Injunction and Power of arrest above is dispensed with in relation to the first, second, third and fourth Defendants in the Wolverhampton claim, and is dispensed with in relation to the Eighth, Ninth and Tenth Defendants in the Birmingham claim.

### Service of this Order

7. The Wolverhampton claimants shall serve this Order on the First, Second, Third and Fourth Defendants by completing the following steps before 16:00 on 12 January 2024:

- (a) Issuing a media release highlighting the continuation of the Injunction and Power of Arrest, such release must provide:
  - (i) Details of the application and summarise the orders made;
  - (ii) Any deadline for filing any documents by the Defendants;
  - (iii) The date, time and location of any future hearings including the final hearing on 27 February 2024;
  - (iv) The addresses of the dedicated webpages maintained by the Claimants regarding car cruising;
  - (v) The Claimants' contact details; and

- (vi) Details of where and how copies of the Injunction, Power of Arrest, this Order, the Documents and the Evidence 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.

- (b) Placing on the Claimants' social media including X (previously known as Twitter), Facebook and Instagram links to the above media release.

- (c) Updating the dedicated pages on the websites of Wolverhampton City Council, Dudley Council, Sandwell Council and Walsall Council about the Injunction and Power of Arrest and this Order:

<https://www.wolverhampton.gov.uk/street-racing-injunction>

<https://www.dudley.gov.uk/residents/parking-and-roads/roadshighways-and-pavements/car-cruising-injunction>

[https://www.sandwell.gov.uk/info/200284/roads\\_travel\\_and\\_parking/3231/street\\_racing](https://www.sandwell.gov.uk/info/200284/roads_travel_and_parking/3231/street_racing)

[https://go.walsall.gov.uk/black\\_country\\_car\\_cruising\\_injunction](https://go.walsall.gov.uk/black_country_car_cruising_injunction)

Such pages shall carry a direct link to this Order.

- (d) Ensuring that the home (or landing) page of each of the Claimants' main websites have and retain a prominent direct link to the dedicated webpages referred to above.

(e) Requesting that the police forces for the West Midlands, Warwickshire, West Mercia, Staffordshire and Leicestershire post on their website and Instagram, X (previously known as Twitter), and Facebook accounts, a link this Order.

8. The Wolverhampton Claimants shall serve this Order on the fifth sixth and seventh Defendants ('the named Defendants') by email, the named Defendants having agreed to accept service by this method. Service must be completed by 16:00 on 5 January 2024.

9. Birmingham CC shall personally serve this Order on the First, Second, Third, Fourth Fifth, Sixth and Seventh Defendants by 16:00 on [please complete] .

10. Birmingham CC shall serve this Order on the Eighth, Ninth and Tenth Defendants by completing the following steps before 16:00 on [please complete] :

(a) Issuing a media release highlighting the continuation of the Injunction and Power of Arrest, such release must provide:

- (i) Details of the application and summarise the orders made;
- (ii) Any deadline for filing any documents by the Defendants;
- (iii) The date, time and location of any future hearings, including the final hearing on 27 February 2024. The addresses of the dedicated webpages maintained by the Claimants regarding car cruising;
- (iv) The Claimants' contact details; and

- (v) Details of where and how copies of the Injunction, Power of Arrest, this Order, the Documents and the Evidence 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.

- (b) Placing on the Claimants' social media including X (previously known as Twitter), Facebook and Instagram links to the above media release.

- (c) Updating its dedicated page on its website about the Injunction and Power of Arrest and this Order:

<https://www.birmingham.gov.uk/streetcruiseapplication2022>

Such page shall carry a direct link to this Order.

- (d) Ensuring that the home (or landing) page of its main website has and retains a prominent direct link to the dedicated webpage referred to above.

- (e) Requesting that the police forces for the West Midlands, Warwickshire, West Mercia, Staffordshire and Leicestershire post on their website and Instagram, X (previously known as Twitter), and Facebook accounts, a link this Order.

11. Birmingham CC shall serve this Order on the Eleventh, Twelfth and Thirteenth Defendants by email. Service must be completed by 16:00 on [please complete] .

Amended Claim Documents, Injunction and Power of Arrest

12. Wolverhampton Claimants shall serve version 4 of the Claim Form, the Particulars of Claim, and the Injunction and the Power of Arrest on the First, Second, Third and Fourth Defendants by completing the following steps before 16:00 on 12 January 2024:

(a) Uploading copies to the dedicated pages on the websites of Wolverhampton City Council, Dudley Council, Sandwell Council and Walsall Council about the Injunction and Power of Arrest and this Order:

<https://www.wolverhampton.gov.uk/street-racing-injunction>

[https://www.dudley.gov.uk/residents/parking-and-](https://www.dudley.gov.uk/residents/parking-and-roads/roadshighways-and-pavements/car-cruising-injunction)

[roads/roadshighways-and-pavements/car-cruising-injunction](https://www.dudley.gov.uk/residents/parking-and-roads/roadshighways-and-pavements/car-cruising-injunction)

[https://www.sandwell.gov.uk/info/200284/roads travel and parking /3231/street racing](https://www.sandwell.gov.uk/info/200284/roads_travel_and_parking/3231/street_racing)

[https://go.walsall.gov.uk/black country car cruising injunction](https://go.walsall.gov.uk/black_country_car_cruising_injunction)

(b) Placing on the Claimants' social media including X (previously known as Twitter), Facebook and Instagram links to the relevant website containing version 4 of the Claim Form, the Particulars of Claim, and the Injunction and the Power of Arrest.

(c) Placing hard copies of version 4 of the Claim Form, the Particulars of Claim, and the Injunction and the Power of Arrest at the front desks of the relevant Claimant's offices.

13. This Order shall be deemed served on the First, Second Third and Fourth Defendants at 23.59 on the date upon which, in each case, the final step in paragraph 12 has been complied with.

14. The Wolverhampton Claimants shall serve version 4 of the Claim Form, the Particulars of Claim, and the Injunction and the Power of Arrest on the named Defendants by email. Service must be completed by 16:00 on 5 January 2024.

15. Birmingham CC shall personally serve the Fourth Amended Claim Form, Particulars of Claim, Interim Injunction and Power of Arrest on the First, Second, Third, Fourth, Fifth, Sixth and Seventh Defendants by 16:00 on [please complete] .

16. Birmingham CC shall serve the Fourth Amended Claim Form, Particulars of Claim, Interim Injunction and Power of Arrest on the Eighth Ninth and Tenth Defendants by completing the following steps before 16:00 on [please complete] :

(a) Uploading copies to its dedicated page on its website about the applications to the High Court for an injunction and power of arrest:

<https://www.birmingham.gov.uk/streetcruiseapplication2022>

(b) Placing on the Claimants' social media including X (previously known as Twitter), Facebook and Instagram links to the Fourth

Amended Claim Form, Particulars of Claim, Interim Injunction and Power of Arrest.

(c) Placing hard copies of the Fourth Amended Claim Form, Particulars of Claim, Interim Injunction and Power of Arrest at the front desks of the relevant Claimant's offices.

17. This Order shall be deemed served on the Eighth, Ninth and Tenth Defendants at 23.59 on the date upon which, in each case, the final step in paragraph 18 has been complied with.

18. Birmingham CC shall serve this Order on the Eleventh, Twelfth and Thirteenth Defendants by email. Service must be completed by 16:00 on [please complete] .

#### **Further matters**

19. Without prejudice to the foregoing, any person wishing to exercise a right granted by paragraph 4 of this Order may apply to the Court at any but if they wish to do so they must inform the relevant Claimants' solicitors immediately (and in any event not less than 48 hours before the hearing of any such application) via the contact details set out below at the foot of this Order. Schedule 1 to this Order indicates the process which must be followed for any such application.

20. Any person applying to vary or discharge either Amended Interim Injunction or Power of Arrest must provide their full name and address, an address for service, and must also apply to be joined as a Named Defendant to the proceedings at the same time.

21. Any Defendant who fails to comply with paragraphs 19 and 20 above shall not be permitted to defend or take any role in these proceedings without further order of the Court and shall be liable to have injunctive relief continued against them.

**Communications with Claimants and the Court**

22. All communications to the Court about the Wolverhampton claim or the Birmingham claim (which should quote the case number) should be sent to:

Birmingham District Registry Civil Justice Centre  
Priory Courts  
33 Bull Street,  
Birmingham B4 6DS  
E: kb.birmingham@justice.gov.uk T: 0121 681 4441  
DX: 701987 Birmingham 7

23. Any person who wishes to view or download copies of the documents shall contact the Claimants' solicitors via the contact details below:

The Wolverhampton claimants' solicitors and their contact details are:  
FAO: Black Country Car Cruise  
Legal Services  
Wolverhampton City Council  
Civic Centre  
St Peters Square  
Wolverhampton  
WV1 1RG  
E: litigation@wolverhampton.gov.uk  
T: T: 01902 556556  
DX: 744350 Wolverhampton 27  
Ref: LIT/AS/LIJ017753P

Birmingham CC's solicitors' contact details are:  
Birmingham City Council Legal and Governance  
Ref: LSCSY/HM/150673

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

**Costs**

24. Costs in the application.

## SCHEDULE 1 – STEPS TO VARY OR DISCHARGE THIS ORDER

If, in accordance with paragraph 4 above, any Defendant or any other person affected by this Order wishes to apply to vary or discharge this Order, to ensure effective case management by the Court the following indicative steps must be followed:

1. Any person seeking to contest the Claimants' entitlement to interim relief should file with the court (i.e. send to the court) and serve (i.e. send to the Claimants):

- (a) An N244 application form<sup>1</sup>;
- (b) Written grounds (which may be contained in within the N244 application form or a separate document) for:
  - i. permission to bring the application; and
  - ii. the application (i.e. reasons for the proposed variation / discharge of the Order).
- (c) A witness statement(s) containing and/or appending all of the evidence to be relied upon in support of the application.

2. In order to file the above documents with the Court, the applicant should:

- (a) Send physical copies of the documents to the address at paragraph 22 of this Order; and/or
- (b) Speak to the Court to obtain an address to send electronic copies of the documents to.

3. In order to serve the above documents on the Claimants, the applicant should:

- (a) Identify the relevant Claimants (the Wolverhampton Claimants or Birmingham CC); and then
- (b) Send physical copies of the documents to the relevant address at  
paragraph 23 of this Order; and/or
- (c) Send electronic copies of the documents to the relevant e-mail address at paragraph 23 above.

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<sup>1</sup> See the following link which provides a digital version of the form, and guidance notes:  
<https://www.gov.uk/government/publications/form-n244-application-notice>

4. The person making the application should indicate to the Court and Claimants whether they consider the matter requires a court hearing or can be dealt with by the judge reviewing the paper application and any response from the Claimants.

5. Thereafter the Claimants shall have 14 days to file and serve evidence and submissions in response, including as to whether an oral hearing is required to determine the application.

6. Within 21 days the Court shall decide

(a) whether to grant permission for the application to proceed; and

(b) if permission is granted, whether a hearing is necessary, and/or may request from the parties evidence on any further matters necessary to determine the application. If the Court decides that a hearing is necessary, it shall seek to schedule the hearing (accommodating availabilities of the parties) within 42 days (6 weeks).

7. If the Court decides that further evidence is needed from any party, it may set strict deadlines by which that evidence must be filed. Both parties should be aware that the Court may restrict the use of evidence which is filed late or impose other penalties for non-compliance.

N244

# Application notice

For help in completing this form please read the notes for guidance form N244Notes.

<b>Name of court</b> High Court of Justice, King's Bench Division, Birmingham District Registry	<b>Claim no.</b> KB-2022-BHM000188
<b>Fee account no.</b> (if applicable)	<b>Help with Fees - Ref no.</b> (if applicable)
PBA0082797	HWF - [ ] [ ] [ ] [ ] - [ ] [ ] [ ] [ ]
<b>Warrant no.</b> (if applicable)	
<b>Claimant's name</b> (including ref.) 1. Wolverhampton City Council 2. Dudley Metropolitan Borough Council 3. Sandwell Metropolitan Borough Council 4. Walsall Metropolitan Borough Council (Ref: LIT/AS/LIJ017753P)	
<b>Defendant's name</b> (including ref.) 1. Persons Unknown and Others	
<b>Date</b>	12 December 2023

Find out how HM Courts and Tribunals Service uses personal information you give them when you fill in a form:  
<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personalinformation-charter>

1. What is your name or, if you are a legal representative, the name of your firm?

Legal Services, Wolverhampton City Council

2. Are you a  Claimant  Defendant  Legal Representative

Other (please specify)

If you are a legal representative whom do you represent?

Claimant

3. What order are you asking the court to make and why?

An order amending para 1 of the order of HHJ Kelly, dated 1 November 2023 so as to extend the time for service on the Defendants until 4.00 pm on 14 December 2023 because the Claimant has yet to effect service

4. Have you attached a draft of the order you are applying for?  Yes  No

5. How do you want to have this application dealt with?  at a hearing  without a hearing

at a telephone hearing

6. How long do you think the hearing will last? [ ] Hours [ ] Minutes

Is this time estimate agreed by all parties?  Yes  No

7. Give details of any fixed trial date or period

20 December 2023 directions hearing before Her Honour Judge Kelly

8. What level of Judge does your hearing need?

Judge of the High Court

9. Who should be served with this application?

Those Defendants specified in the Order of HHJ Kelly, made on 1 November 2023

9a. Please give the service address, (other than details of the claimant or defendant) of any party named in question 9.

Waldrons Solicitors  
Elle-may.macey@waldrons.co.uk

10. What information will you be relying on, in support of your application?

- the attached witness statement
- the statement of case
- the evidence set out in the box below

If necessary, please continue on a separate sheet.

Please see attached supporting Witness Statement of Mushtaq Ahmed-Khan dated 12 December 2023.

11. Do you believe you, or a witness who will give evidence on your behalf, are vulnerable in any way which the court needs to consider?

- Yes. Please explain in what way you or the witness are vulnerable and what steps, support or adjustments you wish the court and the judge to consider.

- No

**Statement of Truth**

[The applicant understands] that proceedings for contempt of court may be brought against a person who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth. ]

- I believe that the facts stated in section 10 (and any continuation sheets) are true.
- The applicant believes that the facts stated in section 10 (and any continuation sheets) are true. I am authorised by the applicant to sign this statement.

**Signature**



- Applicant
- Litigation friend (where applicant is a child or a Protected Party)
- Applicant's legal representative (as defined by CPR 2.3(1))

**Date**

Day                      Month                      Year

13	12	2023
----	----	------

Full name

TRACEY CHRISTIE

Name of applicant's legal representative's firm

Legal Services Wolverhampton City Council

If signing on behalf of firm or company give position or office held

HEAD OF LEGAL SERVICES

Applicant's address to which documents should be sent.

Building and street

Civic Centre

Second line of address

St Peter's Square

Town or city

Wolverhampton

County (optional)

Postcode

W V 1 1 R G

If applicable

Phone number

01902 556048

Fax number

DX number

744350 WOLVERHAMPTON 27

Your Ref.

LIT/AS/LIJ017753P

Email

tracey.christie@wolverhampton.gov  
uk

Witness Statement of the 1<sup>st</sup> Claimant  
Witness: Mushtaq Ahmed-Khan  
Number of Witness Statement: 1  
Date: 12/12/2023

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

CLAIM NO: KB-2022-BHM-000188

In the matter of an application for an injunction under s.222 Local Government Act 1972 and s.130 of the Highways Act 1980

B E T W E E N:-

1. WOLVERHAMPTON CITY COUNCIL
2. DUDLEY METROPOLITAN BOROUGH COUNCIL
3. SANDWELL METROPOLITAN BOROUGH COUNCIL
4. WALSALL METROPOLITAN BOROUGH COUNCIL

Claimants

-and-

1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING
- 2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING
3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)
4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

5. Mr ANTHONY PAUL GALE
6. Miss WIKTORIA SCZCUBLINSKA
7. Mr ISA IQBAL

Defendants

-----  
**WITNESS STATEMENT OF MUSHTAQ AHMED-KHAN  
ON BEHALF OF THE FIRST CLAIMANT**  
-----

I, Mushtaq Ahmed-Khan, of Civic Centre, St Peter's Square, Wolverhampton, WV1 1RG, Solicitor,  
**WILL STATE AS FOLLOWS:**

**A. Introduction**

1. I am Lead Lawyer of the Litigation and Governance Team of the First Claimant, in the above-mentioned proceedings, Wolverhampton City Council. I am duly authorised to make this witness statement on behalf of the First Claimant ("the Council").
2. I make this witness statement in support of the Council's application for relief from sanctions pursuant to CPR 3.9, made by way of Application Notice dated 12 December 2023.
3. The facts set out in this statement are either within my own knowledge and true or are based on information supplied to me, in which case I will state the source of that information and that information is true to the best of my knowledge and belief.

**B. Background**

4. At a hearing on 1 November 2023, by Order of Her Honour Judge Kelly, Mr Isa Iqbal was joined as seventh Defendant to this Claim. Paragraph 1 of this Order provided for the amended Claim documents to be served on the seventh Defendant's solicitor and on the other Defendants by 4:00pm on 14 December 2023

**C. Relief Application**

5. The Application is required because of a failure to comply with the above deadline for service of the amended claim documents, in respect of which breach the Council asks the court to grant relief from sanctions pursuant to its power under CPR 3.9.

**Circumstances of the breach**

6. Throughout these proceedings, Adam Sheen, Senior Solicitor, has had conduct of the matter on behalf of the First Claimant. However, at the time of the hearing on 1 November 2023, Adam Sheen was on annual leave abroad for three weeks. He was therefore unable to attend the hearing and was unaware of details of the Order made. On returning to the office, owing to the volume of email received in his absence, the Order was unfortunately overlooked. Therefore, the amended claim documents were not served as required by the Order.

## **Request for relief**

7. I am aware of the basic criteria the court will apply in considering my client's Application and address these below.
8. The Council would respectfully submit that the breach is not serious or significant, as the effect of the breach does not pose any significant adverse effect on the conduct of the litigation, and nor does it affect any hearing or trial dates.
9. However, if the court considers the breach significant and/or serious, the Council would submit that it has now taken the necessary steps to comply with the deadline as soon as the default came to the conducting solicitor's attention on his return from annual leave.
10. Finally, the Council would nevertheless respectfully submit that it would be justified for the court to grant relief from sanctions for this breach, as:
  - 10.1 it has no impact upon the litigation, with no other directions or court hearings being adversely affect by the delay, and so it has also not inconvenienced any of the Defendants.
  - 10.2 In particular, the seventh Defendant, Mr Isa Iqbal, was represented by Counsel at the hearing on 1 November 2023 and he was therefore fully aware of the Order made and that he has been joined as a Defendant to the claim. He is not required to take any further steps in these proceedings and therefore he has not suffered any detriment because of the default.
  - 10.3 Litigation has otherwise been conducted efficiently and no previous such applications have been made.
  - 10.4 The breach has been remedied as soon as possible after it came to the attention of the conducting solicitor.

## **Conclusion**

11. In the circumstances and for the reasons given in this witness statement, I respectfully request that the court grant the Council relief from sanctions for failing to comply with the deadline for service of the amended claim documents.

## **STATEMENT OF TRUTH**

I believe the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Dated this 12 day of December 2023

**SIGNED:**



**NAME:** Mushtaq Ahmed-Khan

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

Claim No. KB-2022-BHM000188

B E T W E E N:-

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

Claim No. KB-BHM-2022-000188

In the matter of an application for an injunction under s.222 Local Government Act 1972 and s.130 of the Highways Act 1980

B E T W E E N:-

1. WOLVERHAMPTON CITY COUNCIL
2. DUDLEY METROPOLITAN BOROUGH COUNCIL
3. SANDWELL METROPOLITAN BOROUGH COUNCIL
4. WALSALL METROPOLITAN  
BOROUGH COUNCIL

Claimants

-and-

1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)  
4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

5. Mr ANTHONY PAUL GALE

6. Miss WIKTORIA SCZCUBLINSKA

7. Mr ISA IQBAL

**Before** Her Honour Judge Emma Kelly sitting, as a Judge of the High Court, at the Birmingham District Registry, Birmingham Civil and Family Justice Centre, Priory Courts, 33 Bull Street, Birmingham B4 6DS on 20 December 2023;

**And upon** hearing counsel, Mr Singleton, for the Claimants and the

**IT IS ORDERED THAT:**

1 Paragraph 1 of the order of Her Honour Judge Kelly, dated 1 November 2023, made following the First Claimant's application to

commit the seventh Defendant to prison be amended so as to extend time for service and provide:

- (1) The Defendant be joined as the seventh Defendant to the Claim. The Claimant shall amend the pleadings and injunction and power of arrest, limited to amendments to add the Seventh Defendant, in a form that accords with paragraph 2 of the case management order made by HHJ Kelly on 4 October 2023 ("the 4 October 2023 Order"). Service shall be effected as follows:
  - (a) The amended claim documents shall be served by email to the Seventh Defendant's solicitor at [elle-may.macey@waldrons.co.uk](mailto:elle-may.macey@waldrons.co.uk) ~~within 21 days of today's date~~ by 4.00pm on 14 December 2023
  - (b) The amended claim documents, injunction and power of arrest shall be served upon the First, Second, Third and Fourth Defendants in the substantive claim in the manner set out in paragraph 14 of the 4 October 2023 Order by 4pm on ~~22 November 2023~~ 14 December 2023
  - (c) The amended claim documents, injunction and power of arrest shall be served upon the other named Defendants in the substantive claim in the manner set out in paragraph 16 of the 4 October 2023 Order by 4pm on ~~22 November~~ 14 December 2023.

- 2 Pursuant to CPR 6.15 and 6.27 the Claimants having complied with the above requirements there has been effective service of the amended claim documents, injunction and power of arrest.
- 3 So far as may be necessary the Claimants are granted relief from any sanctions flowing from a failure to comply with the 4 October 2023 Order.
- 4 There be no order for costs of the application.



# Claim Form (CPR Part 8)

In the HIGH COURT OF JUSTICE, KING'S BENCH DIVISION, BIRMINGHAM DISTRICT REGISTRY	
Claim no.	KB-2022-BHM-000188
Fee Account no.	PBA0082797
Help with Fees - Ref no. (if applicable)	H W F - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>

## Claimant

- (1) WOLVERHAMPTON CITY COUNCIL
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL



## Defendant(s)

- (1-4) PERSONS UNKNOWN (AS DESCRIBED IN THE AMENED ATTACHED PARTICULARS OF CLAIM)
- (5) ANTHONY PAUL GALE
- (6) WIKTORIA SZCZUBLINSKA
- (7) ISA IQBAL

Does your claim include any issues under the Human Rights Act 1998?  Yes  No

## Details of claim (see also overleaf)

Pursuant to the Court's powers under section 37(1) Senior Courts Act 1981, to restrain street racing and associated dangerous driving activities in the Black Country Area (which the Claimants define, for the purposes of this injunction application, as the entirety of the combined local government areas of Dudley, Sandwell, Walsall and Wolverhampton Councils).

Should the honourable court be minded to grant the injunctive relief sought by the Claimants, the Claimants further invite the Court to exercise the discretion granted to it pursuant to rule 81.8 of the Civil Procedure Rules and dispense with the requirement to serve any injunction and power of arrest on Persons Unknown personally and instead serve any injunction and power of arrest granted by alternative means.

Full details of the Claim, together with draft orders and further details of the requisite steps the Claimants suggest would achieve effective alternative service of the order should the honourable court be minded to grant any injunction and power of arrest on persons unknown, and should the honourable court further be minded to permit the Claimants to serve any order by alternative means to personal service, are particularised in the attached documentation.

Defendant's name and address

(1-4) PERSONS UNKNOWN (as described in the Amended Particulars of Claim)  
 (5) Mr ANTHONY PAUL GALE (c/o Messrs Waldrons Solicitors)  
 (6) Miss WIKTORIA SZCZUBLINSKA (c/o Messrs Charles Strachan Solicitors)  
 (7) Mr ISA IQBAL (c/o Messrs Waldrons Solicitors)

£

Court fee	569.00
Legal representative's costs	
Issue date	

For further details of the courts [www.gov.uk/find-court-tribunal](http://www.gov.uk/find-court-tribunal).

When corresponding with the Court, please address forms or letters to the Manager and always quote the claim number.

**Details of claim** (continued)

"BLACK COUNTRY CAR CRUISE"  
Wolverhampton City Council, Civic Centre, St Peter's  
Square, Wolverhampton, WV1 1RG  
DX744350 Wolverhampton 27  
Ref: LIT/AS/LIJ017753P  
E-mail: litigation@wolverhampton.gov.uk

Claimant's or claimant's legal representative's  
address to which documents should be sent if  
different from overleaf. If you are prepared to  
accept service by DX, fax or e-mail, please  
add details.

## Statement of Truth

I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

- I believe that the facts stated in these particulars of claim are true.
- The Claimant believes** that the facts stated in these particulars of claim are true. **I am authorised** by the claimant to sign this statement.

### Signature



- Claimant
- Litigation friend (where claimant is a child or a Protected Party)
- Claimant's legal representative (as defined by CPR 2.3(1))

### Date

Day	Month	Year
13	12	2023

Full name

TRACEY CHRISTIE

Name of claimant's legal representative's firm

WOLVERHAMPTON CITY COUNCIL

If signing on behalf of firm or company give position or office held

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Claim No. KB-2022-BHM-000188  
IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION  
BIRMINGHAM DISTRICT REGISTRY

B E T W E E N:-

1. WOLVERHAMPTON CITY COUNCIL
2. DUDLEY METROPOLITAN BOROUGH  
COUNCIL
3. SANDWELL METROPOLITAN BOROUGH  
COUNCIL
4. WALSALL METROPOLITAN BOROUGH  
COUNCIL

Claimants

-and-

- 1-4 PERSONS UNKNOWN
5. Mr ANTHONY PAUL GALE
6. Mis WIKTORIA SCZCUBLINSKA
7. Mr ISA IQBAL
8. Mr MASON PHELPS

Defendants

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PARTICULARS OF CLAIM (Version  
5 amended pursuant to the  
Order of HHJ Kelly, dated 29  
January 2024)

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Wolverhampton City Council,  
Legal Services,  
Civic Centre,  
St Peter's Square,  
Wolverhampton, WV1 1RG  
(Ref: LIJ017753P/01201576)

Solicitor for the Claimants

Amended pursuant to Order of the Court (HHJ Kelly) made on 29 January 2024

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

Claim No. KB-BHM-2022-000188

In the matter of an application for an injunction under s.222 Local Government Act 1972 and s.130 of the Highways Act 1980

B E T W E E N:-

1. WOLVERHAMPTON CITY COUNCIL
2. DUDLEY METROPOLITAN BOROUGH COUNCIL
3. SANDWELL METROPOLITAN BOROUGH COUNCIL
4. WALSALL METROPOLITAN  
BOROUGH COUNCIL

Claimants

-and-

1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR

RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE  
DRIVING

WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)  
4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR  
ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF  
3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN  
THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH  
SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR  
OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

5. Mr ANTHONY PAUL GALE

6. Miss WIKTORIA SCZCUBLINSKA

7. Mr ISA IQBAL

8. Mr MASON PHELPS

Defendants

---

PARTICULARS OF CLAIM (Version  
5 amended pursuant to the Order  
of HHJ Kelly, dated 29 January  
2024)

---

### *Introduction*

- 1 Part 8 of the Civil Procedure Rules 1998 applies to this claim.
  
- 2 In these Particulars of Claim the following definitions have been applied:
  - (1) "The Black Country" the combined local authority areas of all the Claimants. The Claimants areas are shown on the plan annexed hereto (Plan A).

- (2) "Car Cruising" organised or impromptu events at which drivers of cars race, perform driving stunts, drive dangerously and drive in convoy. Such activities may be noisy, dangerous and illegal, obstructing highways and the premises bordering them, damaging property and putting the safety of spectators and other persons at risk.
- (3) The "Original Injunction" Injunction granted by HHJ Owen QC on 1 December 2014 and renewed by HHJ McKenna on 9 January 2018 in *Wolverhampton & Others v Persons Unknown* [2014] (Claim No A90BM228) which was in effect from 2 February 2015
- (4) "Stunts" Driving manoeuvres often undertaken as part of car cruising including:
  - (a) "Burnouts" Causing a vehicle to destroy its tyres by applying power to the drive wheels while braking so as to remain in place while the wheels revolve at speed.
  - (b) "Donuts/Donutting" Causing a vehicle to rotate around a fixed point (normally the front axle) while not moving-off causing noise, smoke and tyre marks to be created.
  - (c) "Drifting" Turning by placing the vehicle in a skid so that most sideways motion is due to the skid not any significant steering input.
  - (d) "Undertaking" passing a vehicle on its nearside so as to overtake in circumstances not permitted by the Highway Code.

3 The Claimants are local authorities with the meaning of the Local Government Act 1972.

The Defendants

3A The First, Second, Third and Fourth Defendants are persons, as yet unknown, who have engaged or intend to engage in the conduct that the Injunction seeks to restrain.

3B The Fifth, Sixth, ~~and~~ Seventh and Eighth Defendants (“the Named Defendants”) are persons who were found to be in breach of interim injunction granted by the Honourable Mrs Justice Hill on 22 December 2022, and amended by the Honourable Mr Justice Ritchie on 19 May 2023 who thereby became parties to the claim.

4 The West Midland Police Force (‘the Police’) serve the areas of all the Claimants.

5 Since, at least, 2012 the Claimants have, in co-operation with the Police, have been attempting to eliminate car cruising in their areas.

6 By this claim the Claimants seek an injunction restraining car cruising across the whole of the Black Country.

### *Background*

- 7 The Claimants obtained the Original Injunction which was in effect from 2 February 2015 until 1 February 2021.
- 8 The Claimants aver that the Original Injunction caused or contributed to a substantial reduction in car cruising in the Black Country and the committal proceedings brought for breach of the Original Injunction served as a deterrent to persons contemplating car cruising.
- 9 The Original Injunction did not eliminate car cruising but did cause a decrease in such activity. Since the order lapsed there has been a marked increase.

### *Relevant Enactments*

- 10 Section 37(1) Senior Courts Act 1981 provides that:
- “The High Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases in which it appears to the court to be just and convenient to do so.”
- 11 For the reasons set out in the evidence filed herewith (and the evidence in support of the application for the Original Injunction) the

Claimants will contend it is just and convenient for the honourable court to grant an injunction in this instance.

12 Section 111(1) Local Government Act 1972 provides that:

“Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.”

13 Section 222 Local Government Act 1972 extends that power and empowers local authorities to become involved in litigation if so doing facilitates the discharge of their functions and is in the interest of their inhabitants.

14 Section 222(1) Local Government Act 1972 provides that:

(1) “Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area—

(a) they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name, and

(b) they may, in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment.”

15 Further, section 1 of the Localism Act 2011 provides that a local authority has power to do anything that individuals may do.

16 Accordingly, the Claimants are entitled to bring this claim for the benefit of all inhabitants of the Black Country. Further it is just and convenient and in accordance with the overriding objective for all the Claimants to bring a single claim.

17 By section 130, Highways Act 1980, the Claimants are under a duty to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority. The injunctive relief sought in these proceedings is necessary to protect the rights of the public to the use and enjoyment of highways within the Claimants' districts.

18 By section 6 of the Crime and Disorder Act 1998, local authorities must formulate and implement, *inter alia*, a strategy for the reduction of crime and disorder in their areas (including anti-social and other behaviour adversely affecting the local environment), which strategy

the authorities must keep under review for the purposes of monitoring its effectiveness and making any necessary or expedient changes.

19 Section 17(1) Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

20 The Claimants contend that taking measures to combat car cruising falls within and forms part of their statutory function (set out above) to reduce crime and disorder in their areas.

### *Factual Background*

21 The Claimants will rely upon the witness statements filed with this Claim Form and those filed in support of the adjourned application to extend the Original Injunction.

22 In summary the Claimants aver that:

- (1) Persons participating in car cruising meet on highways and areas adjacent to highways. Such areas include industrial estates and car parks.
- (2) The locations for such meetings vary but are to be found throughout the Black Country.
- (3) Such meetings may be publicised in advance via social media or word of mouth or may be impromptu.
- (4) At such meetings some or all of conduct set out above takes place.
- (5) Such conduct affects the safety, comfort, well-being and livelihoods of inhabitants of the Black Country.
- (6) Such conduct diverts the resources of the Police, Ambulance Service and hospitals away from other legitimate matters.

23 The Original Injunction was effective in reducing and inhibiting car cruising.

24 Since 2 February 2021 car cruising has again increased with more events and larger numbers of spectators at such events. The Police are receiving an increased volume of calls relating to such activities.

25 Such increased activity has continued following the relaxation of restrictions on social gatherings imposed during the covid-19 pandemic. There appears to be a growing perception among those

who engage in car cruising that the Claimants and the Police are impotent to restrict the activity.

25A The conduct described above frequently involves the commission of criminal offences which is deliberate and which cannot adequately be prevented or restrained by the use of criminal law sanctions.

25B Such offences may include but are not limited to:

- (1) Dangerous driving;
- (2) Speeding;
- (3) Racing;
- (4) Driving without insurance

25C The said conduct is also tortious and, in particular, constitutes a public nuisance.

25D Further, by engaging in the conduct described above, the Defendants infringe or threaten to infringe

- (1) other road users' and pedestrians' right to life, pursuant to Article 2, European Convention on Human Rights (the "Convention").

On 20 November 2022 a fatal road traffic collision occurred in the area of the Third Defendant when a vehicle collided with persons spectating at a cruise/street race.

and/or

- (2) the right to respect for the private and family lives, pursuant to Article 8, Convention, of residents living in the locality of the roads or spaces used for street-cruising.

25E While all persons have the right to freedom of association and peaceful assembly (Convention, Art.11), such rights are qualified and may lawfully be interfered with in the interests of 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.

25F Such rights do not extend to permitting the commission of serious criminal activity that imperils the lives of others.

25G Injunctive relief sought is necessary in a democratic society and is proportionate. It represents the only way to protect the rights referred to above and is in accordance with a legitimate aim.

### *Justification for an Injunction*

- 26 An Injunction in the terms sought would assist the Claimants in discharging their statutory duties set out above.
- 27 Such an Injunction would be of benefit to persons generally throughout the Black Country.
- 28 The proposed Injunction does not interfere with rights and freedoms of the Defendants since the behaviour that it seeks to prohibit is illegal and/or anti-social. The Defendants remain free to attend lawful motor-sports events and exhibitions.

### *Power of Arrest*

- 29 Section 27 of the Police and Justice Act 2006 provides *inter alia*:
- “(1) This section applies to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972 (c 70) (power of local authority to bring, defend or appear in proceedings for the promotion or protection of the interests of inhabitants of their area).
- (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 mentioned in subsection (2) consists of or includes the use or threatened use of violence, or

(b) there is a significant risk of harm to the person mentioned in that subsection...”

30 The Claimants aver that car cruising causes and is capable of causing nuisance or annoyance to persons in the Black Country and that the car cruising creates a significant risk of harm to such persons.

### *Service of this Claim Form*

31 The Claimants seek orders for service of the Claim Form and supporting documentation by alternative means pursuant to CPR 6.15 & 6.27. The proposed steps to effect service are set out in a draft Order. Such steps are likely to bring this Claim and the hearing of the application for an Injunction to the attention of those persons who may wish to oppose the making of the order or intervene in the proceedings.

*Service of any Injunction Granted*

32 The Claimants will also seek an order dispensing with personal service of the Injunction. The proposed steps to bring the order to the attention of persons likely to be affected by any Injunction are set out in a draft order.

33 The Claimants submit that such steps are likely to ensure that awareness of the existence of the Injunction will be widespread throughout the Black Country.

**And the Claimants claim:**

- (1) An Injunction Order in the form annexed hereto;
- (2) A Power of Arrest ancillary to such Injunction;
- (3) Such further or other relief as the Court thinks fit.

**MICHAEL SINGLETON**

DATED this 07 day of October 2022

The Claimants believe that the facts stated in these Particulars of Claim are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by all the Claimants to sign this statement.

FULL NAME: DAVID PATTISON

POSITION OR OFFICE HELD: CHIEF OPERATING OFFICER



SIGNED

REDATED this Sixth day of June 2023

The Claimants believe that the facts stated in these Particulars of Claim (version 5) are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by all the Claimants to sign this statement.

FULL NAME: TRACEY CHRISTIE

POSITION OR OFFICE HELD: HEAD OF LEGAL SERVICES

A handwritten signature in black ink, appearing to be 'T. Christie', with a small horizontal line extending to the right.

SIGNED:

REDATED: this THIRTIETH day of JANUARY 2024

INJUNCTION ORDER (VERSION 4)

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

Claim No. KB-2022-BHM-000188

**Mr Justice Ritchie 19 May 2023**

In the matter of an application for an injunction under s.222 Local Government Act 1972 and s.130 of the Highways Act 1980

B E T W E E N:-

1. WOLVERHAMPTON CITY COUNCIL
2. DUDLEY METROPOLITAN BOROUGH COUNCIL
3. SANDWELL METROPOLITAN BOROUGH COUNCIL
4. WALSALL METROPOLITAN  
BOROUGH COUNCIL

Claimants

-and-

1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING  
WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)

4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

5. Mr ANTHONY PAUL GALE

6. Miss WIKTORIA SCZCUBLINSKA

7. MR ISA IQBAL

Defendants

Amended by Order of the Honourable Mr Justice Ritchie on 19 May 2023

Fifth and Sixth Defendants added as parties pursuant to the Order of HHJ Kelly made on 4 October 2023

Seventh Defendant added as a party pursuant to the Order of HHJ Kelly made on 1 November 2023

To: the Fourth Defendants being Persons Unknown being drivers, riders or passengers in or on motor vehicle(s) who participate between the hours of 3:00pm and 7:00am in a gathering of 2 or more persons within the Black Country Area shown on Plan A (attached) at which such Defendants engage in motor racing or motor stunts or other dangerous or obstructive driving

And to: the Fifth, ~~and~~ Sixth and Seventh Defendants ("the Named Defendants") being persons who have been found to be in breach of this Interim Injunction and who thereby became parties to the claim

#### PENAL NOTICE

IF YOU THE WITHIN NAMED PERSONS UNKNOWN AND THE NAMED DEFENDANTS , 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**

**IMPORTANT NOTICE TO THE DEFENDANTS**

This Order prohibits you from doing the acts set out in this Order. You should read it very carefully. You are advised to consult a solicitor as soon as possible. You have the right to ask the Court to vary or discharge this Order but you must obey the order unless it is varied or discharged by the Court.

A Defendant who is an individual who is ordered not to do something must not do it himself/herself or in any other way. He/she must not do it through others acting on his/her behalf or on his/her instructions or with his/her encouragement.

This Order was made when the Defendants were not present at court but notice of the Claimants application had been given

**Before the Honourable Mr Justice Ritchie** sitting at the High Court of Justice, Birmingham District Registry, Priory Courts, 33 Bull Street, Birmingham, B4 6DS on 19 May 2023

**Upon** hearing Mr Singleton of counsel for the Claimants and there being no appearance by any other person and neither the Court nor the Claimants having received any notification that any other person wished to be joined as a party or heard

**And Upon** the Claimants' application, by an Application Notice dated 7 October 2022 for an injunction pursuant to section 222 Local Government Act 1972 and section 130 Highways Act 1980

**And Upon** the Court having granted an Injunction and Power of Arrest, by Order of the Honourable Mrs Justice Hill sealed on 22 December 2022

**And Upon** the Court having further reconsidered the grant of the Injunction and Power of Arrest (following a previous review held by the Honourable Mr Justice Freedman on 6 and 13 February 2023), as directed by paragraph 2 of the Order of Freedman J sealed on 16 February 2023

**And Upon** the court having exercised its discretion to grant injunctive relief pursuant to section 37(1) Senior Courts Act 1981;

**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 the Injunction Order and that the Power of Arrest should therefore be continued.

**And Upon** the Court noting the order of the Honourable Mr Freedman sealed on 16 February 2023 giving directions and approving service by alternative means pursuant to CPR r.6.27 and CPR r.81.4 of: that order; and further evidence.

**And Upon** it appearing to the court that there is good reason to authorise service by a method or place not otherwise permitted by CPR Parts 6 & 81

**And Upon** the Claimants renewing their undertaking to inform the Court forthwith if the Supreme Court deliver judgement in the appeal known as *Wolverhampton City Council and others (Respondents) v London Gypsies and Travellers and others (Appellants)* [2022] UKSC/0046

**And Upon** the Claimants reconfirming that this Order is not intended to prohibit lawful motorsport taking place on private land where planning permission has been granted (or is not required) and such activities take place under an approved code or licence from a recognised regulatory body.

**And Upon** the Court considering that further clarification was necessary as to the particular categories of Defendant who are Person Unknown to whom this injunction and power of arrest applies

**And further upon** the Claimant undertaking, and being given permission, to file an Amended Claim Form and An Amended Particulars of Claim to reflect the addition to the proceedings of the Fourth Defendant referred to above and to specify the tort(s) and/or crime(s) that this Order is intended to prevent or inhibit. Such amendments to be filed by 4.00pm, 9 June 2023 and served by the same date by adopting like measures to those set out at paragraphs 11 (3) & (6) in the Combined Directions Order

IT IS ORDERED THAT:

**Injunction in force**

- 1 The Injunction and Power of Arrest granted by the Honourable Mrs Justice Hill, sealed on 22 December 2022, shall remain in force save that paragraph 1 of that Order be amended as set out below until the hearing of the claim unless varied or discharged by further Order of the Court

IT IS FORBIDDEN for any of the Fourth Defendants or any of the Named Defendants being a driver, rider or passenger in or on a motor vehicle to participate between the hours of 3:00pm and 7:00am in a gathering of 2 or more persons within the Black Country Area shown on Plan A (attached) at which such Defendants engage in motor racing or motor stunts or other dangerous or obstructive driving.

Stunts are driving manoeuvres often undertaken at such gatherings including but not limited to:

- (1) “Burnouts” Causing a vehicle to damage or destroy its tyres by applying power to the drive wheels while braking so as to remain in place while the wheels revolve at speed.

- (2) “Donuts/Donutting” Causing a vehicle to rotate around a fixed point (normally the front axle) while not moving off causing noise, smoke and tyre marks to be created.
- (3) “Drifting” Turning by placing the vehicle in a skid so that most sideways motion is due to the skid not any significant steering input.
- (4) “Undertaking” passing a vehicle on its nearside so as to overtake in circumstances not permitted by the Highway Code

A Power of Arrest pursuant to section 27 Police and Criminal Justice Act 2006 shall apply to paragraph 1 of this Order.

## **Definitions**

2 In this Order the following definitions have been applied:

- (1) “the Injunction” means the Order of Hill J sealed on 23 December 2022 and as amended by this Order
- (2) “the Power of Arrest” means the Power of Arrest, sealed on 23 December 2022 and as amended by this Order
- (3) “the Interim Relief Application” - the Application Notice of 13 December 2022, including the draft Injunction Order referred to therein.

- (4) "the Alternative Service Application" – the Application Notice of 7 October 2022, seeking permission for alternative service of Claim Form.
- (5) "the Applications" – the Interim Relief Application, the Alternative Service Application and the application for a final injunction issued on 13 October 2022.
- (6) "the Documents"
  - (a) Notice of Hearing and a sealed copy of this Order
  - (b) Part 8 Claim Form;
  - (c) Particulars of Claim
  - (d) N16A application for an Injunction;
  - (e) Draft Injunction Order
  - (f) Draft Power of Arrest
  - (g) The Interim Relief Application;
  - (h) The Alternative Service Application.
- (7) "the Evidence" materials set out at Schedule A below
- (8) "the Combined Directions Order" means the order made on 19 May 2023 by Richie J giving further directions for this matter and the case of Claim No. KB-2022-BHM-000221 (respectively "Birmingham CC" and the "Birmingham claim"),

3 This Amended Order shall come into force immediately and be deemed served on the Defendants at 23.59 on the date upon which,

in each case, the final step in paragraph 11 of the Combined Directions Order have been complied with.

### **Further Matters**

- 4 Without prejudice to the foregoing, any person affected by this Amended Interim Injunction or Power of Arrest may apply to the Court at any time to vary or discharge it but if they wish to do so they must inform the Claimants' solicitors immediately (and in any event not less than 48 hours before the hearing of any such application).
- 5 Further information on how to make such application and useful sources of information are set out in the Combined Directions Order.
- 6 The costs of this application are reserved.

## SCHEDULE A

Please see:

- (1) Material contained in the Bundle of Evidence in support of Application for an Injunction as set out at Parts, B, C, D, E, F, G, H, I and K of the attached Index
- (2) Material contained in the "Bundle of Documents for Review Hearing 15 May 2023 (sic)" in support of Application for an Injunction as set out at Parts B, C, and D of the attached Index
- (3) Witness statements of:
  - (a) Tenth witness statement of Paul Brown, dated 9 May 2023
  - (b) Eleventh witness statement of Paul Brown, dated 17 May 2023

## INDEX TO ORDER DATED 19.5.2023

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3. Map of Black Country Area A 18
4. WCC & Others v Persons Unknown Application For Injunction FORM N16a A 19 - A 20
5. Annex to Form N16A - Index to bundle of evidence (not including statements of case) A 21 - A 26
6. Map of Black Country Area A 27
7. WCC & Others v Persons Unknown - Draft INJUNCTION order A 28 - A 40
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12. WCC & Others v Persons Unknown - Draft ORDER Permitting ALTERNATIVE SERVICE of injunction application A 51 - A 58
13. SCHEDULE A of Draft Order for Alternative Service - Index to bundle of evidence (not including statements of case) A 59 - A 64
14. STATEMENT OF PAUL BROWN 7 October 2022 A 65 - A 72

### B. SECTION B - Global Overarching Statements

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2. Overarching Statement of Pardip Nagra (For Wolverhampton) 19 July 2022 B 4 - B 35
3. EXHIBIT PN1 B 36
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6. Exhibit PN2 - Statement of Peter James (From 2014 Application 09 11 2013\_Redacted) B 42 - B 44
7. EXHIBIT PN3 B 45
8. Exhibit PN3 - Statement of Carl Yeomans (From 2014 Application 07 11 2013\_Redacted) B 46 - B 49
9. EXHIBIT PN4 B 50
10. Exhibit PN4 - Statements of David Clark (From 2014 Application) 12 03 2014 B 51 - B 70
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12. EXHIBIT PN5 B 72
13. Exhibit PN5 - Statement of Lisa Parmar (From 2014 Application 22 05 2014\_Redacted) B 73 - B 89
14. EXHIBIT PN6 B 90
15. Exhibit PN6 - Statement of Lydia Pulford (From 2014 Application 11 11 2013\_Redacted) B 91 - B 93

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## I. SECTION I - Supplemental Evidence Bundle as filed 14 December 2022

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## J. SECTION J - COURT ORDERS

1.	INJUNCTION (Granted 22.12.2022)	J 1 - J 24
2.	POWER OF ARREST (Granted 22.12.2022)	J 25 - J 27
3.	PLAN A Map of the Black Country Councils Areas	J 28
4.	KB 2022 BHM 000221 - Birmingham City Council v Nagmadin Ors; KB 2022 BHM 000188 Wolverhampton City Council & Ors v Persons Unknown (21.12.22) - Approved judgment	J 29 - J 46

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20.	Exhibit PB3H(i) - Part 2 Exhibit Cover AC1	K 61
21.	Exhibit PB3H(i) - Part 3 Exhibit AC1	K 62 - K 78
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IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION

CLAIM NO: KB-2022-BHM000188

**B E T W E E N:**

- (1) WOLVERHAMPTON CITY COUNCIL**
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL**
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL**
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**and**

**1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**Defendants**

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**BUNDLE OF DOCUMENTS FOR REVIEW HEARING 15 MAY 2023**

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## A. SECTION A - Statements of Case

1. Wolverhampton CC & Ors v Persons Unknown - Statement of Case for Hearing 15 May 2023 A 1 - A 7

## B. SECTION B - Evidence Filed on Behalf of the Claimant

1. Witness Statement Pardip Nagra (Wolverhampton City Council) 02 May 2023 B 1 - B 3
2. Statement of Mark Wilson (Dudley MBC) 25 April 2023 B 4 - B 6
3. Statement of Pardip Sandhu (Sandwell MBC) 3 May 2023 B 7 - B 17
4. Witness Statement of Steve Gittins (Walsall MBC) 03 May 2023 B 18 - B 21
5. Statement of PC Mark Campbell 02 May 2023 B 22 - B 25
6. 7th Statement of Paul Brown 27 2 23 B 26 - B 33
7. Exhibit Cover PB7A B 34
8. EXHIBIT PB7A B 35 - B 45
9. Exhibit Cover PB7B B 46
10. EXHIBIT PB7B B 47 - B 61
11. Exhibit Cover PB7C B 62
12. EXHIBIT PB7C B 63 - B 67
13. Exhibit Cover PB7D B 68
14. EXHIBIT PB7D B 69 - B 70
15. Exhibit Cover PB7E B 71
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17. Exhibit Cover PB7F B 79
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19. 8th Statement of Paul Brown 28 April 23 B 89 - B 93
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21. EXHIBIT PB8A B 95 - B 108
22. 9th Witness Statement of Paul Brown B 109 - B 112
23. EXHIBIT PB9A B 113 - B 143

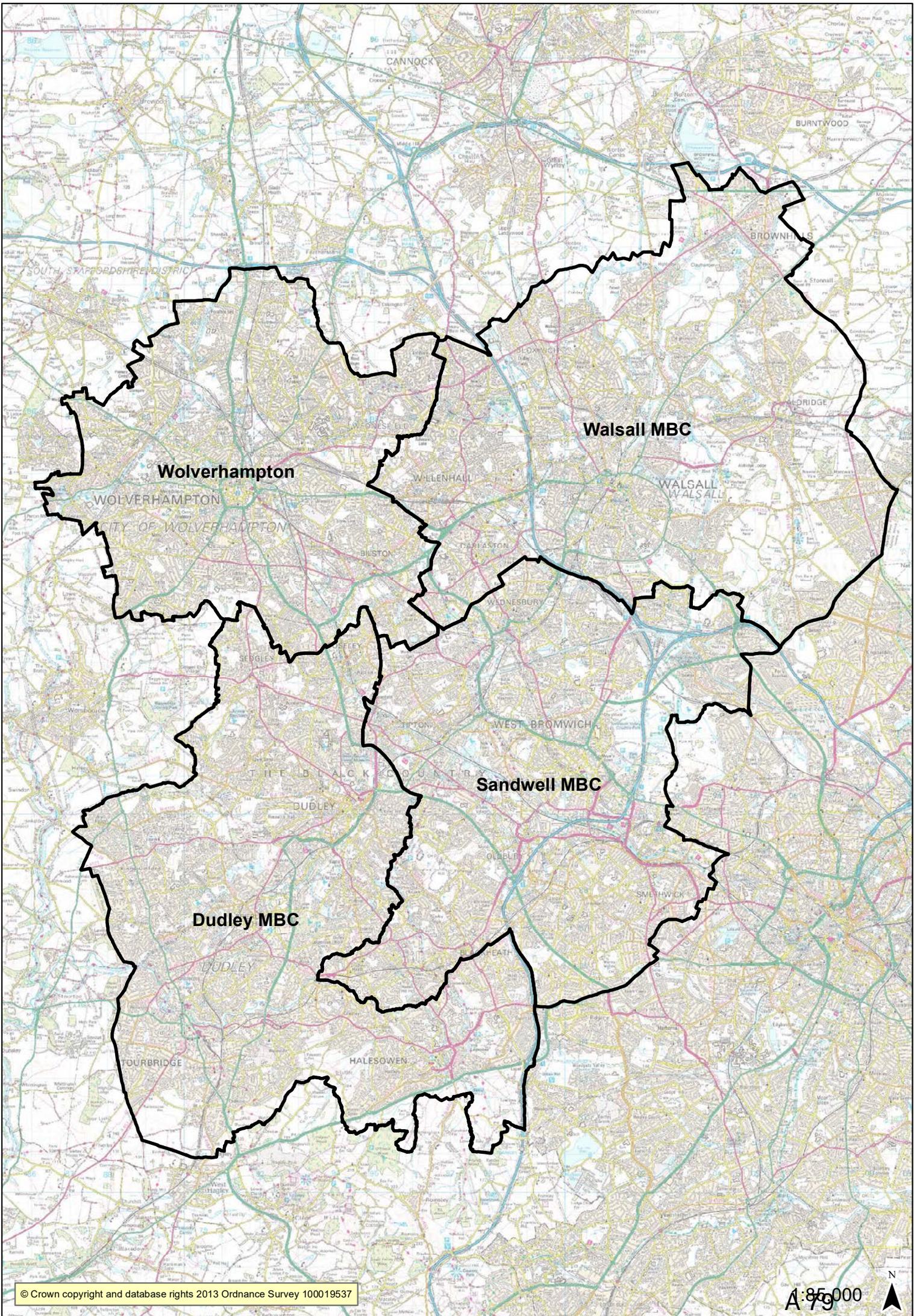
## C. SECTION C - Evidence Filed on Behalf of The Defendant

1. Confirmation of No Evidence from Any Defendant C 1

## D. SECTION D - Court Orders, Judgments and Transcripts of Hearings

1. SEALED INJUNCTION ORDER (Order of Hill J) 22.12.22 Wolverhampton City Council and others v Unknown KB-2022-BHM-000188 D 1 - D 24
2. SEALED POWER OF ARREST (Order of Hill J) 22.12.22 KB-2022-BHM-000188 D 25 - D 27
3. Wolverhampton City Council v Persons Unknown and Others: KB- 2022-BHM 000188 (21.12.22) - Approved judgment of Hill J D 28 - D 45
4. Order 13 02 23 (sealed 16 February 23) Wolverhampton City Council v Persons Unknown and Others 2023 KB-2022-BHM-000188 D 46 - D 59
5. Schedule A Index (Schedule to Order Sealed 16 February 2023) D 60 - D 66
6. Plan A (attached to order 16 February) D 67
7. TRANSCRIPT of JUDGMENT 13 February 2023 - Wolverhampton City Council v Persons Unknown (KB-2022-BHM-000188) D 68 - D 84

8. TRANSCRIPT of HEARING 06 February 2023 Wolverhampton City Council & Ors v Persons Unknown - KB.2022.BHM-00188 D 85 - D 143
9. Hearing Notice - Hearing: 15 May 2023 at 10.30 a.m. D 144



CANNOCK

BURNTWOOD

BROWNHILLS

SOUTH STAFFORDSHIRE DISTRICT

**Walsall MBC**

**Wolverhampton**

WOLVERHAMPTON

CITY OF WOLVERHAMPTON

WILLENHALL

WALSALL

BILSTON

DANIELASTON

WADNESBURY

SEDGLEY

JEFFERY

RIPTON

WEST BROMWICH

THE BLACK COUNTRY

**Sandwell MBC**

BUDLEY

**Dudley MBC**

DUDLEY

QUEBLI

SMETHWICK

TOURBRIDGE

HALESOWEN



B E T W E E N:

<p>(1) WOLVERHAMPTON CITY COUNCIL (2) DUDLEY METROPOLITAN BOROUGH COUNCIL, (3) SANDWELL METROPOLITAN BOROUGH COUNCIL (4) WALSALL METROPOLITAN BOROUGH COUNCIL</p>	Claimants
<p>(1) PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING</p> <p>(2) PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING</p> <p>(3) PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)</p> <p>(4) PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING</p> <p>(5) ANTHONY PAUL GALE</p> <p>(6) WIKTORIA SZCZUBLINSKA</p> <p>(7) <a href="#">MR ISA IQBAL</a></p>	Defendants

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INJUNCTION - SECTION 37(1) SENIOR COURTS ACT 1981 (PROCEEDINGS BROUGHT PURSUANT TO SECTION 222 LOCAL GOVERNMENT ACT 1972)

### POWER OF ARREST

Under section 27 Police and Criminal Justice Act 2006

[\(VERSION 4\)](#)

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Granted by Order of Hill J on 22 December 2022  
Amended by Order of Ritchie J on 19 May 2023  
Amended by Order of HHJ Kelly on 04 October 2023  
[Amended by Order of HHJ Kelly on 1 November 2023](#)



The court office at the High Court of Justice, Birmingham District Registry, 5<sup>th</sup> Floor, Priory Courts, 33 Bull Street, Birmingham, B4 6DS (telephone: 0121 681 4441) is open between 10 a.m. to 4 p.m. Mondays to Fridays (excluding public holidays.) When contacting the court please mark any correspondence for the attention of the Court Manager and always quote the Claim number.

IN THE HIGH COURT OF JUSTICE, KING'S BENCH DIVISION,  
2022-BHM-000188  
BIRMINGHAM DISTRICT REGISTRY

Claim no: KB-

*WOLVERHAMPTON CITY COUNCIL & OTHERS v PERSONS UNKNOWN*

(Here set out the provisions of the order to which this power of arrest applies and no others).

(Where marked \* delete as appropriate)

**The Court orders that a power of arrest under Section 27 Police and Criminal Justice Act 2006 applies to the following paragraph of an order made on 22 December 2022 and amended on 19 May 2023.**

**IT IS FORBIDDEN for any of the Fourth Defendants [or any of the Named Defendants](#), being a driver, rider or passenger in or on a motor vehicle to participate between the hours of 3:00 p.m. and 7:00 a.m. in a gathering of 2 or more persons within the Black Country Area shown on Plan A (attached) at which such Defendants present engage in motor racing or motor stunts or other dangerous or obstructive driving.**

“Stunts” are driving manoeuvres often undertaken at such gatherings including but not limited to:

- a. “Burnouts” – Causing a vehicle to destroy its tyres by applying power to the drive wheels while braking so as to remain in place while the wheels revolve at speed.
- b. “Donuts/Donutting” – Causing a vehicle to rotate around a fixed point (normally the front axle) while not moving-off causing noise, smoke and tyre marks to be created.
- c. “Drifting” – Turning by placing the vehicle in a skid so that most sideways motion is due to the skid not any significant steering input.
- d. “Undertaking” – Passing a vehicle on its nearside so as to overtake in circumstances not permitted by the Highway Code

## POWER OF ARREST

In respect of a power of arrest under section 27 Police and Criminal Justice Act 2006, the Court, upon being satisfied pursuant to section 27(3) Police and Criminal Justice Act 2006 that the relevant conduct consists of or includes the use or threatened use of violence and/or there is a significant risk of harm to a person mentioned in section 27(2) of the said Act, has ordered that a power of arrest be attached to the order.

A power of arrest is attached to the order whereby any constable may (under the power given by Section 27(4) Police and Criminal Justice Act 2006) arrest without a warrant a person whom he has reasonable cause for suspecting to be in breach of any of the provisions set out in this order or otherwise in contempt of court in relation to such provision.

### This Power of Arrest

Originally came into effect on 12.01 a.m. (00:01 hours) on 22 December 2022 and remains in force with the amendments ordered by the court on 19 May 2023 and 4 October 2023, and shall continue until 11:59 pm (23:59 hours) on 21 December 2023, unless it is extended, varied or discharged by further order of the court.

### Note to the Arresting Officer

Where a person is arrested under the power given by section 27(4) Police and Criminal Justice Act 2006, section 27(6) Police and Criminal Justice Act 2006 requires that:

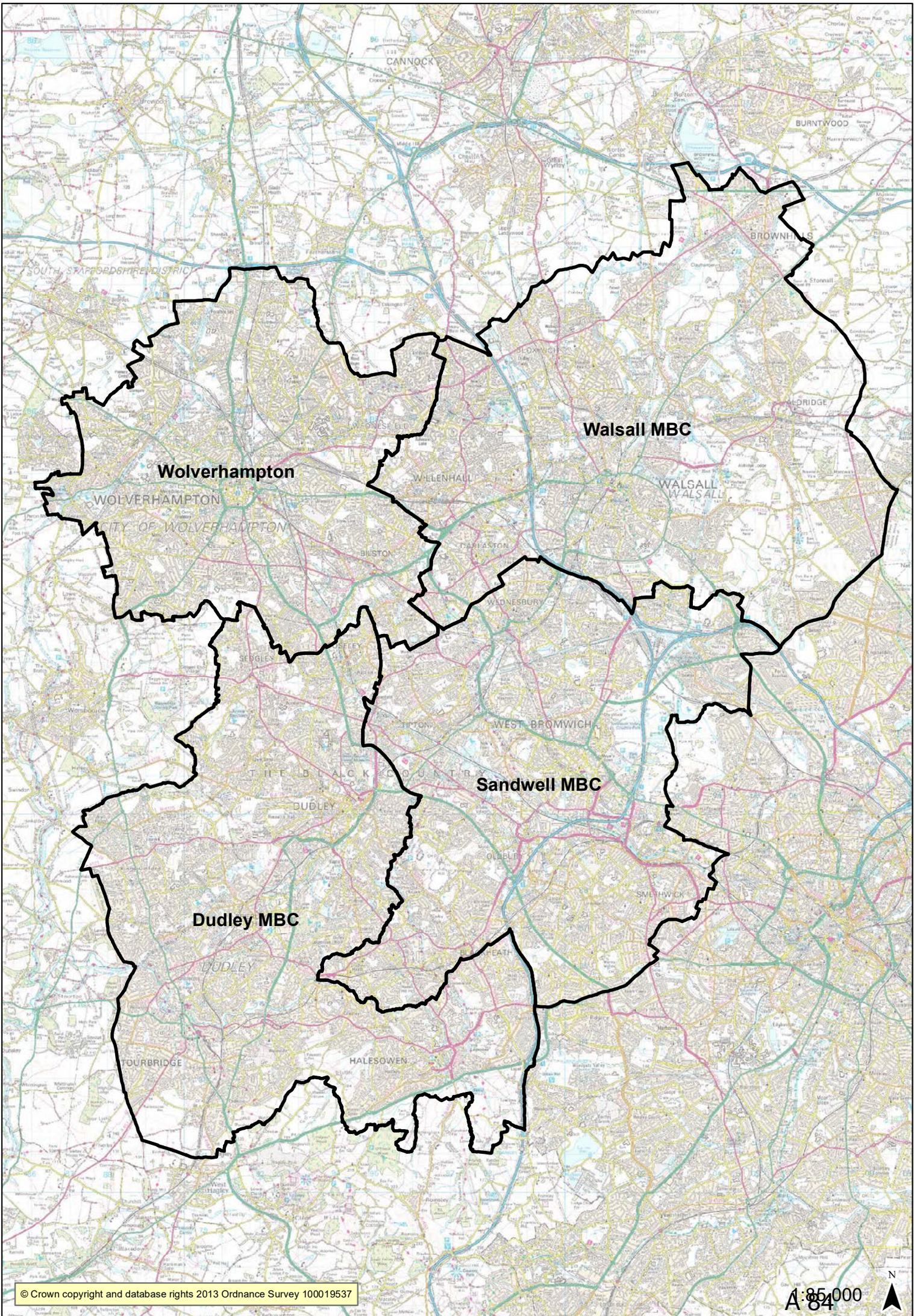
- A constable shall, after making such an arrest, forthwith inform the person on whose application the injunction was granted;
- Such person shall be brought before the relevant judge within 24 hours beginning at the time of his arrest; And if the matter is not then disposed of forthwith, the Judge may remand such person.
- Nothing in section 155 authorises the detention of such person after the expiry of the period of 24 hours beginning at the time of his arrest, unless remanded by the court.
- In reckoning any period of 24 hours for these purposes, no account shall be taken of Christmas Day, Good Friday or any Sunday.

Ordered by The Honourable Mrs Justice Hill, The Honourable Mr Justice Ritchie  
and Her Honour Judge Kelly  
On 22 December 2022, 19 May 2023, 4 October 2023 [and 1 November 2023](#)

Page 2 of 3

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**Wolverhampton**

**Walsall MBC**

**Sandwell MBC**

**Dudley MBC**



**B. SECTION B - Supreme Court Judgment in the WCC v London Gypsies and Travellers and Others case [2023] UKSC 47**



## Press Summary

29 November 2023

### **Wolverhampton City Council and others (Respondents) v London Gypsies and Travellers and others (Appellants)**

**[2023] UKSC 47**

*On appeal from [2022] EWCA Civ 13*

**Justices:** Lord Reed (President), Lord Hodge (Deputy President), Lord Lloyd-Jones, Lord Briggs, Lord Kitchin

#### **Background to the Appeal**

This appeal concerns injunctions obtained by local authorities to prevent unauthorised encampments by Gypsies and Travellers. An injunction is a court order that requires the persons to whom it is addressed to do, or refrain from doing, a specified act. In this appeal, the Supreme Court is asked to decide whether the court has the power to grant injunctions against persons who are unknown and unidentified at the date of the grant of the injunction, and who have not yet performed, or even threatened to perform, the acts which the injunction prohibits. These persons are known as “**newcomers**” and the injunctions made against them as “**newcomer injunctions**”.

Between 2015 and 2020, 38 different local authorities, or groups of local authorities, obtained injunctions designed to prevent Gypsies and Travellers from camping on local authority land without permission. The local authorities relied on a range of statutory provisions, including section 187B of the Town and Country Planning Act 1990 which enables the court to grant an injunction to restrain an actual or anticipated breach of planning control. Some of the local authorities also relied on common law causes of action, such as trespass.

The injunctions were addressed to “persons unknown” because the Gypsies and Travellers who might wish to camp on a particular site could not generally be identified in advance. At the time the injunctions were granted, these unknown persons, or newcomers, had not yet committed, or threatened to commit, any breach of planning control, trespass or other relevant unlawful activity. The local authorities obtained the injunctions without notifying any other party, at hearings where the interests of Gypsies and Travellers were not represented. Once obtained, copies of the injunctions were displayed in prominent locations on each of the relevant sites.

From around mid-2020, the local authorities made applications to extend or vary injunctions which were coming to an end. After a hearing in one of these cases, the High Court judge

decided that there was a need to review all newcomer injunctions affecting Gypsies and Travellers. He gave the appellants – (i) London Gypsies and Travellers, (ii) Friends, Families and Travellers, and (iii) Derbyshire Gypsy Liaison Group – permission to intervene so that the interests of Gypsies and Travellers could be represented. Following the review hearing, the judge concluded that the court did not have the power to grant newcomer injunctions, except on a short-term, interim basis. He therefore made a series of orders discharging the newcomer injunctions obtained by the local authorities.

The Court of Appeal held that the court had the power to grant newcomer injunctions, and allowed the local authorities' appeal. The appellants now appeal to the Supreme Court.

## **Judgment**

The Supreme Court unanimously dismisses the appellants' appeal. It holds that the court has power to grant newcomer injunctions. However, it should only exercise this power in circumstances where there is a compelling need to protect civil rights or to enforce public law that is not adequately met by any other available remedies. In addition, newcomer injunctions should only be made subject to procedural safeguards designed to protect newcomers' rights. Lord Reed, Lord Briggs and Lord Kitchin give a joint judgment, with which the other members of the Court agree.

## **Reasons for the Judgment**

Newcomer injunctions are a wholly new form of injunction, which are granted without prior notice against persons who cannot be known at the time the order is made. They therefore potentially apply to anyone in the world [142]-[144].

In the context of Gypsies and Travellers, newcomer injunctions are generally made in cases where the affected Gypsies and Travellers are unlikely to have any right or liberty to set up unauthorised encampments on the relevant local authority land. The injunctions therefore seek to enforce the local authorities' legal rights in proceedings where there is no real dispute to be resolved. Experience has shown that the usual processes of eviction, or even injunction, against named Gypsies and Travellers are inadequate because, by the time the local authority has commenced proceedings, the original group will often have left and been replaced by others, against whom the proceedings are of no effect. Local authorities therefore seek newcomer injunctions because they provide an effective means of vindicating their legal rights. Even when they are interim in form, newcomer injunctions operate in substance against newcomers on a medium to long-term basis, rather than as an emergency short-term measure to protect local authorities' rights pending a later trial process [139], [142]-[144].

The court has jurisdiction, or power, to grant newcomer injunctions because its power to grant injunctions is unlimited, subject to any relevant statutory restrictions. The power is equitable in origin, and has been confirmed and restated by Parliament in section 37(1) of the Senior Courts Act 1981 [16]-[18], [145]-[146]. The court's power to grant injunctions is not limited to pre-existing, established categories. Injunctions may be granted in new circumstances as and when required by the principles of justice and equity which underpin them. This is demonstrated by the courts' development of several new kinds of injunction over the last 50 years, including freezing injunctions, search orders, third party disclosure orders, internet blocking orders, and anti-suit injunctions [19]-[22], [147]-[148].

The question for the Supreme Court is, therefore, whether the court should, as a matter of principle and practice, grant newcomer injunctions and, if so, on what basis and subject to what safeguards. The Court answers this question by reference to equitable principles, which derive from the important role of equity in putting right defects or inadequacies in the common law. First, where there is a right, there should be a remedy to fit that right. Secondly, equity looks

to the substance rather than the form. Thirdly, equity operates flexibly and responds to changes in circumstances over time. Fourthly, subject to the requirements of justice and convenience, equity is not constrained by any limiting rule in fashioning a remedy to suit new circumstances [149]-[153], [238 (iii)].

The Court considers, and rejects, a number of objections to the grant of newcomer injunctions [23]-[56], [154]-[166], [168]-[185]. It concludes that there is no reason why newcomer injunctions should never be granted, in principle. Newcomer injunctions are a valuable and proportionate remedy in appropriate cases. However, this does not mean that it will be appropriate for the court to grant a newcomer injunction in every case. In deciding whether it should grant a newcomer injunction, the court should have regard to the equitable principles described above, which require that newcomer injunctions should only be granted in certain circumstances, and subject to certain safeguards [167], [186], [237]-[238].

The applicable principles and safeguards will evolve over time in the light of the experience of the courts where applications for newcomer injunctions are made [187]. However, newcomer injunctions to prohibit unauthorised encampments by Gypsies and Travellers are only likely to be justified if, first, the applicant local authority has demonstrated that, on the available evidence, there is a compelling need to protect civil rights or enforce public law that is not adequately met by any other remedies [167(i)], [188]-[220], [238(iv)(a)]. Secondly, because newcomer injunctions are made without notifying the affected newcomers, procedural safeguards must be built into both the application and the court order. The application for the injunction should be advertised widely so that those likely to be affected by it (or bodies representing their interests like the appellants) are given a fair opportunity to make representations before the injunction is made. Once the injunction has been granted, it must be displayed in a prominent location at the affected site. Newcomers who become aware of it should have notified clearly to them the right to apply to court to have it varied or set aside, without having to show that circumstances have changed [167(ii)], [226]-[232], [238(iv)(b)]. Thirdly, because the interests of Gypsies and Travellers are not typically represented at the hearings where newcomer injunctions are granted, the applicant local authorities will be obliged to comply with a strict duty which requires them to disclose to the court (after due research) any matter which a newcomer might raise to oppose the making of the order [167(iii)], [219], [238(iv)(c)]. Fourthly, newcomer injunctions should be limited so that they do not apply for a disproportionately long time period or to a disproportionately wide geographical area [167(iv)], [225], [238(iv)(b)]. Finally, the court must be satisfied that it is, on the particular facts of the case, just and convenient that a newcomer injunction is granted [167(v)], [238(iv)(d)].

*References in square brackets are to paragraphs in the judgment.*

**NOTE:**

**This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)**



**Michaelmas Term**

**[2023] UKSC 47**

*On appeal from: [2022] EWCA Civ 13*

## **JUDGMENT**

### **Wolverhampton City Council and others (Respondents) v London Gypsies and Travellers and others (Appellants)**

before

**Lord Reed, President  
Lord Hodge, Deputy President  
Lord Lloyd-Jones  
Lord Briggs  
Lord Kitchin**

**JUDGMENT GIVEN ON  
29 November 2023**

**Heard on 8 and 9 February 2023**

*Appellants*

Richard Drabble KC  
Marc Willers KC  
Tessa Buchanan  
Owen Greenhall

(Instructed by Community Law Partnership (Birmingham))

*1<sup>st</sup> Respondent*

Mark Anderson KC  
Michelle Caney

(Instructed by Wolverhampton City Council Legal Services)

*2<sup>nd</sup> Respondent*

Nigel Giffin KC  
Simon Birks

(Instructed by Walsall Metropolitan Borough Council Legal Services)

*3<sup>rd</sup> to 10<sup>th</sup> Respondents*

Caroline Bolton  
Natalie Pratt

(Instructed by Sharpe Pritchard LLP and London Borough of Barking and Dagenham Legal Services)

*1<sup>st</sup> Intervener*

Stephanie Harrison KC  
Stephen Clark  
Fatima Jichi

(Instructed by Hodge Jones & Allen LLP)

*2<sup>nd</sup> Intervener*

Jude Bunting KC  
Marlena Valles  
(Instructed by Liberty)

*3<sup>rd</sup> and 4<sup>th</sup> Interveners*

Richard Kimblin KC  
Michael Fry

(Instructed by HS2 Ltd Legal Department and the Government Legal Department)

**Appellants**

- (1) London Gypsies and Travellers
- (2) Friends, Families and Travellers
- (3) Derbyshire Gypsy Liaison Group

**Respondents**

- (1) Wolverhampton City Council
- (2) Walsall Metropolitan Borough Council
- (3) London Borough of Barking and Dagenham
- (4) Basingstoke and Deane Borough Council and Hampshire County Council
- (5) London Borough of Redbridge
- (6) London Borough of Havering
- (7) Nuneaton & Bedworth Borough Council and Warwickshire County Council
- (8) Rochdale Metropolitan Borough Council
- (9) Test Valley Borough Council and Hampshire County Council
- (10) Thurrock Council
- (11) Persons unknown

**Interveners**

- (1) Friends of the Earth
- (2) Liberty
- (3) High Speed Two (HS2) Ltd
- (4) Secretary of State for Transport

**LORD REED, LORD BRIGGS AND LORD KITCHIN (with whom Lord Hodge and Lord Lloyd-Jones agree):**

*1. Introduction*

*(1) The problem*

1. This appeal concerns a number of conjoined cases in which injunctions were sought by local authorities to prevent unauthorised encampments by Gypsies and Travellers. Since the members of a group of Gypsies or Travellers who might in future camp in a particular place cannot generally be identified in advance, few if any of the defendants to the proceedings were identifiable at the time when the injunctions were sought and granted. Instead, the defendants were described in the claim forms as “persons unknown”, and the injunctions similarly enjoined “persons unknown”. In some cases, there was no further description of the defendants in the claim form, and the court’s order contained no further information about the persons enjoined. In other cases, the defendants were described in the claim form by reference to the conduct which the claimants sought to have prohibited, and the injunctions were addressed to persons who behaved in the manner from which they were ordered to refrain.

2. In these circumstances, the appeal raises the question whether (and if so, on what basis, and subject to what safeguards) the court has the power to grant an injunction which binds persons who are not identifiable at the time when the order is granted, and who have not at that time infringed or threatened to infringe any right or duty which the claimant seeks to enforce, but may do so at a later date: “newcomers”, as they have been described in these proceedings.

3. Although the appeal arises in the context of unlawful encampments by Gypsies and Travellers, the issues raised have a wider significance. The availability of injunctions against newcomers has become an increasingly important issue in many contexts, including industrial picketing, environmental and other protests, breaches of confidence, breaches of intellectual property rights, and a wide variety of unlawful activities related to social media. The issue is liable to arise whenever there is a potential conflict between the maintenance of private or public rights and the future behaviour of individuals who cannot be identified in advance. Recent years have seen a marked increase in the incidence of applications for injunctions of this kind. The advent of the internet, enabling wrongdoers to violate private or public rights behind a veil of anonymity, has also made the availability of injunctions against unidentified persons an increasingly significant question. If injunctions are available only against identifiable individuals, then the anonymity of wrongdoers operating online risks conferring upon them an immunity from the operation of the law.

4. Reflecting the wide significance of the issues in the appeal, the court has heard submissions not only from the appellants, who are bodies representing the interests of Gypsies and Travellers, and the respondents, who are local authorities, but also from interveners with a particular interest in the law relating to protests: Friends of the Earth, Liberty, and (acting jointly) the Secretary of State for Transport and High Speed Two (HS2) Ltd.

5. The appeal arises from judgments given by Nicklin J and the Court of Appeal on what were in substance preliminary issues of law. The appeal is accordingly concerned with matters of legal principle, rather than with whether it was or was not appropriate for injunctions to be granted in particular circumstances. It is, however, necessary to give a brief account of the factual and procedural background.

*(2) The factual and procedural background*

6. Between 2015 and 2020, 38 different local authorities or groups of local authorities sought injunctions against unidentified and unknown persons, which in broad terms prohibited unauthorised encampments within their administrative areas or on specified areas of land within those areas. The claims were brought under the procedure laid down in Part 8 of the Civil Procedure Rules 1998 (“CPR”), which is appropriate where the claimant seeks the court’s decision on a question which is unlikely to involve a substantial dispute of fact: CPR rule 8.1(2). The claimants relied upon a number of statutory provisions, including section 187B of the Town and Country Planning Act 1990, under which the court can grant an injunction to restrain an actual or apprehended breach of planning control, and in some cases also upon common law causes of action, including trespass to land.

7. The claim forms fell into two broad categories. First, there were claims directed against defendants described simply as “persons unknown”, either alone or together with named defendants. Secondly, there were claims against unnamed defendants who were described, in almost all cases, by reference to the future activities which the claimant sought to prevent, either alone or together with named defendants. Examples included “persons unknown forming unauthorised encampments within the Borough of Nuneaton and Bedworth”, “persons unknown entering or remaining without planning consent on those parcels of land coloured in schedule 2 of the draft order”, and “persons unknown who enter and/or occupy any of the locations listed in this order for residential purposes (whether temporary or otherwise) including siting caravans, mobile homes, associated vehicles and domestic paraphernalia”.

8. In most cases, the local authorities obtained an order for service of the claim forms by alternative means under CPR rule 6.15, usually by fixing copies in a prominent location at each site, or by fixing there a copy of the injunction with a notice

that the claim form could be obtained from the claimant's offices. Injunctions were obtained, invariably on without notice applications where the defendants were unnamed, and were similarly displayed. They contained a variety of provisions concerning review or liberty to apply. Some injunctions were of fixed duration. Others had no specified end date. Some were expressed to be interim injunctions. Others were agreed or held by Nicklin J to be final injunctions. Some had a power of arrest attached, meaning that any person who acted contrary to the injunction was liable to immediate arrest.

9. As we have explained, the injunctions were addressed in some cases simply to "persons unknown", and in other cases to persons described by reference to the activities from which they were required to refrain: for example, "persons unknown occupying the sites listed in this order". The respondents were among the local authorities who obtained such injunctions.

10. From around mid-2020, applications were made in some of the claims to extend or vary injunctions of fixed duration which were nearing their end. After a hearing in one such case, Nicklin J decided, with the concurrence of the President of the Queen's Bench Division and the Judge in Charge of the Queen's Bench Civil List, that there was a need for review of all such injunctions. After case management, in the course of which many of the claims were discontinued, there remained 16 local authorities (or groups of local authorities) actively pursuing claims. The appellants were given permission to intervene. A hearing was then fixed at which four issues of principle were to be determined. Following the hearing, Nicklin J determined those issues: *Barking and Dagenham London Borough Council v Persons Unknown* [2021] EWHC 1201 (QB); [2022] JPL 43.

11. Putting the matter broadly at this stage, Nicklin J concluded, in the light particularly of the decision of the Court of Appeal in *Canada Goose UK Retail Ltd v Persons Unknown* [2020] EWCA Civ 303; [2020] 1 WLR 2802 ("*Canada Goose*"), that interim injunctions could be granted against persons unknown, but that final injunctions could be granted only against parties who had been identified and had had an opportunity to contest the final order sought. If the relevant local authority could identify anyone in the category of "persons unknown" at the time the final order was granted, then the final injunction bound each person who could be identified. If not, then the final injunction granted against "persons unknown" bound no-one. In the light of that conclusion, Nicklin J discharged the final injunctions either in full or in so far as they were addressed to any person falling within the definition of "persons unknown" who was not a party to the proceedings at the date when the final order was granted.

12. Twelve of the claimants appealed to the Court of Appeal. In its decision, set out in a judgment given by Sir Geoffrey Vos MR with which Lewison and Elisabeth Laing LJ agreed, the court held that "the judge was wrong to hold that the court cannot grant final injunctions that prevent persons, who are unknown and unidentified at the date of

the order, from occupying and trespassing on land”: *Barking and Dagenham London Borough Council v Persons Unknown* [2022] EWCA Civ 13; [2023] QB 295, para 7. The appellants appeal to this court against that decision.

13. The issues in the appeal have been summarised by the parties as follows:

(1) Is it wrong in principle and/or not open to a court for it to exercise its statutory power under section 37 of the Senior Courts Act 1981 (“the 1981 Act”) so as to grant an injunction which will bind “newcomers”, that is to say, persons who were not parties to the claim when the injunction was granted, other than (i) on an interim basis or (ii) for the protection of Convention rights (ie rights which are protected under the Human Rights Act 1998)?

(2) If it is wrong in principle and/or not open to a court to grant such an injunction, then –

(i) Does it follow that (other than for the protection of Convention rights) such an injunction may likewise not properly be granted on an interim basis, except where that is required for the purpose of restraining wrongful actions by persons who are identifiable (even if not yet identified) and who have already committed or threatened to commit a relevant wrongful act?

(ii) Was Nicklin J right to hold that the protection of Convention rights could never justify the grant of a Traveller injunction, defined as an injunction prohibiting the unauthorised occupation or use of land?

## 2. *The legal background*

14. Before considering the development of “newcomer” injunctions – that is to say, injunctions designed to bind persons who are not identifiable as parties to the proceedings at the time when the injunction is granted – it may be helpful to identify some of the issues of principle which are raised by such injunctions. They can be summarised as follows:

(1) Are newcomers parties to the proceedings at the time when the injunction is granted? If not, is it possible to obtain an injunction against a non-party? If they are not parties at that point, when (if ever) and how do they become parties?

(2) Does the claimant have a cause of action against newcomers at the time when the injunction is granted? If not, is it possible to obtain an injunction without having an existing cause of action against the person enjoined?

(3) Can a claim form properly describe the defendants as persons unknown, with or without a description referring to the conduct sought to be enjoined? Can an injunction properly be addressed to persons so described? If the description refers to the conduct which is prohibited, can the defendants properly be described, and can an injunction properly be issued, in terms which mean that persons do not become bound by the injunction until they infringe it?

(4) How, if at all, can such a claim form be served?

15. This is not the stage at which to consider these questions, but it may be helpful to explain the legal context in which they arise, before turning to the authorities through which the law relating to newcomer injunctions has developed in recent times. We will explain at this stage the legal background, prior to the recent authorities, in relation to (1) the jurisdiction to grant injunctions, (2) injunctions against non-parties, (3) injunctions in the absence of a cause of action, (4) the commencement of proceedings against unidentified defendants, and (5) the service of proceedings on unidentified defendants.

*(1) The jurisdiction to grant injunctions*

16. As Lord Scott of Foscote commented in *Fourie v Le Roux* [2007] UKHL 1; [2007] 1 WLR 320, para 25, in a speech with which the other Law Lords agreed, jurisdiction is a word of some ambiguity. Lord Scott cited with approval Pickford LJ's remark in *Guaranty Trust Co of New York v Hannay & Co* [1915] 2 KB 536, 563 that "the only really correct sense of the expression that the court has no jurisdiction is that it has no power to deal with and decide the dispute as to the subject matter before it, no matter in what form or by whom it is raised". However, as Pickford LJ went on to observe, the word is often used in another sense: "that although the court has power to decide the question it will not according to its settled practice do so except in a certain way and under certain circumstances". In order to avoid confusion, it is necessary to distinguish between these two senses of the word: between the power to decide – in this context, the power to grant an injunction – and the principles and practice governing the exercise of that power.

17. The injunction is equitable in origin, and remains so despite its statutory confirmation. The power of courts with equitable jurisdiction to grant injunctions is, subject to any relevant statutory restrictions, unlimited: Spry, *Equitable Remedies*, 9<sup>th</sup> ed

(2014) (“Spry”), p 333, cited with approval in, among other authorities, *Broadmoor Special Hospital Authority v Robinson* [2000] QB 775, paras 20-21 and *Cartier International AG v British Sky Broadcasting Ltd* [2016] EWCA Civ 658; [2017] Bus LR 1, para 47 (both citing the equivalent passage in the 5<sup>th</sup> ed (1997)), and *Convoy Collateral Ltd v Broad Idea International Ltd* [2021] UKPC 24; [2023] AC 389 (“*Broad Idea*”), para 57. The breadth of the court’s power is reflected in the terms of section 37(1) of the 1981 Act, which states that:

“The High Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases in which it appears to the court to be just and convenient to do so.”

As Lord Scott explained in *Fourie v Le Roux* (ibid), that provision, like its statutory predecessors, merely confirms and restates the power of the courts to grant injunctions which existed before the Supreme Court of Judicature Act 1873 (36 & 37 Vict c 66) (“the 1873 Act”) and still exists. That power was transferred to the High Court by section 16 of the 1873 Act and has been preserved by section 18(2) of the Supreme Court of Judicature (Consolidation) Act 1925 and section 19(2)(b) of the 1981 Act.

18. It is also relevant in the context of this appeal to note that, as a court of inherent jurisdiction, the High Court possesses the power, and bears the responsibility, to act so as to maintain the rule of law.

19. Like any judicial power, the power to grant an injunction must be exercised in accordance with principle and any restrictions established by judicial precedent and rules of court. Accordingly, as Lord Mustill observed in *Channel Tunnel Group Ltd v Balfour Beatty Construction Ltd* [1993] AC 334, 360-361:

“Although the words of section 37(1) [of the 1981 Act] and its forebears are very wide it is firmly established by a long history of judicial self-denial that they are not to be taken at their face value and that their application is subject to severe constraints.”

Nevertheless, the principles and practice governing the exercise of the power to grant injunctions need to and do evolve over time as circumstances change. As Lord Scott observed in *Fourie v Le Roux* at para 30, practice has not stood still and is unrecognisable from the practice which existed before the 1873 Act.

20. The point is illustrated by the development in recent times of several new kinds of injunction in response to the emergence of particular problems: for example, the

*Mareva* or freezing injunction, named after one of the early cases in which such an order was made (*Mareva Compania Naviera SA v International Bulk Carriers SA* [1975] 2 Lloyd's Rep 509); the search order or *Anton Piller* order, again named after one of the early cases in which such an order was made (*Anton Piller KG v Manufacturing Processes Ltd* [1976] Ch 55); the *Norwich Pharmacal* order, also known as the third party disclosure order, which takes its name from the case in which the basis for such an order was authoritatively established (*Norwich Pharmacal Co v Customs and Excise Comrs* [1974] AC 133); the *Bankers Trust* order, which is an injunction of the kind granted in *Bankers Trust Co v Shapira* [1980] 1 WLR 1274; the internet blocking order, upheld in *Cartier International AG v British Sky Broadcasting Ltd* (para 17 above), and approved by this court in the same case, on an appeal on the question of costs: *Cartier International AG v British Telecommunications plc* [2018] UKSC 28; [2018] 1 WLR 3259, para 15; the anti-suit injunction (and its offspring, the anti-anti-suit injunction), which has become an important remedy as globalisation has resulted in parties seeking tactical advantages in different jurisdictions; and the related injunction to restrain the presentation or advertisement of a winding-up petition.

21. It has often been recognised that the width and flexibility of the equitable jurisdiction to issue injunctions are not to be cut down by categorisations based on previous practice. In *Castanho v Brown & Root (UK) Ltd* [1981] AC 557, for example, Lord Scarman stated at p 573, in a speech with which the other Law Lords agreed, that “the width and flexibility of equity are not to be undermined by categorisation”. To similar effect, in *South Carolina Insurance Co v Assurantie Maatschappij “De Zeven Provinciën” NV* [1987] AC 24, Lord Goff of Chieveley, with whom Lord Mackay of Clashfern agreed, stated at p 44:

“I am reluctant to accept the proposition that the power of the court to grant injunctions is restricted to certain exclusive categories. That power is unfettered by statute; and it is impossible for us now to foresee every circumstance in which it may be thought right to make the remedy available.”

In *Channel Tunnel Group Ltd v Balfour Beatty Construction Ltd* (para 19 above), Lord Browne-Wilkinson, with whose speech Lord Keith of Kinkel and Lord Goff agreed, expressed his agreement at p 343 with Lord Goff's observations in the *South Carolina* case. In *Mercedes Benz AG v Leiduck* [1996] AC 284, 308, Lord Nicholls of Birkenhead referred to these dicta in the course of his illuminating albeit dissenting judgment, and stated:

“As circumstances in the world change, so must the situations in which the courts may properly exercise their jurisdiction to grant injunctions. The exercise of the jurisdiction must be principled, but the criterion is injustice. Injustice is to be

viewed and decided in the light of today's conditions and standards, not those of yester-year.”

22. These dicta are borne out by the recent developments in the law of injunctions which we have briefly described. They illustrate the continuing ability of equity to innovate both in respect of orders designed to protect and enhance the administration of justice, such as freezing injunctions, *Anton Piller* orders, *Norwich Pharmacal* orders and *Bankers Trust* orders, and also, more significantly for present purposes, in respect of orders designed to protect substantive rights, such as internet blocking orders. That is not to undermine the importance of precedent, or to suggest that established categories of injunction are unimportant. But the developments which have taken place over the past half-century demonstrate the continuing flexibility of equitable powers, and are a reminder that injunctions may be issued in new circumstances when the principles underlying the existing law so require.

*(2) Injunctions against non-parties*

23. It is common ground in this appeal that newcomers are not parties to the proceedings at the time when the injunctions are granted, and the judgments below proceeded on that basis. However, it is worth taking a moment to consider the question.

24. Where the defendants are described in a claim form, or an injunction describes the persons enjoined, simply as persons unknown, the entire world falls within the description. But the entire human race cannot be regarded as being parties to the proceedings: they are not before the court, so that they are subject to its powers. It is only when individuals are served with the claim form that they ordinarily become parties in that sense, although it is also possible for persons to apply to become parties in the absence of service. As will appear, service can be problematical where the identities of the intended defendants are unknown. Furthermore, as a general rule, for any injunction to be enforceable, the persons whom it enjoins, if unnamed, must be described with sufficient clarity to identify those included and those excluded.

25. Where, as in most newcomer injunctions, the persons enjoined are described by reference to the conduct prohibited, particular individuals do not fall within that description until they behave in that way. The result is that the injunction is in substance addressed to the entire world, since anyone in the world may potentially fall within the description of the persons enjoined. But persons may be affected by the injunction in ways which potentially have different legal consequences. For example, an injunction designed to deter Travellers from camping at a particular location may be addressed to persons unknown camping there (notwithstanding that no-one is currently doing so) and may restrain them from camping there. If Travellers elsewhere learn about the injunction, they may consequently decide not to go to the site. Other Travellers,

unaware of the injunction, may arrive at the site, and then become aware of the claim form and the injunction by virtue of their being displayed in a prominent position. Some of them may then proceed to camp on the site in breach of the injunction. Others may obey the injunction and go elsewhere. At what point, if any, do Travellers in each of these categories become parties to the proceedings? At what point, if any, are they enjoined? At what point, if any, are they served (if the displaying of the documents is authorised as alternative service)? It will be necessary to return to these questions. However these questions are answered, although each of these groups of Travellers is affected by the injunction, none of them can be regarded as being party to the proceedings at the time when the injunction is granted, as they do not then answer to the description of the persons enjoined and nothing has happened to bring them within the jurisdiction of the court.

26. If, then, newcomers are not parties to the proceedings at the time when the injunctions are granted, it follows that newcomer injunctions depart from the court's usual practice. The ordinary rule is that "you cannot have an injunction except against a party to the suit": *Iveson v Harris* (1802) 7 Ves Jr 251, 257. That is not, however, an absolute rule: Lord Eldon LC was speaking at a time when the scope of injunctions was more closely circumscribed than it is today. In addition to the undoubted jurisdiction to grant interim injunctions prior to the service (or even the issue) of proceedings, a number of other exceptions have been created in response to the requirements of justice. Each of these should be briefly described, as it will be necessary at a later point to consider whether newcomer injunctions fall into any of these established categories, or display analogous features.

*(i) Representative proceedings*

27. The general rule of practice in England and Wales used to be that the defendants to proceedings must be named, and that even a description of them would not suffice: *Friern Barnet Urban District Council v Adams* [1927] 2 Ch 25; *In re Wykeham Terrace, Brighton, Sussex, Ex p Territorial Auxiliary and Volunteer Reserve Association for the South East* [1971] Ch 204. The only exception in the Rules of the Supreme Court ("RSC") concerned summary proceedings for the possession of land: RSC Order 113.

28. However, it has long been established that in appropriate circumstances relief can be sought against representative defendants, with other unnamed persons being described in the order in general terms. Although formerly recognised by RSC Order 15 rule 12, and currently the subject of rule 19.8 of the CPR, this form of procedure has existed for several centuries and was developed by the Court of Chancery. Its rationale was explained by Sir Thomas Plumer MR in *Meux v Maltby* (1818) 2 Swans 277, 281-282:

“The general rule, which requires the plaintiff to bring before the court all the parties interested in the subject in question, admits of exceptions. The liberality of this court has long held, that there is of necessity an exception to the general rule, when a failure of justice would ensue from its enforcement.”

Those who are represented need not be individually named or identified. Nor need they be served. They are not parties to the proceedings: CPR rule 19.8(4)(b). Nevertheless, an injunction can be granted against the whole class of defendants, named and unnamed, and the unnamed defendants are bound in equity by any order made: *Adair v The New River Co* (1805) 11 Ves 429, 445; CPR rule 19.8(4)(a).

29. A representative action may in some circumstances be a suitable means of restraining wrongdoing by individuals who cannot be identified. It can therefore, in such circumstances, provide an alternative remedy to an injunction against “persons unknown”: see, for example, *M Michaels (Furriers) Ltd v Askew* (1983) 127 Sol Jo 597, concerned with picketing; *EMI Records Ltd v Kudhail* [1985] FSR 36, concerned with copyright infringement; and *Heathrow Airport Ltd v Garman* [2007] EWHC 1957 (QB), concerned with environmental protesters.

30. However, there are a number of principles which restrict the circumstances in which relief can be obtained by means of a representative action. In the first place, the claimant has to be able to identify at least one individual against whom a claim can be brought as a representative of all others likely to interfere with his or her rights. Secondly, the named defendant and those represented must have the same interest. In practice, compliance with that requirement has proved to be difficult where those sought to be represented are not a homogeneous group: see, for example, *News Group Newspapers Ltd v Society of Graphical and Allied Trades '82 (No 2)* [1987] ICR 181, concerned with industrial action, and *United Kingdom Nirex Ltd v Barton*, *The Times*, 14 October 1986, concerned with protests. In addition, since those represented are not party to the proceedings, an injunction cannot be enforced against them without the permission of the court (CPR rule 19.8(4)(b)): something which, it has been held, cannot be granted before the individuals in question have been identified and have had an opportunity to make representations: see, for example, *RWE Npower plc v Carrol* [2007] EWHC 947 (QB).

(ii) *Wardship proceedings*

31. Another situation where orders have been made against non-parties is where the court has been exercising its wardship jurisdiction. In *In re X (A Minor) (Wardship: Injunction)* [1984] 1 WLR 1422 the court protected the welfare of a ward of court (the daughter of an individual who had been convicted of manslaughter as a child) by

making an order prohibiting any publication of the present identity of the ward or her parents. The order bound everyone, whether a party to the proceedings or not: in other words, it was an order *contra mundum*. Similar orders have been made in subsequent cases: see, for example, *In re M and N (Minors) (Wardship: Publication of Information)* [1990] Fam 211 and *In re R (Wardship: Restrictions on Publication)* [1994] Fam 254.

*(iii) Injunctions to protect human rights*

32. It has been clear since the case of *Venables v News Group Newspapers Ltd* [2001] Fam 430 (“*Venables*”) that the court can grant an injunction *contra mundum* in order to enforce rights protected by the Human Rights Act 1998. The case concerned the protection of the new identities of individuals who had committed notorious crimes as children, and whose safety would be jeopardised if their new identities became publicly known. An injunction preventing the publication of information about the claimants had been granted at the time of their trial, when they remained children. The matter returned to the court after they attained the age of majority and applied for the ban on publication to be continued, on the basis that the information in question was confidential. The injunction was granted against named newspaper publishers and, expressly, against all the world. It was therefore an injunction granted, as against all potential targets other than the named newspaper publishers, on a without notice application.

33. Dame Elizabeth Butler-Sloss P held that the jurisdiction to grant an injunction in the circumstances of the case lay in equity, in order to restrain a breach of confidence. She recognised that by granting an injunction against all the world she would be departing from the general principle, referred to at para 26 above, that “you cannot have an injunction except against a party to the suit” (para 98). But she relied (at para 29) upon the passage in *Spry* (in an earlier edition) which we cited at para 17 above as the source of the necessary equitable jurisdiction, and she felt compelled to make the order against all the world because of the extreme danger that disclosure of confidential information would risk infringing the human rights of the claimants, particularly the right to life, which the court as a public authority was duty-bound to protect from the criminal acts of others: see paras 98-100. Furthermore, an order against only a few named newspaper publishers which left the rest of the media free to report the prohibited information would be positively unfair to them, having regard to their own Convention rights to freedom of speech.

*(iv) Reporting restrictions*

34. Reporting restrictions are prohibitions on the publication of information about court proceedings, directed at the world at large. They are not injunctions in the same sense as the orders which are our primary concern, but they are relevant as further

examples of orders granted by courts restraining conduct by the world at large. Such orders may be made under common law powers or may have a statutory basis. They generally prohibit the publication of information about the proceedings in which they are made (eg as to the identity of a witness). A person will commit a contempt of court if, knowing of the order, he frustrates its purpose by publishing the information in question: see, for example, *In re F (or se A) (A Minor) (Publication of Information)* [1977] Fam 58 and *Attorney General v Leveller Magazine Ltd* [1979] AC 440.

(v) *Embargoes on draft judgments*

35. It is the practice of some courts to circulate copies of their draft judgments to the parties' legal representatives, subject to a prohibition on further, unauthorised, disclosure. The order therefore applies directly to non-parties to the proceedings: see, for example, *Attorney General v Crosland* [2021] UKSC 15; [2021] 4 WLR 103 and [2021] UKSC 58; [2022] 1 WLR 367. Like reporting restrictions, such orders are not equitable injunctions, but they are relevant as further examples of orders directed against non-parties.

(vi) *The effect of injunctions on non-parties*

36. We have focused thus far on the question whether an injunction can be granted against a non-party. As we shall explain, it is also relevant to consider the effect which injunctions against parties can have upon non-parties.

37. If non-parties are not enjoined by the order, it follows that they are not bound to obey it. They can nevertheless be held in contempt of court if they knowingly act in the manner prohibited by the injunction, even if they have not aided or abetted any breach by the defendant. As it was put by Lord Oliver of Aylmerton in *Attorney General v Times Newspapers Ltd* [1992] 1 AC 191, 223, there is contempt where a non-party "frustrates, thwarts, or *subverts the purpose* of the court's order and thereby interferes with the due administration of justice in the particular action" (emphasis in original).

38. One of the arguments advanced before the House of Lords in *Attorney General v Times Newspapers Ltd* was that to invoke the jurisdiction in contempt against a person who was neither a party nor an aider or abettor of a breach of the order by the defendant, but who had done what the defendant in the action was forbidden by the order to do was, in effect, to make the order operate in rem or contra mundum. That, it was argued, was a purpose which the court could not legitimately achieve, since its orders were only properly made inter partes.

39. The argument was rejected. Lord Oliver acknowledged at p 224 that “[e]quity, in general, acts in personam and there are respectable authorities for the proposition that injunctions, whether mandatory or prohibitory, operate inter partes and should be so expressed (see *Iveson v Harris: Marengo v Daily Sketch and Sunday Graphic Ltd* [1948] 1 All ER 406)”. Nevertheless, the appellants’ argument confused two different things: the scope of an order inter partes, and the proper administration of justice (pp 224-225):

“Once it is accepted, as it seems to me the authorities compel, that contempt (to use Lord Russell of Killowen’s words [in *Attorney-General v Leveller Magazine Ltd* at p 468]) ‘need not involve disobedience to an order binding upon the alleged contemnor’ the potential effect of the order contra mundum is an inevitable consequence.”

40. In answer to the objection that the non-party who learns of the order has not been heard by the court and has therefore not had the opportunity to put forward any arguments which he may have, Lord Oliver responded at p 224 that he was at liberty to apply to the court:

“‘The Sunday Times’ in the instant case was perfectly at liberty, before publishing, either to inform the respondent and so give him the opportunity to object or to approach the court and to argue that it should be free to publish where the defendants were not, just as a person affected by notice of, for example, a *Mareva* injunction is able to, and frequently does, apply to the court for directions as to the disposition of assets in his hands which may or may not be subject to the terms of the order.”

The non-party’s right to apply to the court is now reflected in CPR rule 40.9, which provides:

“A person who is not a party but who is directly affected by a judgment or order may apply to have the judgment or order set aside or varied.”

A non-party can also apply to become a defendant in accordance with CPR rule 19.4.

41. There is accordingly a distinction in legal principle between being bound by an injunction as a party to the action and therefore being in contempt of court for

disobeying it and being in contempt of court as a non-party who, by knowingly acting contrary to the order, subverts the court's purpose and thereby interferes with the administration of justice. Nevertheless, cases such as *Attorney-General v Times Newspapers Ltd* and *Attorney General v Punch Ltd* [2002] UKHL 50; [2003] 1 AC 1046, and the daily impact of freezing injunctions on non-party financial institutions (following *Z Ltd v A-Z and AA-LL* [1982] QB 558), indicate that the differences in the legal analysis can be of limited practical significance. Indeed, since non-parties can be found in contempt of court for acting contrary to an injunction, it has been recognised that it can be appropriate to refer to non-parties in an injunction in order to indicate the breadth of its binding effect: see, for example, *Marengo v Daily Sketch and Sunday Graphic Ltd* at p 407; *Attorney-General v Newspaper Publishing plc* [1988] Ch 333, 387-388.

42. Prior to the developments discussed below, it can therefore be seen that while the courts had generally affirmed the position that only parties to an action were bound by an injunction, a number of exceptions to that principle had been recognised. Some of the examples given also demonstrate that the court can, in appropriate circumstances, make orders which prohibit the world at large from behaving in a specified manner. It is also relevant in the present context to bear in mind that even where an injunction enjoins a named individual, the public at large are bound not knowingly to subvert it.

### *(3) Injunctions in the absence of a cause of action*

43. An injunction against newcomers purports to restrain the conduct of persons against whom there is no existing cause of action at the time when the order is granted: it is addressed to persons who may not at that time have formed any intention to act in the manner prohibited, let alone threatened to take or taken any steps towards doing so. That might be thought to conflict with the principle that an injunction must be founded on an existing cause of action against the person enjoined, as stated, for example, by Lord Diplock in *Siskina (Owners of cargo lately laden on board) v Distos Cia Naviera SA* [1979] AC 210 ("*The Siskina*"), 256. There has been a gradual but growing reaction against that reasoning (which Lord Diplock himself recognised was too narrowly stated: *British Airways Board v Laker Airways Ltd* [1985] AC 58, 81) over the past 40 years, culminating in the recent decision in *Broad Idea*, cited in para 17 above, where the Judicial Committee of the Privy Council rejected such a rigid doctrine and asserted the court's governance of its own practice. It is now well established that the grant of injunctive relief is not always conditional on the existence of a cause of action. Again, it is relevant to consider some established categories of injunction against "no cause of action defendants" (as they are sometimes described) in order to see whether newcomer injunctions fall into an existing legitimate class, or, if not, whether they display analogous features.

44. One long-established exception is an injunction granted on the application of the Attorney General, acting either *ex officio* or through another person known as a relator, so as to ensure that the defendant obeys the law (*Attorney-General v Harris* [1961] 1 QB 74; *Attorney General v Chaudry* [1971] 1 WLR 1614).

45. The statutory provisions relied on by the local authorities in the present case similarly enable them to seek injunctions in the public interest. All the respondent local authorities rely on section 222 of the Local Government Act 1972, which confers on local authorities the power to bring proceedings to enforce obedience to public law, without the involvement of the Attorney General: *Stoke-on-Trent City Council v B & Q (Retail) Ltd* [1984] AC 754. Where an injunction is granted in proceedings under section 222, a power of arrest may be attached under section 27 of the Police and Justice Act 2006, provided certain conditions are met. Most of the respondents also rely on section 187B of the Town and Country Planning Act 1990, which enables a local authority to apply for an injunction to restrain any actual or apprehended breach of planning control. Some of the respondents have also relied on section 1 of the Anti-Social Behaviour, Crime and Policing Act 2014, which enables the court to grant an injunction (on the application of, *inter alia*, a local authority: see section 2) for the purpose of preventing the respondent from engaging in anti-social behaviour. Again, a power of arrest can be attached: see section 4. One of the respondents also relies on section 130 of the Highways Act 1980, which enables a local authority to institute legal proceedings for the purpose of protecting the rights of the public to the use and enjoyment of highways.

46. Another exception, of great importance in modern commercial practice, is the *Mareva* or freezing injunction. In its basic form, this type of order restrains the defendant from disposing of his assets. However, since assets are commonly held by banks and other financial institutions, the principal effect of the injunction in practice is generally to bind non-parties, as explained earlier. The order is ordinarily made on a without notice application. It differs from a traditional interim injunction: its purpose is not to prevent the commission of a wrong which is the subject of a cause of action, but to facilitate the enforcement of an actual or prospective judgment or other order. Since it can also be issued to assist the enforcement of a decree arbitral, or the judgment of a foreign court, or an order for costs, it need not be ancillary to a cause of action in relation to which the court making the order has jurisdiction to grant substantive relief, or indeed ancillary to a cause of action at all (as where it is granted in support of an order for costs). Even where the claimant has a cause of action against one defendant, a freezing injunction can in certain limited circumstances be granted against another defendant, such as a bank, against which the claimant does not assert a cause of action (*TSB Private Bank International SA v Chabra* [1992] 1 WLR 231; *Cardile v LED Builders Pty Ltd* [1999] HCA 18; (1999) 198 CLR 380 and *Revenue and Customs Comrs v Egleton* [2006] EWHC 2313 (Ch); [2007] Bus LR 44; [2007] 1 All ER 606).

47. Another exception is the *Norwich Pharmacal* order, which is available where a third party gets mixed up in the wrongful acts of others, even innocently, and may be ordered to provide relevant information in its possession which the applicant needs in order to seek redress. The order is not based on the existence of any substantive cause of action against the defendant. Indeed, it is not a precondition of the exercise of the jurisdiction that the applicant should have brought, or be intending to bring, legal proceedings against the alleged wrongdoer. It is sufficient that the applicant intends to seek some form of lawful redress for which the information is needed: see *Ashworth Hospital Authority v MGN Ltd* [2002] UKHL 29; [2002] 1 WLR 2033.

48. Another type of injunction which can be issued against a defendant in the absence of a cause of action is a *Bankers Trust* order. In the case from which the order derives its name, *Bankers Trust Co v Shapira* (para 20 above), an order was granted requiring an innocent third party to disclose documents and information which might assist the claimant in locating assets to which the claimant had a proprietary claim. The claimant asserted no cause of action against the defendant. Later cases have emphasised the width and flexibility of the equitable jurisdiction to make such orders: see, for example, *Murphy v Murphy* [1999] 1 WLR 282, 292.

49. Another example of an injunction granted in the absence of a cause of action against the defendant is the internet blocking order. This is a new type of injunction developed to address the problems arising from the infringement of intellectual property rights via the internet. In the leading case of *Cartier International AG v British Sky Broadcasting Ltd*, cited at paras 17 and 20 above, the Court of Appeal upheld the grant of injunctions ordering internet service providers (“ISPs”) to block websites selling counterfeit goods. The ISPs had not invaded, or threatened to invade, any independently identifiable legal or equitable right of the claimants. Nor had the claimants brought or indicated any intention to bring proceedings against any of the infringers. It was nevertheless held that there was power to grant the injunctions, and a principled basis for doing so, in order to compel the ISPs to prevent their facilities from being used to commit or facilitate a wrong. On an appeal to this court on the question of costs, Lord Sumption (with whom the other Justices agreed) analysed the nature and basis of the orders made and concluded that they were justified on ordinary principles of equity. That was so although the claimants had no cause of action against the respondent ISPs, who were themselves innocent of any wrongdoing.

#### *(4) The commencement and service of proceedings against unidentified defendants*

50. Bringing proceedings against persons who cannot be identified raises issues relating to the commencement and service of proceedings. It is necessary at this stage to explain the general background.

51. The commencement of proceedings is an essentially formal step, normally involving the issue of a claim form in an appropriate court. The forms prescribed in the CPR include a space in which to designate the claimant and the defendant. As was observed in *Cameron v Liverpool Victoria Insurance Co Ltd* [2019] UKSC 6; [2019] 1 WLR 1471 (“*Cameron*”), para 12, that is a format equally consistent with their being designated by name or by description. As was explained earlier, the claims in the present case were brought under Part 8 of the CPR. CPR rule 8.2A(1) provides that a practice direction “may set out circumstances in which a claim form may be issued under this Part without naming a defendant”. A number of practice directions set out such circumstances, including Practice Direction 49E, paras 21.1-21.10 of which concern applications under certain statutory provisions. They include section 187B of the Town and Country Planning Act 1990, which concerns proceedings for an injunction to restrain “any actual or apprehended breach of planning control”. As explained in para 45 above, section 187B was relied on in most of the present cases. CPR rule 55.3(4) also permits a claim for possession of property to be brought against “persons unknown” where the names of the trespassers are unknown.

52. The only requirement for a name is contained in paragraph 4.1 of Practice Direction 7A, which states that a claim form should state the full name of each party. In *Bloomsbury Publishing Group plc v News Group Newspapers Ltd* [2003] EWHC 1205 (Ch); [2003] 1 WLR 1633 (“*Bloomsbury*”), it was said that the words “should state” in paragraph 4.1 were not mandatory but imported a discretion to depart from the practice in appropriate cases. However, the point is not of critical importance. As was stated in *Cameron*, para 12, a practice direction is no more than guidance on matters of practice issued under the authority of the heads of division. It has no statutory force and cannot alter the general law.

53. As we have explained at paras 27-33 above, there are undoubtedly circumstances in which proceedings may be validly commenced although the defendant is not named in the claim form, in addition to those mentioned in the rules and practice directions mentioned above. All of those examples – representative defendants, the wardship jurisdiction, and the principle established in the *Venables* case - might however be said to be special in some way, and to depend on a principle which is not of broader application.

54. A wider scope for proceedings against unnamed defendants emerged in *Bloomsbury*, where it was held that there is no requirement that the defendant must be named. The overriding objective of the CPR is to enable the court to deal with cases justly and at proportionate cost. Since this objective is inconsistent with an undue reliance on form over substance, the joinder of a defendant by description was held to be permissible, provided that the description was “sufficiently certain as to identify both those who are included and those who are not” (para 21). It will be necessary to return to that case, and also to consider more recent decisions concerned with proceedings brought against unnamed persons.

55. Service of the claim form is a matter of greater significance. Although the court may exceptionally dispense with service, as explained below, and may if necessary grant interlocutory relief, such as interim injunctions, before service, as a general rule service of originating process is the act by which the defendant is subjected to the court's jurisdiction, in the sense of its power to make orders against him or her (*Dresser UK Ltd v Falcongate Freight Management Ltd* [1992] QB 502, 523; *Barton v Wright Hassall llp* [2018] UKSC 12; [2018] 1 WLR 1119). Service is significant for many reasons. One of the most important is that it is a general requirement of justice that proceedings should be brought to the notice of parties whose interests are affected before any order is made against them (other than in an emergency), so that they have an opportunity to be heard. Service of the claim form on the defendant is the means by which such notice is normally given. It is also normally by means of service of the order that an injunction is brought to the notice of the defendant, so that he or she is bound to comply with it. But it is generally sufficient that the defendant is aware of the injunction at the time of the alleged breach of it.

56. Conventional methods of service may be impractical where defendants cannot be identified. However, alternative methods of service can be permitted under CPR rule 6.15. In exceptional circumstances (for example, where the defendant has deliberately avoided identification and substituted service is impractical), the court has the power to dispense with service, under CPR rule 6.16.

3. *The development of newcomer injunctions to restrain unauthorised occupation and use of land - the impact of Cameron and Canada Goose*

57. The years from 2003 saw a rapid development of the practice of granting injunctions purporting to prohibit persons, described as persons unknown, who were not parties to the proceedings when the order was made, from engaging in specified activities including, of most direct relevance to this appeal, occupying and using land without the appropriate consent. This is just one of the areas in which the court has demonstrated a preparedness to grant an injunction, subject to appropriate safeguards, against persons who could not be identified, had not been served and were not party to the proceedings at the date of the order.

(1) *Bloomsbury*

58. One of the earliest injunctions of this kind was granted in the context of the protection of intellectual property rights in connection with the forthcoming publication of a novel. The *Bloomsbury* case, cited at para 52 above, is one of two decisions of Sir Andrew Morritt V-C in 2003 which bear on this appeal. There had been a theft of several pre-publication copies of a new Harry Potter novel, some of which had been offered to national newspapers ahead of the launch date. By the time of the hearing of a

much adjourned interim application most but not all of the thieves had been arrested, but the claimant publisher wished to have continued injunctions, until the date a month later when the book was due to be published, against unnamed further persons, described as the person or persons who had offered a copy of the book to the three named newspapers and the person or persons in physical possession of the book without the consent of the claimants.

59. The Vice-Chancellor acknowledged that it would under the old RSC and relevant authority in relation to them have been improper to seek to identify intended defendants in that way (see para 27 above). He noted (para 11) the anomalous consequence:

“A claimant could obtain an injunction against all infringers by description so long as he could identify one of them by name [as a representative defendant: see paras 27-30 above], but, by contrast, if he could not name one of them then he could not get an injunction against any of them.”

He regarded the problem as essentially procedural, and as having been cured by the introduction of the CPR. He concluded, at para 21:

“The crucial point, as it seems to me, is that the description used must be sufficiently certain as to identify both those who are included and those who are not. If that test is satisfied then it does not seem to me to matter that the description may apply to no one or to more than one person nor that there is no further element of subsequent identification whether by service or otherwise.

## (2) *Hampshire Waste Services*

60. Later that same year, Sir Andrew Morritt V-C made another order against persons unknown, this time in a protester case, *Hampshire Waste Services Ltd v Intending Trespassers upon Chineham Incinerator Site* [2003] EWHC 1738 (Ch); [2004] Env LR 9 (“*Hampshire Waste Services*”). The claimants, operators of a number of waste incinerator sites which fed power to the national grid, sought an injunction to restrain protesters from entering any of various named sites in connection with a “Global Day of Action against Incinerators” some six days later. Previous actions of this kind presented a danger to the protesters and to others and had resulted in the plants having to be shut down. The police were, it seemed, largely powerless to prevent these threatened activities. The Vice-Chancellor, having referred to *Bloomsbury*, had no doubt the order was justified save for one important matter: the claimants were unable to

identify any of the protesters to whom the order would be directed or upon whom proceedings could be served. Nevertheless, the Vice-Chancellor was satisfied that, in circumstances such as these, joinder by description was permissible, that the intended defendants should be described as “persons entering or remaining without the consent of the claimants, or any of them, on any of the incinerator sites at [specified addresses] in connection with the ‘Global Day of Action Against Incinerators’ (or similarly described event) on or around 14 July 2003”, and that posting notices around the sites would amount to effective substituted service. The court should not refuse an application simply because difficulties in enforcement were envisaged. It was, however, necessary that any person who wished to do so should be able promptly to apply for the order to be discharged, and that was allowed for. That being so, there was no need for a formal return date.

61. Whereas in *Bloomsbury* the injunction was directed against a small number of individuals who were at least theoretically capable of being identified, the injunction granted in *Hampshire Waste Services* was effectively made against the world: anyone might potentially have entered or remained on any of the sites in question on or around the specified date. This is a common if not invariable feature of newcomer injunctions. Although the number of persons likely to engage in the prohibited conduct will plainly depend on the circumstances, and will usually be relatively small, such orders bear upon, and enjoin, anyone in the world who does so.

### (3) *Gammell*

62. The *Bloomsbury* decision has been seen as opening up a wide jurisdiction. Indeed, Lord Sumption observed in *Cameron*, para 11, that it had regularly been invoked in the years which followed in a variety of different contexts, mainly concerning the abuse of the internet, and trespasses and other torts committed by protesters, demonstrators and paparazzi. Cases in the former context concerned defamation, theft of information by hacking, blackmail and theft of funds. But it is upon cases and newcomer injunctions in the second context that we must now focus, for they include cases involving protesters, such as *Hampshire Waste Services*, and also those involving Gypsies and Travellers, and therefore have a particular bearing on these appeals and the issues to which they give rise.

63. Some of these issues were considered by the Court of Appeal only a short time later in two appeals concerning Gypsy caravans brought onto land at a time when planning permission had not been granted for that use: *South Cambridgeshire District Council v Gammell*; *Bromley London Borough Council v Maughan* [2005] EWCA Civ 1429; [2006] 1 WLR 658 (“*Gammell*”).

64. The material aspects of the two cases are substantially similar, and it will suffice for present purposes to focus on the South Cambridgeshire case. The Court of Appeal (Brooke and Clarke LJJ) had earlier granted an injunction under section 187B of the Town and Country Planning Act 1990 against persons described as “persons unknown ... causing or permitting hardcore to be deposited ... caravans, mobile homes or other forms of residential accommodation to be stationed ... or existing caravans, mobile homes or other forms of residential accommodation ... to be occupied” on land adjacent to a Gypsy encampment in rural Cambridgeshire: *South Cambs District Council v Persons Unknown* [2004] EWCA Civ 1280; [2004] 4 PLR 88 (“*South Cambs*”). The order restrained the persons so described from behaving in the manner set out in that description. Service of the claim form and the injunction was effected by placing them in clear plastic envelopes in a prominent position on the relevant land.

65. Several months later, Ms Gammell, without securing or applying for the necessary planning permission or making an application to set the injunction aside or vary its terms, proceeded to station her caravans on the land. She was therefore a newcomer within the meaning of that word as used in this appeal, since she was neither a defendant nor on notice of the application for the injunction nor on the site when the injunction was granted. She was served with the injunction and its effect was explained to her, but she continued to station the caravans on the land. On an application for committal by the local authority she was found at first instance to have been in contempt. Sentencing was adjourned to enable her to appeal against the judge’s refusal to permit her to be added as a defendant to the proceedings, for the purpose of enabling her to argue that the injunction should not have the effect of placing her in contempt until a proportionality exercise had been undertaken to balance her particular human rights against the grant of an injunction against her, in accordance with *South Bucks District Council v Porter* [2003] UKHL 26; [2003] 2 AC 558.

66. The Court of Appeal dismissed her appeal. In his judgment, Sir Anthony Clarke MR, with whom Rix and Moore-Bick LJJ agreed, stated that each of the appellants became a party to the proceedings when she did an act which brought her within the definition of defendant in the particular case. Ms Gammell had therefore already become a defendant when she stationed her caravan on the site. Her proper course (and that of any newcomer in the same situation) was to make a prompt application to vary or discharge the injunction as against her (which she had not done) and, in the meantime, to comply with the injunction. The individualised proportionality exercise could then be carried out with regard to her particular circumstances on the hearing of the application to vary or discharge, and might in any event be relevant to sanction. This reasoning, and in particular the notion that a newcomer becomes a defendant by committing a breach of the injunction, has been subject to detailed and sustained criticism by the appellants in the course of this appeal, and this is a matter to which we will return.

#### (4) *Meier*

67. We should also mention a decision of this court from about the same time concerning Travellers who had set up an unauthorised encampment in wooded areas managed by the Forestry Commission and owned by the Secretary of State for the Environment, Food and Rural Affairs: *Secretary of State for the Environment, Food and Rural Affairs v Meier* [2009] UKSC 11; [2009] 1 WLR 2780 (“*Meier*”). This was in one sense a conventional case: the Secretary of State issued proceedings alleging trespass by the occupying Travellers and sought an order for possession of the occupied sites. More unusual (and ultimately unsuccessful) was the application for an order for possession against the Travellers in respect of other land which was wholly detached from the land they were occupying. This was wrong in principle for it was simply not possible (even on a precautionary basis) to make an order requiring persons to give immediate possession of woodland of which they were *not* in occupation, and which was wholly detached from the woodland of which they *were* in occupation (as Lord Neuberger of Abbotsbury MR explained at para 75). But that did not mean the courts were powerless to frame a remedy. The court upheld an injunction granted by the Court of Appeal against the defendants, including “persons names unknown”, restraining them from entering the woodland which they had not yet occupied. Since it was not argued that the injunction was defective, we do not attach great significance to Lord Neuberger’s conclusion at para 84 that it had not been established that there was an error of principle which led to its grant. Nevertheless, it is notable that Lord Rodger expressed the view that the injunction had been rightly granted, and cited the decisions of the Vice-Chancellor in *Bloomsbury* and *Hampshire Waste Services*, and the grant of the injunction in the *South Cambs* case, without disapproval (at paras 2-3).

#### (5) *Later cases concerning Traveller injunctions*

68. Injunctions in the Traveller and Gypsy context were targeted first at actual trespass on land. Typically, the local authorities would name as actual or intended defendants the particular individuals they had been able to identify, and then would seek additional relief against “persons unknown”, these being persons who were alleged to be unlawfully occupying the land but who could not at that stage be identified by name, although often they could be identified by some form of description. But before long, many local authorities began to take a bolder line and claims were brought simply against “persons unknown”.

69. A further important development was the grant of Traveller injunctions, not just against those who were in unauthorised occupation of the land, whether they could be identified or not, but against persons on the basis only of their potential rather than actual occupation. Typically, these injunctions were granted for three years, sometimes more. In this way Traveller injunctions were transformed from injunctions against wrongdoers and those who at the date of the injunction were threatening to commit a

wrong, to injunctions primarily or at least significantly directed against newcomers, that is to say persons who were not parties to the claim when the injunction was granted, who were not at that time doing anything unlawful in relation to the land of that authority, or even intending or overtly threatening to do so, but who might in the future form that intention.

70. One of the first of these injunctions was granted by Patterson J in *Harlow District Council v Stokes* [2015] EWHC 953 (QB). The claimants sought and were granted an interim injunction under section 222 of the Local Government Act 1972 and section 187B of the Town and Country Planning Act 1990 in existing proceedings against over thirty known defendants and, importantly, other “persons unknown” in respect of encampments on a mix of public and private land. The pattern had been for these persons to establish themselves in one encampment, for the local authority and the police to take action against them and move them on, and for the encampment then to disperse but later reappear in another part of the district, and so the process would start all over again, just as Lord Rodger had anticipated in *Meier*. Over the months preceding the application numerous attempts had been made using other powers (such as the Criminal Justice and Public Order Act 1994 (“CJPOA”)) to move the families on, but all attempts had failed. None of the encampments had planning permission and none had been the subject of any application for planning permission.

71. It is to be noted, however, that appropriate steps had been taken to draw the proceedings to the attention of all those in occupation (see para 15). None had attended court. Further, the relevant authorities and councils accepted that they were required to make provision for Gypsy and Traveller accommodation and gave evidence of how they were working to provide additional and appropriate sites for the Gypsy and Traveller communities. They also gave evidence of the extensive damage and pollution caused by the unlawful encampments, and the local tensions they generated, and the judge summarised the effects of this in graphic detail (at paras 10 and 11).

72. Following the decision in *Harlow District Council v Stokes* and an assessment of the efficacy of the orders made, a large number of other local authorities applied for and were granted similar injunctions over the period from 2017-2019, with the result that by 2020 there were in excess of 35 such injunctions in existence. By way of example, in *Kingston upon Thames Royal London Borough Council v Persons Unknown* [2019] EWHC 1903 (QB), the injunction did not identify any named defendants.

73. All of these injunctions had features of relevance to the issues raised by this appeal. Sometimes the order identified the persons to whom it was directed by reference to a particular activity, such as “persons unknown occupying land” or “persons unknown depositing waste”. In many of the cases, injunctions were granted against persons identified only as those who might in future commit the acts which the injunction prohibited (eg *UK Oil and Gas Investments plc v Persons Unknown* [2018])

EWHC 2252 (Ch); [2019] JPL 161). In other cases, the defendants were referred to only as “persons unknown”. The injunctions remained in place for a considerable period of time and, on occasion, for years. Further, the geographical reach of the injunctions was extensive, indeed often borough-wide. They were usually granted without the court hearing any adversarial argument, and without provision for an early return date.

74. It is important also to have in mind that these injunctions undoubtedly had a significant impact on the communities of Travellers and Gypsies to whom they were directed, for they had the effect of forcing many members of these communities out of the boroughs which had obtained and enforced them. They also imposed a greater strain on the resources of the boroughs and councils which had not yet obtained an order. This combination of features highlighted another important consideration, and it was one of which the judges faced with these applications have been acutely conscious: a nomadic lifestyle has for very many years been a part of the tradition and culture of many Traveller and Gypsy communities, and the importance of this lifestyle to the Gypsy and Traveller identity has been recognised by the European Court of Human Rights in a series of decisions including *Chapman v United Kingdom* (2001) 33 EHRR 18.

75. As the Master of the Rolls explained in the present case, at paras 105 and 106, any individual Traveller who is affected by a newcomer injunction can rely on a private and family life claim to pursue a nomadic lifestyle. This right must be respected, but the right to that respect must be balanced against the public interest. The court will also take into account any other relevant legal considerations such as the duties imposed by the Equality Act 2010.

76. These considerations are all the more significant given what from these relatively early days was acknowledged by many to be a central and recurring set of problems in these cases (and it is one to which we must return in considering appropriate guidelines in cases of this kind): the Gypsies and Travellers to whom they were primarily directed had a lifestyle which made it difficult for them to access conventional sources of housing provision; their attempts to obtain planning permission almost always met with failure; and at least historically, the capacity of sites authorised for their occupation had fallen well short of that needed to accommodate those seeking space on which to station their caravans. The sobering statistics were referred to by Lord Bingham of Cornhill in *South Bucks District Council v Porter* (para 65 above), para 13.

77. The conflict to which these issues gave rise was recognised at the highest level as early as 2000 and emphasised in a housing research summary, “Local Authority Powers for Managing Unauthorised Camping” (Office of the Deputy Prime Minister, No 90, 1998, updated 4 December 2000):

“The basic conflict underlying the ‘problem’ of unauthorised camping is between [gypsies]/travellers who want to stay in an area for a period but have nowhere they can legally camp, and the settled community who, by and large, do not want [gypsies]/travellers camped in their midst. The local authority is stuck between the two parties, trying to balance the conflicting needs and often satisfying no one.”

78. For many years there has also been a good deal of publicly available guidance on the issue of unauthorised encampments, much of which embodies obvious good sense and has been considered by the judges dealing with these applications. So, for example, materials considered in the authorities to which we will come have included a Department for the Environment Circular 18/94, *Gypsy Sites Policy and Unauthorised Camping* (November 1994), which stated that “it is a matter for local discretion whether it is appropriate to evict an unauthorised [gypsy] encampment”. Matters to be taken into account were said to include whether there were authorised sites; and, if not, whether the unauthorised encampment was causing a nuisance and whether services could be provided to it. Authorities were also urged to try to identify possible emergency stopping places as close as possible to the transit routes so that Travellers could rest there for short periods; and were advised that where Gypsies were unlawfully encamped, it was for the local authority to take necessary steps to ensure that any such encampment did not constitute a threat to public health. Local authorities were also urged not to use their powers to evict Gypsies needlessly, and to use those powers in a humane and compassionate way. In 2004 the Office of the Deputy Prime Minister issued *Guidance on Managing Unauthorised Camping*, which recommended that local authorities and other public bodies distinguish between unauthorised encampment locations which were unacceptable, for instance because they involved traffic hazards or public health risks, and those which were acceptable, and stated that each encampment location must be considered on its merits. It also indicated that specified welfare inquiries should be undertaken in relation to the Travellers and their families before any decision was made as to whether to bring proceedings to evict them. Similar guidance was to be found in the Home Office *Guide to Effective Use of Enforcement Powers (Part 1; Unauthorised Encampments)*, published in February 2006, in which it was emphasised that local authorities have an obligation to carry out welfare assessments on unauthorised campers to identify any issue that needs to be addressed before enforcement action is taken against them. It also urged authorities to consider whether enforcement was absolutely necessary.

79. The fact that Travellers and Gypsies have almost invariably chosen not to appear in these proceedings (and have not been represented) has left judges with the challenging task of carrying out a proportionality assessment which has inevitably involved weighing all of these considerations, including the relevance of the breadth of the injunctions sought and the fact that the injunctions were directed against “persons unknown”, in deciding whether they should be granted and, if so, for how long; and

whether they should be made subject to particular conditions and safeguards and, if so, what those conditions and safeguards should be.

(6) *Cameron*

80. The decision of the Supreme Court in *Cameron* (para 51 above) highlighted further and more fundamental considerations for this developing jurisprudence, and it is a decision to which we must return for it forms an important element of the case developed before us on behalf of the appellants. At this stage it is sufficient to explain that the claimant suffered personal injuries and damage to her car in a collision with another vehicle. The driver of that vehicle failed to stop and fled the scene. The claimant then brought an action for damages against the registered keeper, but it transpired that that person had not been driving the vehicle at the time of the accident. In addition, although there was an insurance policy in force in respect of the vehicle, the insured person was fictitious. The claimant could not sue the insurers, as the relevant legislation required that the driver was a person insured under the policy. The claimant could have sought compensation from the Motor Insurers' Bureau, which compensates the victims of uninsured motorists, but for reasons which were unclear she applied instead to amend her claim to substitute for the registered keeper the person unknown who was driving the car at the time of the collision, so as to obtain a judgment on which the insurer would be liable under section 151 of the Road Traffic Act 1988 ("the 1988 Act"). The judge refused the application.

81. The Court of Appeal allowed the claimant's appeal. In the Court of Appeal's view, it would be consistent with the CPR and the policy of the 1988 Act for proceedings to be brought and pursued against the unnamed driver, suitably identified by an appropriate description, in order that the insurer could be made liable under section 151 of the 1988 Act for any judgment obtained against that driver.

82. A further appeal by the insurer to the Supreme Court was allowed unanimously. Lord Sumption considered in some detail the extent of any right in English law to sue unnamed persons. He referred to the decision in *Bloomsbury* and the cases which followed, many of which we have already mentioned. Then, at para 13, he distinguished between two kinds of case in which the defendant could not be named, and to which different considerations applied. The first comprised anonymous defendants who were identifiable but whose names were unknown. Squatters occupying a property were, for example, identifiable by their location though they could not be named. The second comprised defendants, such as most hit and run drivers, who were not only anonymous but could not be identified.

83. Lord Sumption proceeded to explain that permissible modes of service had been broadened considerably over time but that the object of all of these modes of service

was the same, namely to enable the court to be satisfied that one or other of the methods used had either put the defendant in a position to ascertain the contents of the claim or was reasonably likely to enable him to do so within an appropriate period of time. The purpose of service (and substituted service) was to inform the defendant of the contents of the claim and the nature of the claimant's case against him; to give him notice that the court, being a court of competent jurisdiction, would in due course proceed to decide the merits of that claim; and to give him an opportunity to be heard and to present his case before the court. It followed that it was not possible to issue or amend a claim form so as to sue an unnamed defendant if it was conceptually impossible to bring the claim to his attention.

84. In the *Cameron* case there was no basis for inferring that the offending driver was aware of the proceedings. Service on the insurer did not and would not without more constitute service on that offending driver (nor was the insurer directly liable); alternative service on the insurer could not be expected to reach the driver; and it could not be said that the driver was trying to evade service for it had not been shown that he even knew that proceedings had been or were likely to be brought against him. Further, it had not been established that this was an appropriate case in which to dispense with service altogether for any other reason. It followed that the driver could not be sued under the description relied upon by the claimant.

85. This important decision was followed in a relatively short space of time by a series of five appeals to and decisions of the Court of Appeal concerning the way in which and the extent to which proceedings for injunctive relief against persons unknown, including newcomers, could be used to restrict trespass by constantly changing communities of Travellers, Gypsies and protesters. It is convenient to deal with them in broadly chronological order.

(7) *Ineos*

86. In *Ineos Upstream Ltd v Persons Unknown* [2019] EWCA Civ 515; [2019] 4 WLR 100, the claimants, a group of companies and individuals connected with the business of shale and gas exploration by fracking, sought interim injunctions to restrain what they contended were threatened and potentially unlawful acts of protest, including trespass, nuisance and harassment, before they occurred. The judge was satisfied on the evidence that there was a real and imminent threat of unlawful activity if he did not make an order pending trial and it was likely that a similar order would be made at trial. He therefore made the orders sought by the claimants, save in relation to harassment.

87. On appeal to the Court of Appeal it was argued, among other things, that the judge was wrong to grant injunctions against persons unknown and that he had failed properly to consider whether the claimants were likely to obtain the relief they sought at

trial and whether it was appropriate to grant an injunction against persons unknown, including newcomers, before they had had an opportunity to be heard.

88. These arguments were addressed head-on by Longmore LJ, with whom the other members of the court agreed. He rejected the submission that a claimant could never sue persons unknown unless they were identifiable at the time the claim form was issued. He also rejected, as too absolutist, the submission that an injunction could not be granted to restrain newcomers from engaging in the offending activity, that is to say persons who might only form the intention to engage in the activity at some later date. Lord Sumption's categorisation of persons who might properly be sued was not intended to exclude newcomers. To the contrary, Longmore LJ continued, Lord Sumption appeared rather to approve the decision in *Bloomsbury* and he had expressed no disapproval of the decision in *Hampshire Waste Services*.

89. Longmore LJ went on tentatively to frame the requirements of an injunction against unknown persons, including newcomers, in a characteristically helpful and practical way. He did so in these terms (at para 34): (1) there must be a sufficiently real and imminent risk of a tort being committed to justify quia timet relief; (2) it is impossible to name the persons who are likely to commit the tort unless restrained; (3) it is possible to give effective notice of the injunction and for the method of such notice to be set out in the order; (4) the terms of the injunction must correspond to the threatened tort and not be so wide that they prohibit lawful conduct; (5) the terms of the injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do; and (6) the injunction should have clear geographical and temporal limits.

#### (8) *Bromley*

90. The issue of unauthorised encampments by Gypsies and Travellers was considered by the Court of Appeal a short time later in *Bromley London Borough Council v Persons Unknown* [2020] EWCA Civ 12; [2020] PTSR 1043. This was an appeal against the refusal by the High Court to grant a five year de facto borough-wide prohibition of encampment and entry or occupation of accessible public spaces in Bromley except cemeteries and highways. The final injunction sought was directed at "persons unknown" but it was common ground that it was aimed squarely at the Gypsy and Traveller communities.

91. Important aspects of the background were that some Gypsy and Traveller communities had a particular association with Bromley; the borough had a history of unauthorised encampments; there were no or no sufficient transit sites to cater for the needs of these communities; the grant of these injunctions in ever increasing numbers had the effect of forcing Gypsies and Travellers out of the boroughs which had obtained

them, thereby imposing a greater strain on the resources of those which had not yet applied for such orders; there was a strong possibility that unless restrained by the injunction those targeted by these proceedings would act in breach of the rights of the relevant local authority; and although aspects of the resulting damage could be repaired, there would nevertheless be significant irreparable damage too. The judge was satisfied that all the necessary ingredients for a quia timet injunction were in place and so it was necessary to carry out an assessment of whether it was proportionate to grant the injunction sought in all the circumstances of the case. She concluded that it was not proportionate to grant the injunction to restrain entry and encampments but that it was proportionate to grant an injunction against fly-tipping and the disposal of waste.

92. The particular questions giving rise to the appeal were relatively narrow (namely whether the judge had fallen into error in finding the order sought was disproportionate, in setting too high a threshold for assessment of the harm caused by trespass and in concluding that the local authority had failed to discharge its public sector equality duty); but the Court of Appeal was also invited and proceeded to give guidance on the broader question of how local authorities ought properly to address the issues raised by applications for such injunctions in the future. The decision is also important because it was the first case involving an injunction in which the Gypsy and Traveller communities were represented before the High Court, and as a result of their success in securing the discharge of the injunction, it was the first case of this kind properly to be argued out at appellate level on the issues of procedural fairness and proportionality. It must also be borne in mind that the decision of the Supreme Court in *Cameron* was not cited to the Court of Appeal; nor did the Court of Appeal consider the appropriateness as a matter of principle of granting such injunctions. Conversely, there is nothing in *Bromley* to suggest that final injunctions against unidentified newcomers cannot or should never be granted.

93. As it was, the Court of Appeal dismissed the appeal. Coulson LJ, with whom Ryder and Haddon-Cave LJJ agreed, endorsed what he described as the elegant synthesis by Longmore LJ in *Ineos* (at para 34) of certain essential requirements for the grant of an injunction against persons unknown in a protester case (paras 29-30). He considered it appropriate to add in the present context (that of Travellers and Gypsies), first, that procedural fairness required that a court should be cautious when considering whether to grant an injunction against persons unknown, including Gypsies and Travellers, particularly on a final basis, in circumstances where they were not there to put their side of the case (paras 31-34); and secondly, that the judge had adopted the correct approach in requiring the claimant to show that there was a strong probability of irreparable harm (para 35).

94. The Court of Appeal was also satisfied that in assessing proportionality the judge had properly taken into account seven factors: (a) the wide extent of the relief sought; (b) the fact that the injunction was not aimed specifically at prohibiting anti-social or criminal behaviour, but just entry and occupation; (c) the lack of availability of

alternative sites; (d) the cumulative effect of other injunctions; (e) various specific failures on the part of the authority in respect of its duties under the Human Rights Act and the public sector equality duty; (f) the length of time, that is to say five years, the proposed injunction would be in force; and (g) whether the order sought took proper account of permitted development rights arising by operation of the Town and Country Planning (General Permitted Development) (England) Order 2015 (SI 2015/596), that is to say the grant of “deemed planning permission” for, by way of example, the stationing of a single caravan on land for not more than two nights, which had not been addressed in a satisfactory way. Overall, the authority had failed to satisfy the judge that it was appropriate to grant the injunction sought, and the Court of Appeal decided there was no basis for interfering with the conclusion to which she had come.

95. Coulson LJ went on (at paras 99-109) to give the wider guidance to which we have referred, and this is a matter to which we will return a little later in this judgment for it has a particular relevance to the principles to which newcomer injunctions in Gypsy and Traveller cases should be subject. Aspects of that guidance are controversial; but other aspects about which there can be no real dispute are that local authorities should engage in a process of dialogue and communication with travelling communities; should undertake, where appropriate, welfare and impact assessments; and should respect, appropriately, the culture, traditions and practices of the communities. Similarly, injunctions against unauthorised encampments should be limited in time, perhaps to a year, before review.

#### *(9) Cuadrilla*

96. The third of these appeals, *Cuadrilla Bowland Ltd v Persons Unknown* [2020] EWCA Civ 9; [2020] 4 WLR 29, concerned an injunction to restrain four named persons and “persons unknown” from trespassing on the claimants’ land, unlawfully interfering with their rights of passage to and from that land, and unlawfully interfering with the supply chain of the first claimant, which was involved, like *Ineos*, in the business of shale and gas exploration by fracking. The Court of Appeal was specifically concerned here with a challenge to an order for the committal of a number of persons for breach of this injunction, but, at para 48 and subject to two points, summarised the effect of *Ineos* as being that there was no conceptual or legal prohibition against suing persons unknown who were not currently in existence but would come into existence if and when they committed a threatened tort. Nonetheless, it continued, a court should be inherently cautious about granting such an injunction against unknown persons since the reach of such an injunction was necessarily difficult to assess in advance.

(10) *Canada Goose*

97. Only a few months later, in *Canada Goose* (para 11 above), the Court of Appeal was called upon to consider once again the way in which, and the extent to which, civil proceedings for injunctive relief against persons unknown could be used to restrict public protests. The first claimant, Canada Goose, was the UK trading arm of an international retailing business selling clothing containing animal fur and down. It opened a store in London but was faced with what it considered to be a campaign of harassment, nuisance and trespass by protesters against the manufacture and sale of such clothing. Accordingly, with the manager of the store, it issued proceedings and decided to seek an injunction against the protesters.

98. Specifically, the claimants sought and obtained a without notice interim injunction against “persons unknown” who were described as “persons unknown who are protestors against the manufacture and sale of clothing made of or containing animal products and against the sale of such clothing at [the claimants’ store]”. The injunction restrained them from, among other things, assaulting or threatening staff and customers, entering or damaging the store and engaging in particular acts of demonstration within particular zones in the vicinity of the store. The terms of the order did not require the claimants to serve the claim form on any “persons unknown” but permitted service of the interim injunction by handing or attempting to hand it to any person demonstrating at or in the vicinity of the store or by email to either of two stated email addresses, that of an activist group and that of People for the Ethical Treatment of Animals (PETA) Foundation (“PETA”), a charitable company dedicated to the protection of the rights of animals. PETA was subsequently added to the proceedings as second defendant at its own request.

99. The claimants served many copies of the interim injunction on persons in the vicinity of the store, including over 100 identifiable individuals, but did not attempt to join any of them as parties to the claim. As for the claim form, this was sent by email to the two addresses specified for service of the interim injunction, and to one other individual who had requested a copy.

100. In these circumstances, an application by the claimants for summary judgment and a final injunction was unsuccessful. The judge held that the claim form had not been served on any defendant to the proceedings; that it was not appropriate to permit service by alternative means (under CPR rule 6.15) or to dispense with service (under CPR rule 6.16); and that the interim injunction would be discharged. He also considered that the description of the persons unknown was too broad, as it was capable of including protesters who might never intend to visit the store, and that the injunction was capable of affecting persons who did not carry out any activities which were otherwise unlawful. In addition, he considered that the proposed final injunction was defective in that it

would capture future protesters who were not parties to the proceedings at the time when the injunction was granted. He refused to grant a final injunction.

101. The Court of Appeal dismissed the claimants' appeal. It held, first, that service of proceedings is important in the delivery of justice. The general rule is that service of the originating process is the act by which the defendant is subjected to the court's jurisdiction – and that a person cannot be made subject to the jurisdiction without having such notice of the proceedings as will enable him to be heard. Here there was no satisfactory evidence that the steps taken by the claimants were such as could reasonably be expected to have drawn the proceedings to the attention of the respondent unknown persons; the claimants had never sought an order for alternative service under CPR rule 6.15 and there was never any proper basis for an order under CPR rule 6.16 dispensing with service.

102. Secondly, the Court of Appeal held that the court may grant an interim injunction before proceedings have been served (or even issued) against persons who wish to join an ongoing protest, and that it is also, in principle, open to the court in appropriate circumstances to limit even lawful activity where there is no other proportionate means of protecting the claimants' rights, as for example in *Hubbard v Pitt* [1976] QB 142 (protesting outside an estate agency), and *Burris v Azadani* [1995] 1 WLR 1372 (entering a modest exclusion zone around the claimant's home), and to this extent the requirements for a newcomer injunction explained in *Ineos* required qualification. But in this case, the description of the "persons unknown" was impermissibly wide; the prohibited acts were not confined to unlawful acts; and the interim injunction failed to provide for a method of alternative service which was likely to bring the order to the attention of the persons unknown. The court was therefore justified in discharging the interim injunction.

103. Thirdly, the Court of Appeal held (para 89) that a final injunction could not be granted in a protester case against persons unknown who were not parties at the date of the final order, since a final injunction operated only between the parties to the proceedings. As authority for that proposition, the court cited *Attorney General v Times Newspapers Ltd* per Lord Oliver at p 224 (quoted at para 39 above). That, the court said, was consistent with the fundamental principle in *Cameron* that a person cannot be made subject to the jurisdiction of the court without having such notice of the proceedings as will enable him to be heard. It followed, in the court's view, that a final injunction could not be granted against newcomers who had not by that time committed the prohibited acts, since they did not fall within the description of "persons unknown" and had not been served with the claim form. This was not one of the very limited cases, such as *Venables*, in which a final injunction could be granted against the whole world. Nor was it a case where there was scope for making persons unknown subject to a final order. That was only possible (and perfectly legitimate) provided the persons unknown were confined to those in the first category of unknown persons in *Cameron* – that is to say anonymous defendants who were nonetheless identifiable in some other way (para 91).

In the Court of Appeal's view, the claimants' problem was that they were seeking to invoke the civil jurisdiction of the courts as a means of permanently controlling ongoing public demonstrations by a continually fluctuating body of protesters (para 93).

104. This reasoning reveals the marked difference in approach and outcome from that of the Court of Appeal in the proceedings now before this court and highlights the importance of the issues to which it gives rise and to which we referred at the outset. Indeed, the correctness and potential breadth of the reasoning of the Court of Appeal in *Canada Goose*, and how that reasoning differs from the approach taken by the Court of Appeal in these proceedings, lie at the heart of these appeals.

(11) *The present case*

105. The circumstances of the present appeals were summarised at paras 6-12 above. In the light of the foregoing discussion, it will be apparent that, in holding that interim injunctions could be granted against persons unknown, but that final injunctions could be granted only against parties who had been identified and had had an opportunity to contest the final order sought, Nicklin J applied the reasoning of the Court of Appeal in *Canada Goose*. The Court of Appeal, however, departed from that reasoning, on the basis that it had failed to have proper regard to *Gammell*, which was binding on it.

106. The Court of Appeal's approach in the present case, as set out in the judgment of Sir Geoffrey Vos MR, with which the other members of the court agreed, was based primarily on the decision in *Gammell*. It proceeded, therefore, on the basis that the persons to whom an injunction is addressed can be described by reference to the behaviour prohibited by the injunction, and that those persons will then become parties to the action in the event that they breach the injunction. As we will explain, we do not regard that as a satisfactory approach, essentially because it is based on the premise that the injunction will be breached and leaves out of account the persons affected by the injunction who decide to obey it. It also involves the logical paradox that a person becomes bound by an injunction only as a result of infringing it. However, even leaving *Gammell* to one side, the Court of Appeal subjected the reasoning in *Canada Goose* to cogent criticism.

107. Among the points made by the Master of the Rolls, the following should be highlighted. No meaningful distinction could be drawn between interim and final injunctions in this context (para 77). No such distinction had been drawn in the earlier case law concerned with newcomer injunctions. It was unrealistic at least in the context of cases concerned with protesters or Travellers, since such cases rarely if ever resulted in trials. In addition, in the case of an injunction (unlike a damages action such as *Cameron*) there was no possibility of a default judgment: the grant of an injunction was always in the discretion of the court. Nor was a default judgment available under Part 8

procedure. Furthermore, as the facts of the earlier cases demonstrated and *Bromley* explained, the court needed to keep injunctions against persons unknown under review even if they were final in character. In that regard, the Master of the Rolls made the point that, for as long as the court is concerned with the enforcement of an order, the action is not at an end.

#### 4. *A new type of injunction?*

108. It is convenient to begin the analysis by considering certain strands in the arguments which have been put forward in support of the grant of newcomer injunctions, initially outside the context of proceedings against Travellers. They may each be labelled with the names of the leading cases from which the arguments have been derived, and we will address them broadly chronologically.

109. The earliest in time is *Venables*, discussed at paras 32-33 above. The case is important as possibly the first contra mundum equitable injunction granted in recent times, and in our view correctly explains why the objections to the grant of newcomer injunctions against Travellers go to matters of established principle rather than jurisdiction in the strict sense: ie not to the power of the court, as was later confirmed by Lord Scott of Foscote in *Fourie v Le Roux* at para 25 (cited at para 16 above). In that respect the *Venables* injunction went even further than the typical Traveller injunction, where the newcomers are at least confined to a class of those who might wish to camp on the relevant prohibited sites. Nevertheless, for the reasons we explained at paras 25 and 61 above, and which we develop further at paras 155-159 below, newcomer injunctions can be regarded as being analogous to other injunctions or orders which have a binding effect upon the public at large. Like wardship orders contra mundum (para 31 above), *Venables*-type injunctions (paras 32-33 above), reporting restrictions (para 34 above), and embargoes on the publication of draft judgments (para 35 above), they are not limited in their effects to particular individuals, but can potentially affect anyone in the world.

110. *Venables* has been followed in a number of later cases at first instance, where there was convincing evidence that an injunction contra mundum was necessary to protect a person from serious injury or death: see *X (formerly Bell) v O'Brien* [2003] EWHC 1101 (QB); [2003] EMLR 37; *Carr v News Group Newspapers Ltd* [2005] EWHC 971 (QB); *A (A Protected Party) v Persons Unknown* [2016] EWHC 3295 (Ch); [2017] EMLR 11; *RXG v Ministry of Justice* [2019] EWHC 2026 (QB); [2020] QB 703; *In re Persons formerly known as Winch* [2021] EWHC 1328 (QB); [2021] EMLR 20 and [2021] EWHC 3284 (QB); and *D v Persons Unknown* [2021] EWHC 157 (QB). An injunction contra mundum has also been granted where there was a danger of a serious violation of another Convention right, the right to respect for private life: see *OPQ v BJM* [2011] EWHC 1059 (QB); [2011] EMLR 23. The approach adopted in these cases has generally been based on the Human Rights Act rather than on principles of wider

application. They take the issue raised in the present case little further on the question of principle. The facts of the cases were extreme in imposing real compulsion on the court to do something effective. Above all, the court was driven in each case to make the order by a perception that the risk to the claimants' Convention rights placed it under a positive duty to act. There is no real parallel between the facts in those cases and the facts of a typical Traveller case. The local authority has no Convention rights to protect, and such Convention rights of the public in its locality as a newcomer injunction might protect are of an altogether lower order.

111. The next in time is the *Bloomsbury* case, the facts and reasoning in which were summarised in paras 58-59 above. The case was analysed by Lord Sumption in *Cameron* by reference to the distinction which he drew at para 13, as explained earlier, between cases concerned with anonymous defendants who were identifiable but whose names were unknown, such as squatters occupying a property, and cases concerned with defendants, such as most hit and run drivers, who were not only anonymous but could not be identified. The distinction was of critical importance, in Lord Sumption's view, because a defendant in the first category of case could be served with the claim form or other originating process, whereas a defendant in the second category could not, and consequently could not be given such notice of the proceedings as would enable him to be heard, as justice required.

112. Lord Sumption added at para 15 that where an interim injunction was granted and could be specifically enforced against some property or by notice to third parties who would necessarily be involved in any contempt, the process of enforcing it would sometimes be enough to bring the proceedings to the defendant's attention. He cited *Bloomsbury* as an example, stating:

“the unnamed defendants would have had to identify themselves as the persons in physical possession of copies of the book if they had sought to do the prohibited act, namely disclose it to people (such as newspapers) who had been notified of the injunction.”

113. Lord Sumption categorised *Cameron* itself as a case in the second category, stating at para 16:

“One does not, however, identify an unknown person simply by referring to something that he has done in the past. ‘The person unknown driving vehicle registration number Y598 SPS who collided with vehicle registration number KG03 ZJZ on 26 May 2013’, does not identify anyone. It does not enable

one to know whether any particular person is the one referred to.”

Nor was there any specific interim relief, such as an injunction, which could be enforced in a way that would bring the proceedings to the unknown person’s attention. The impossibility of service in such a case was, Lord Sumption said, “due not just to the fact that the defendant cannot be found but to the fact that it is not known who the defendant is” (ibid). The alternative service approved by the Court of Appeal – service on the insurer – could not be expected to reach the driver, and would be tantamount to no service at all. Addressing what, if the case had proceeded differently, might have been the heart of the matter, Lord Sumption added that although it might be appropriate to dispense with service if the defendant had concealed his identity in order to evade service, no submission had been made that the court should treat the case as one of evasion of service, and there were no findings which would enable it to do so.

114. We do not question the decision in *Cameron*. Nor do we question its essential reasoning: that proceedings should be brought to the notice of a person against whom damages are sought (unless, exceptionally, service can be dispensed with), so that he or she has an opportunity to be heard; that service is the means by which that is effected; and that, in circumstances in which service of the amended claim on the substituted defendant would be impossible (even alternative service being tantamount to no service at all), the judge had accordingly been right to refuse permission to amend.

115. That said, with the benefit of the further scrutiny that the point has received on this appeal, we have, with respect, some difficulties with other aspects of Lord Sumption’s analysis. In the first place, we agree that it is generally necessary that a defendant should have such notice of the proceedings as will enable him to be heard before any final relief is ordered. However, there are exceptions to that general rule, as in the case of injunctions granted contra mundum, where there is in reality no defendant in the sense which Lord Sumption had in mind. It is also necessary to bear in mind that it is possible for a person affected by an injunction to be heard after a final order has been made, as was explained at para 40 above. Furthermore, notification, by means of service, and the consequent ability to be heard, is an essentially practical matter. As this court explained in *Abela v Baadarani* [2013] UKSC 44; [2013] 1 WLR 2043, para 37, service has a number of purposes, but the most important is to ensure that the contents of the document served come to the attention of the defendant. Whether they have done so is a question of fact. If the focus is on whether service can in practice be effected, as we think it should be, then it is unnecessary to carry out the preliminary exercise of classifying cases as falling into either the first or the second of Lord Sumption’s categories.

116. We also have reservations about the theory that it is necessary, in order for service to be effective, that the defendant should be identifiable. For example, Lord

Sumption cited with approval the case of *Brett Wilson llp v Persons Unknown* [2015] EWHC 2628 (QB); [2016] 4 WLR 69, as illustrating circumstances in which alternative service was legitimate because “it is possible to locate or communicate with the defendant and to identify him as the person described in the claim form” (para 15). That was a case concerned with online defamation. The defendants were described as persons unknown, responsible for the operation of the website on which the defamatory statements were published. Alternative service was effected by sending the claim form to email addresses used by the website owners, who were providers of a proxy registration service (ie they were registered as the owners of the domain name and licensed its operation by third parties, so that those third parties could not be identified from the publicly accessible database of domain owners). Yet the identities of the defendants were just as unknown as that of the driver in *Cameron*, and remained so after service had been effected: it remained impossible to identify any individuals as the persons described in the claim form. The alternative service was acceptable not because the defendants could be identified, but because, as the judge stated (para 16), it was reasonable to infer that emails sent to the addresses in question had come to their attention.

117. We also have difficulty in fitting the unnamed defendants in *Bloomsbury* within Lord Sumption’s class of identifiable persons who in due course could be served. It is true that they would have had to identify themselves as the persons referred to if they had sought to do the prohibited act. But if they learned of the injunction and decided to obey it, they would be no more likely to be identified for service than the hit and run driver in *Cameron*. The *Bloomsbury* case also illustrates the somewhat unstable nature of Lord Sumption’s distinction between anonymous and unidentifiable defendants. Since the unnamed defendants in *Bloomsbury* were unidentifiable at the time when the claim was commenced and the injunction was granted, one would have thought that the case fell into Lord Sumption’s second category. But the fact that the unnamed defendants would have had to identify themselves as the persons in possession of the book if (but only if) they disobeyed the injunction seems to have moved the case into the first category. This implies that it is too absolutist to say that a claimant can never sue persons unknown unless they are identifiable at the time the claim form is issued. For these reasons also, it seems to us that the classification of cases as falling into one or other of Lord Sumption’s categories (or into a third category, as suggested by the Court of Appeal in *Canada Goose*, para 63, and in the present case, para 35) may be a distraction from the fundamental question of whether service on the defendant can in practice be effected so as to bring the proceedings to his or her notice.

118. We also note that Lord Sumption’s description of *Bloomsbury* and *Gammell* as cases concerned with interim injunctions was influential in the later case of *Canada Goose*. It is true that the order made in *Bloomsbury* was not, in form, a final order, but it was in substance equivalent to a final order: it bound those unknown persons for the entirety of the only relevant period, which was the period leading up to the publication of the book. As for *Gammell*, the reasoning did not depend on whether the injunctions were interim or final in nature. The order in Ms Gammell’s case was interim (“until trial

or further order”), but the point is less clear in relation to the order made in the accompanying case of Ms Maughan, which stated that “this order shall remain in force until further order”.

119. More importantly, we are not comfortable with an analysis of *Bloomsbury* which treats its legitimacy as depending upon its being categorised as falling within a class of case where unnamed defendants may be assumed to become identifiable, and therefore capable of being served in due course, as we shall explain in more detail in relation to the supposed *Gammell* solution, notably included by Lord Sumption in the same class alongside *Bloomsbury*, at para 15 in *Cameron*.

120. We also observe that *Cameron* was not concerned with equitable remedies or equitable principles. Nor was it concerned with newcomers. Understandably, given that the case was an action for damages, Lord Sumption’s focus was particularly on the practice of the common law courts and on cases concerned with common law remedies (eg at paras 8 and 18-19). Proceedings in which injunctive relief is sought raise different considerations, partly because an injunction has to be brought to the notice of the defendant before it can be enforced against him or her. In some cases, furthermore, the real target of the injunctive relief is not the unidentified defendant, but the “no cause of action defendants” against whom freezing injunctions, *Norwich Pharmacal* orders, *Bankers Trust* orders and internet blocking orders may be obtained. The result of the orders made against those defendants may be to enable the unnamed defendant then to be identified and served, and effective relief obtained: see, for example, *CMOC Sales and Marketing Ltd v Person Unknown* [2018] EWHC 2230 (Comm); [2019] Lloyd’s Rep FC 62. In other words, the identification of the unknown defendant can depend upon the availability of injunctions which are granted at a stage when that defendant remains unidentifiable. Furthermore, injunctions and other orders which operate contra mundum, to which (as we have already observed) newcomer injunctions can be regarded as analogous, raise issues lying beyond the scope of Lord Sumption’s judgment in *Cameron*.

121. It also needs to be borne in mind that the unnamed defendants in *Bloomsbury* formed a tiny class of thieves who might be supposed to be likely to reveal their identity to a media outlet during the very short period when their stolen copy of the book was an item of special value. The main purpose of seeking to continue the injunction against them was not to act as a deterrent to the thieves or even to enable them to be apprehended or committed for contempt, but rather to discourage any media publisher from dealing with them and thereby incurring liability for contempt as an aider and abetter: see *Cameron*, para 10; *Bloomsbury*, para 20. As we have explained (paras 41 and 46 above), it is not unusual in modern practice for an injunction issued against defendants, including persons unknown, to be designed primarily to affect the conduct of non-parties.

122. In that regard, it is to be noted that Lord Sumption's reason for regarding the injunction in *Bloomsbury* as legitimate was not the reason given by the Vice-Chancellor. His justification lay not in the ability to serve persons who identified themselves by breach, but in the absence of any injustice in framing an injunction against a class of unnamed persons provided that the class was sufficiently precisely defined that it could be said of any particular person whether they fell inside or outside the class of persons restrained. That justification may be said to have substantial equitable foundations. It is the same test which defines the validity of a class of discretionary beneficiaries under a trust: see *In re Baden's Deed Trusts* [1971] AC 424, 456. The trust in favour of the class is valid if it can be said of any given postulant whether they are or are not a member of the class.

123. That justification addresses what the Vice-Chancellor may have perceived to be one of the main objections to the joinder of (or the grant of injunctions against) unnamed persons, namely that it is too vague a way of doing so: see para 7. But it does not seek directly to address the potential for injustice in restraining persons who are not just unnamed, but genuine newcomers: eg in the present context persons who have not at the time when the injunction was granted formed any desire or intention to camp at the prohibited site. The facts of the *Bloomsbury* case make that unsurprising. The unnamed defendants had already stolen copies of the book at the time when the injunction was granted, and it was a fair assumption at the time of the hearing before the Vice-Chancellor that they had formed the intention to make an illicit profit from its disclosure to the media before the launch date. Three had already tried to do so, been identified and arrested. The further injunction was just to catch the one or two (if any) who remained in the shadows and to prevent any publication facilitated by them in the meantime.

124. There is therefore a broad contextual difference between the injunction granted in *Bloomsbury* and the typical newcomer injunction against Travellers. The former was directed against a small group of existing criminals, who could not sensibly be classed as newcomers other than in a purely technical sense, where the risk of loss to the claimants lay within a tight timeframe before the launch date. The typical newcomer injunction against Travellers, on the other hand, is intended to restrain Travellers generally, for as long a period as the court can be persuaded to grant an injunction, and regardless of whether particular Travellers have yet become aware of the prohibited site as a potential camp site. The Vice-Chancellor's analysis does not seek to render joinder as a defendant unnecessary, whereas (as will be explained) the newcomer injunction does. But the case certainly does stand as a precedent for the grant of relief otherwise than on an emergency basis against defendants who, although joined, have yet to be served.

125. We turn next to the supposed *Gammell* solution, and its apparent approval in *Cameron* as a juridically sound means of joining unnamed defendants by their self-identification in the course of disobeying the relevant injunction. It has the merit of

being specifically addressed to newcomer injunctions in the context of Travellers, but in our view it is really no solution at all.

126. The circumstances and reasoning in *Gammell* were explained in paras 63-66 above. For present purposes it is the court's reasons for concluding that Ms Gammell became a defendant when she stationed her caravans on the site which matter. At para 32 Sir Anthony Clarke MR said this:

“In each of these appeals the appellant became a party to the proceedings when she did an act which brought her within the definition of defendant in the particular case .... In the case of KG she became both a person to whom the injunction was addressed and the defendant when she caused or permitted her caravans to occupy the site. In neither case was it necessary to make her a defendant to the proceedings later.”

The Master of the Rolls' analysis was not directed to a submission that injunctions could not or should not be granted at all against newcomers, as is now advanced on this appeal. No such submission was made. Furthermore, he was concerned only with the circumstances of a person who had both been served with and (by oral explanation) notified of the terms of the injunction and who had then continued to disobey it. He was not concerned with the position of a newcomer, wishing to camp on a prohibited site who, after learning of the injunction, simply decided to obey it and move on to another site. Such a person would not, on his analysis, become a defendant at all, even though constrained by the injunction as to their conduct. Service of the proceedings (as opposed to the injunction) was not raised as an issue in that case as the necessary basis for in personam jurisdiction, other than merely for holding the ring. Neither *Cameron* nor *Fourie v Le Roux* had been decided. The real point, unsuccessfully argued, was that the injunction should not have the effect against any particular newcomer of placing them in contempt until a personalised proportionality exercise had been undertaken. The need for a personalised proportionality exercise is also pursued on this appeal as a reason why newcomer injunctions should never be granted against Travellers, and we address it later in this judgment.

127. The concept of a newcomer automatically becoming (or self-identifying as) a defendant by disobeying the injunction might therefore be described, in 2005, as a solution looking for a problem. But it became a supposed solution to the problem addressed in this appeal when prayed in aid, first briefly and perhaps tentatively by Lord Sumption in *Cameron* at para 15 and secondly by Sir Geoffrey Vos MR in great detail in the present case, at paras 28, 30-31, 37, 39, 82, 85, 91-92, 94, 96 and concluding at 99 of the judgment. It may fairly be described as lying at the heart of his reasoning for allowing the appeals, and departing from the reasoning of the Court of Appeal in *Canada Goose*.

128. This court is not of course bound to consider the matter, as was the Master of the Rolls, as a question of potentially binding precedent. We have the refreshing liberty of being able to look at the question anew, albeit constrained (although not bound) by the ratio of relevant earlier decisions of this court and of its predecessor. We conduct that analysis in the following paragraphs. While we have no reason to doubt the efficacy of the concept of self-identification as a defendant as a means of dealing with disobedience by a newcomer with an injunction, the propriety of which is not itself under challenge (as it was not in *Gammell*), we are not persuaded that self-identification as a defendant solves the basic problems inherent in granting injunctions against newcomers in the first place.

129. The *Gammell* solution, as we have called it, suffers from a number of problems. The most fundamental is that the effect of an injunction against newcomers should be addressed by reference to the paradigm example of the newcomer who can be expected to obey it rather than to act in disobedience to it. As Lord Bingham observed in *South Bucks District Council v Porter* (cited at para 65 above) at para 32, in connection with a possible injunction against Gypsies living in caravans in breach of planning controls, “[w]hen granting an injunction the court does not contemplate that it will be disobeyed”. Lord Rodger cited this with approval (at para 17) in the *Meier* case (para 67 above). Similarly, Lady Hale stated in the same case at para 39, in relation to an injunction against trespass by persons unknown, “[w]e should assume that people will obey the law, and in particular the targeted orders of the court, rather than that they will not.”

130. A further problem with the *Gammell* solution is that where the defendants are defined by reference to the future act of infringement, a person who breaches the order will, by that very act, become bound by it. The Court of Appeal of Victoria remarked, in relation to similar reasoning in the New Zealand case of *Tony Blain Pty Ltd v Splain* [1993] 3 NZLR 185, that an order of that kind “had the novel feature – which would have appealed to Lewis Carroll – that it became binding upon a person only because that person was already in breach of it”: *Maritime Union of Australia v Patrick Stevedores Operations Pty Ltd* [1998] 4 VR 143, 161.

131. Nevertheless, a satisfactory solution, which respects the procedural rights of all those whose behaviour is constrained by newcomer injunctions, including those who obey them, should if possible be found. The practical need for such injunctions has been demonstrated both in this jurisdiction and elsewhere: see, for example, the Canadian case of *MacMillan Bloedel Ltd v Simpson* [1996] 2 SCR 1048 (where reliance was placed at para 26 on *Attorney General v Times Newspapers Ltd* as establishing the contra mundum effect even of injunctions inter partes), American cases such as *Joel v Various John Does* 499 F Supp 791 (1980), New Zealand cases such as *Tony Blain Pty Ltd v Splain* (para 130 above), *Earthquake Commission v Unknown Defendants* [2013] NZHC 708 and *Commerce Commission v Unknown Defendants* [2019] NZHC 2609, the Cayman Islands case of *Ernst & Young Ltd v Department of Immigration* 2015 (1)

CILR 151, and Indian cases such as *ESPN Software India Private Ltd v Tudu Enterprise* (unreported), 18 February 2011.

132. As it seems to us, the difficulty which has been experienced in the English cases, and to which *Gammell* has hitherto been regarded as providing a solution, arises from treating newcomer injunctions as a particular type of conventional injunction inter partes, subject to the usual requirements as to service. The logic of that approach has led to the conclusion that persons affected by the injunction only become parties, and are only enjoined, in the event that they breach the injunction. An alternative approach would begin by accepting that newcomer injunctions are analogous to injunctions and other orders which operate contra mundum, as noted in para 109 above and explained further at paras 155-159 below. Although the persons enjoined by a newcomer injunction should be described as precisely as may be possible in the circumstances, they potentially embrace the whole of humanity. Viewed in that way, if newcomer injunctions operate in the same way as the orders and injunctions to which they are analogous, then anyone who knowingly breaches the injunction is liable to be held in contempt, whether or not they have been served with the proceedings. Anyone affected by the injunction can apply to have it varied or discharged, and can apply to be made a defendant, whether they have obeyed it or disobeyed it, as explained in para 40 above. Although not strictly necessary, those safeguards might also be reflected in provisions of the order: for example, in relation to liberty to apply. We shall return below to the question whether this alternative approach is permissible as a matter of legal principle.

133. As we have explained, the *Gammell* solution was adopted by the Court of Appeal in the present case as a means of overcoming the difficulties arising in relation to final injunctions against newcomers which had been identified in *Canada Goose*. Where, then, does our rejection of the *Gammell* solution leave the reasoning in *Canada Goose*?

134. Although we do not doubt the correctness of the decision in *Canada Goose*, we are not persuaded by the reasoning at paras 89-93, which we summarised at para 103 above. In addition to the criticisms made by the Court of Appeal which we have summarised at para 107 above, and with which we respectfully agree, we would make the following points.

135. First, the court's starting point in *Canada Goose* was that there were "some very limited circumstances", such as in *Venables*, in which a final injunction could be granted contra mundum, but that protester actions did not fall within "that exceptional category". Accordingly, "[t]he usual principle, which applies in the present case, is that a final injunction operates only between the parties to the proceedings: *Attorney General v Times Newspapers Ltd* ... p 224" (para 89). The problem with that approach is that it assumes that the availability of a final injunction against newcomers depends on fitting such injunctions within an existing exclusive category. Such an approach is mistaken in principle, as explained in para 21 above.

136. The court buttressed its adoption of the “usual principle” with the observation that it was “consistent with the fundamental principle in *Cameron* ... that a person cannot be made subject to the jurisdiction of the court without having such notice of the proceedings as will enable him to be heard” (ibid). As we have explained, however, there are means of enabling a person who is affected by a final injunction to be heard after the order has been made, as was discussed in *Bromley* and recognised by the Master of the Rolls in the present case.

137. The court also observed at para 92 that “[a]n interim injunction is temporary relief intended to hold the position until trial”, and that “[o]nce the trial has taken place and the rights of the parties have been determined, the litigation is at an end”. That is an unrealistic view of proceedings of the kind in which newcomer injunctions are generally sought, and an unduly narrow view of the scope of interlocutory injunctions in the modern law, as explained at paras 43-49 above. As we have explained (eg at paras 60 and 73 above), there is scarcely ever a trial in proceedings of the present kind, or even adversarial argument; injunctions, even if expressed as being interim or until further order, remain in place for considerable periods of time, sometimes for years; and the proceedings are not at an end until the injunction is discharged.

138. We are also unpersuaded by the court’s observation that private law remedies are unsuitable “as a means of permanently controlling ongoing public demonstrations by a continually fluctuating body of protesters” (para 93). If that were so, where claimants face the prospect of continuing unlawful disruption of their activities by groups of individuals whose composition changes from time to time, then it seems that the only practical means of obtaining the relief required to vindicate their legal rights would be for them to adopt a rolling programme of applications for interim orders, resulting in litigation without end. That would prioritise formalism over substance, contrary to a basic principle of equity (para 151 below). As we shall explain, there is no overriding reason why the courts cannot devise procedures which enable injunctions to be granted which prohibit unidentified persons from behaving unlawfully, and which enable such persons subsequently to become parties to the proceedings and to seek to have the injunctions varied or discharged.

139. The developing arguments about the propriety of granting injunctions against newcomers, set against the established principles re-emphasised in *Fourie v Le Roux* and *Cameron*, and then applied in *Canada Goose*, have displayed a tendency to place such injunctions in one or other of two silos: interim and final. This has followed through into the framing of the issues for determination in this appeal and has, perhaps in consequence, permeated the parties’ submissions. Thus, it is said by the appellants that the long-established principle that an injunction should be confined to defendants served with the proceedings applies only to final injunctions, which should not therefore be granted against newcomers. Then it is said that since an interim injunction is designed only to hold the ring, pending trial between the parties who have by then been served with the proceedings, its use against newcomers for any other purpose would fall

outside the principles which regulate the grant of interim injunctions. Then the respondents (like the Court of Appeal) rely upon the *Gammell* solution (that a newcomer becomes a defendant by acting in breach of the interim injunction) as solving both problems, because it makes them parties to the proceedings leading to the final injunction (even if they then take no part in them) and justifies the interim injunction against newcomers as a way of smoking them out before trial. In sympathy with the Court of Appeal on this point we consider that this constant focus upon the duality of interim and final injunctions is ultimately unhelpful as an analytical tool for solving the problem of injunctions against newcomers. In our view the injunction, in its operation upon newcomers, is typically neither interim nor final, at least in substance. Rather it is, against newcomers, what is now called a without notice (ie in the old jargon *ex parte*) injunction, that is an injunction which, at the time when it is ordered, operates against a person who has not been served in due time with the application so as to be able to oppose it, who may have had no notice (even informal) of the intended application to court for the grant of it, and who may not at that stage even be a defendant served with the proceedings in which the injunction is sought. This is so regardless of whether the injunction is in form interim or final.

140. More to the point, the injunction typically operates against a particular newcomer before (if ever) the newcomer becomes a party to the proceedings, as we have explained at paras 129-132 above. An ordinarily law-abiding newcomer, once notified of the existence of the injunction (eg by seeing a copy of the order at the relevant site or by reading it on the internet), may be expected to comply with the injunction rather than act in breach of it. At the point of compliance that person will not be a defendant, if the defendants are defined as persons who behave in the manner restrained. Unless they apply to do so they will never become a defendant. If the person is a Traveller, they will simply pass by the prohibited site rather than camp there. They will not identify themselves to the claimant or to the court by any conspicuous breach, nor trigger the *Gammell* process by which, under the current orthodoxy, they are deemed then to become a defendant by self-identification. Even if the order was granted at a formally interim stage, the compliant Traveller will not ever become a party to the proceedings. They will probably never become aware of any later order in final form, unless by pure coincidence they pass by the same site again looking for somewhere to camp. Even if they do, and are again dissuaded, this time by the final injunction, they will not have been a party to the proceedings when the final order was made, unless they breached it at the interim stage.

141. In considering whether injunctions of this type comply with the standards of procedural and substantive fairness and justice by which the courts direct themselves, it is the compliant (law-abiding) newcomer, not the contemptuous breaker of the injunction, who ought to be regarded as the paradigm in any process of evaluation. Courts grant injunctions on the assumption that they will generally be obeyed, not as stage one in a process intended to lead to committal for contempt: see para 129 above, and the cases there cited, with which we agree. Furthermore the evaluation of potential injustice inherent in the process of granting injunctions against newcomers is more

likely to be reliable if there is no assumption that the newcomer affected by the injunction is a person so regardless of the law that they will commit a breach of it, even if the grant necessarily assumes a real risk that they (or a significant number of them) would, but for the injunction, invade the claimant's rights, or the rights (including the planning regime) of those for whose protection the claimant local authority seeks the injunction. That is the essence of the justification for such an injunction.

142. Recognition that injunctions against newcomers are in substance always a type of without notice injunction, whether in form interim or final, is in our view the starting point in a reliable assessment of the question whether they should be made at all and, if so, by reference to what principles and subject to what safeguards. Viewed in that way they then need to be set against the established categories of injunction to see whether they fall into an existing legitimate class, or, if not, whether they display features by reference to which they may be regarded as a legitimate extension of the court's practice.

143. The distinguishing features of an injunction against newcomers are in our view as follows:

(i) They are made against persons who are truly unknowable at the time of the grant, rather than (like Lord Sumption's class 1 in *Cameron*) identifiable persons whose names are not known. They therefore apply potentially to anyone in the world.

(ii) They are always made, as against newcomers, on a without notice basis (see para 139 above). However, as we explain below, informal notice of the application for such an injunction may nevertheless be given by advertisement.

(iii) In the context of Travellers and Gypsies they are made in cases where the persons restrained are unlikely to have any right or liberty to do that which is prohibited by the order, save perhaps Convention rights to be weighed in a proportionality balance. The conduct restrained is typically either a plain trespass or a plain breach of planning control, or both.

(iv) Accordingly, although there are exceptions, these injunctions are generally made in proceedings where there is unlikely to be a real dispute to be resolved, or triable issue of fact or law about the claimant's entitlement, even though the injunction sought is of course always discretionary. They and the proceedings in which they are made are generally more a form of enforcement of undisputed rights than a form of dispute resolution.

(v) Even in cases where there might in theory be such a dispute, or a real prospect that article 8 rights might prevail, the newcomers would in practice be unlikely to engage with the proceedings as active defendants, even if joined. This is not merely or even mainly because they are newcomers who may by complying with the injunction remain unidentified. Even if identified and joined as defendants, experience has shown that they generally decline to take any active part in the proceedings, whether because of lack of means, lack of pro bono representation, lack of a wish to undertake costs risk, lack of a perceived defence or simply because their wish to camp on any particular site is so short term that it makes more sense to move on than to go to court about continued camping at any particular site or locality.

(vi) By the same token the mischief against which the injunction is aimed, although cumulatively a serious threatened invasion of the claimant's rights (or the rights of the neighbouring public which the local authorities seek to protect), is usually short term and liable, if terminated, just to be repeated on a nearby site, or by different Travellers on the same site, so that the usual processes of eviction, or even injunction against named parties, are an inadequate means of protection.

(vii) For all those reasons the injunction (even when interim in form) is sought for its medium to long term effect even if time-limited, rather than as a means of holding the ring in an emergency, ahead of some later trial process, or even a renewed interim application on notice (and following service) in which any defendant is expected to be identified, let alone turn up and contest.

(viii) Nor is the injunction designed (like a freezing injunction, search order, Norwich Pharmacal or Bankers Trust order or even an anti-suit injunction) to protect from interference or abuse, or to enhance, some related process of the court. Its purpose, and no doubt the reason for its recent popularity, is simply to provide a more effective, possibly the only effective, means of vindication or protection of relevant rights than any other sanction currently available to the claimant local authorities.

144. Cumulatively those distinguishing features leave us in no doubt that the injunction against newcomers is a wholly new type of injunction with no very closely related ancestor from which it might be described as evolutionary offspring, although analogies can be drawn, as will appear, with some established forms of order. It is in some respects just as novel as were the new types of injunction listed in sub-paragraph (viii) above, and it does not even share their family likeness of being developed to protect the integrity and effectiveness of some related process of the courts. As Mr Drabble KC for the appellants tellingly submitted, it is not even that closely related to

the established quia timet injunction, which depends upon proof that a named defendant has threatened to invade the claimant's rights. Why, he asked, should it be assumed that, just because one group of Travellers have misbehaved on the subject site while camping there temporarily, the next group to camp there will be other than model campers?

145. Faced with the development by the lower courts of what really is in substance a new type of injunction, and with disagreement among them about whether there is any jurisdiction or principled basis for granting it, it behoves this court to go back to first principles about the means by which the court navigates such uncharted water. Much emphasis was placed in this context upon the wide generality of the words of section 37 of the 1981 Act. This was cited in para 17 above, but it is convenient to recall its terms:

“(1) The High Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases in which it appears to the court to be just and convenient to do so.

(2) Any such order may be made either unconditionally or on such terms and conditions as the court thinks just.”

This or a very similar formulation has provided the statutory basis for the grant of injunctions since 1873. But in our view a submission that section 37 tells you all you need to know proves both too much and too little. Too much because, as we have already observed, it is certainly not the case that judges can grant or withhold injunctions purely on their own subjective perception of the justice and convenience of doing so in a particular case. Too little because the statutory formula tells you nothing about the principles which the courts have developed over many years, even centuries, to inform the judge and the parties as to what is likely to be just or convenient.

146. Prior to 1873 both the jurisdiction to grant injunctions and the principles regulating their grant lay in the common law, and specifically in that part of it called equity. It was an equitable remedy. From 1873 onwards the jurisdiction to grant injunctions has been confirmed and restated by statute, but the principles upon which they are granted (or withheld) have remained equitable: see *Fourie v Le Roux* (paras 16 and 17 above) per Lord Scott of Foscote at para 25. Those principles continue to tell the judge what is just and convenient in any particular case. Furthermore, equitable principles generally provide the answer to the question whether settled principles or practice about the general limits or conditions within which injunctions are granted may properly be adjusted over time. The equitable origin of these principles is beyond doubt, and their continuing vitality as an analytical tool may be seen at work from time to time when changes or developments in the scope of injunctive relief are reviewed: see eg *Castanho v Brown & Root (UK) Ltd* (para 21 above).

147. The expression of the readiness of equity to change and adapt its principles for the grant of equitable relief which has best stood the test of time lies in the following well-known passage from *Spry* (para 17 above) at p 333:

“The powers of courts with equitable jurisdiction to grant injunctions are, subject to any relevant statutory restrictions, unlimited. Injunctions are granted only when to do so accords with equitable principles, but this restriction involves, not a defect of powers, but an adoption of doctrines and practices that change in their application from time to time. Unfortunately there have sometimes been made observations by judges that tend to confuse questions of jurisdiction or of powers with questions of discretions or of practice. The preferable analysis involves a recognition of the great width of equitable powers, an historical appraisal of the categories of injunctions that have been established and an acceptance that pursuant to general equitable principles injunctions may issue in new categories when this course appears appropriate.”

148. In *Broad Idea* (para 17 above) at paras 57-58 Lord Leggatt (giving the opinion of the majority of the Board) explained how, via *Broadmoor Special Health Authority v Robinson* and *Cartier International AG v British Sky Broadcasting Ltd*, that summary in *Spry* has come to be embedded in English law. The majority opinion in *Broad Idea* also explains why what some considered to be the apparent assumption in *North London Railway Co v Great Northern Railway Co* (1883) 11 QBD 30, 39-40 that the relevant equitable principles became set in stone in 1873 was, and has over time been conclusively proved to be, wrong.

149. The basic general principle by reference to which equity provides a discretionary remedy is that it intervenes to put right defects or inadequacies in the common law. That is frequently because equity perceives that the strict pursuit of a common law right would be contrary to conscience. That underlies, for example, rectification, undue influence and equitable estoppel. But that conscience-based aspect of the principle has no persuasive application in the present context.

150. Of greater relevance is the deep-rooted trigger for the intervention of equity, where it perceives that available common law remedies are inadequate to protect or enforce the claimant’s rights. The equitable remedy of specific performance of a contractual obligation is in substance a form of injunction, and its availability critically depends upon damages being an inadequate remedy for the breach. Closer to home, the inadequacy of the common law remedy of a possession order against squatters under CPR Part 55 as a remedy for trespass by a fluctuating body of frequently unidentifiable Travellers on different parts of the claimant’s land was treated in *Meier* (para 67 above)

as a good reason for the grant of an injunction in relation to nearby land which, because it was not yet in the occupation of the defendant Travellers, could not be made the subject of an order for possession. Although the case was not about injunctions against newcomers, and although she was thinking primarily of the better tailoring of the common law remedy, the following observation of Lady Hale at para 25 is resonant:

“The underlying principle is *ubi ius, ibi remedium*: where there is a right, there should be a remedy to fit the right. The fact that ‘this has never been done before’ is no deterrent to the principled development of the remedy to fit the right, provided that there is proper procedural protection for those against whom the remedy may be granted.”

To the same effect is the dictum of Anderson J (in New Zealand) in *Tony Blain Pty Ltd v Splain* (para 130 above) at pp 499-500, cited by Sir Andrew Morritt V-C in *Bloomsbury* at para 14.

151. The second relevant general equitable principle is that equity looks to the substance rather than the form. As Lord Romilly MR stated in *Parkin v Thorold* (1852) 16 Beav 59, 66-67:

“Courts of Equity make a distinction in all cases between that which is matter of substance and that which is matter of form; and if it find that by insisting on the form, the substance will be defeated, it holds it to be inequitable to allow a person to insist on such form, and thereby defeat the substance.”

That principle assists in the present context for two reasons. The first (discussed above) is that it illuminates the debate about the type of injunction with which the court is concerned, here enabling an escape from the twin silos of final and interim and recognising that injunctions against newcomers are all in substance without notice injunctions. The second is that it enables the court to assess the most suitable means of ensuring that a newcomer has a proper opportunity to be heard without being shackled to any particular procedural means of doing so, such as service of the proceedings.

152. The third general equitable principle is equity’s essential flexibility, as explained at paras 19-22 above. Not only is an injunction always discretionary, but its precise form, and the terms and conditions which may be attached to an injunction (recognised by section 37(2) of the 1981 Act), are highly flexible. This may be illustrated by the lengthy and painstaking development of the search order, from its original form in *Anton Piller KG v Manufacturing Processes Ltd* to the much more sophisticated current form annexed to Practice Direction 25A supplementing CPR Part 25 and which may be

modified as necessary. To a lesser extent a similar process of careful, incremental design accompanied the development of the freezing injunction. The standard form now sanctioned by the CPR is a much more sophisticated version than the original used in *Mareva Compania Naviera SA v International Bulk Carriers SA*. Of course, this flexibility enables not merely incremental development of a new type of injunction over time in the light of experience, but also the detailed moulding of any standard form to suit the justice and convenience of any particular case.

153. Fourthly, there is no supposed limiting rule or principle apart from justice and convenience which equity has regarded as sacrosanct over time. This is best illustrated by the history of the supposed limiting principle (or even jurisdictional constraint) affecting all injunctions apparently laid down by Lord Diplock in *The Siskina* (para 43 above) that an injunction could only be granted in, or as ancillary to, proceedings for substantive relief in respect of a cause of action in the same jurisdiction. The lengthy process whereby that supposed fundamental principle has been broken down over time until its recent express rejection is described in detail in the *Broad Idea* case and needs no repetition. But it is to be noted the number of types of injunctive or quasi-injunctive relief which quietly by-passed this supposed condition, as explained at paras 44-49 above, including *Norwich Pharmacal* and *Bankers Trust* orders and culminating in internet blocking orders, in none of which was it asserted that the respondent had invaded, or even threatened to invade, some legal right of the applicant.

154. It should not be supposed that all relevant general equitable principles favour the granting of injunctions against newcomers. Of those that might not, much the most important is the well-known principle that equity acts in personam rather than either in rem or (which may be much the same thing in substance) contra mundum. A main plank in the appellants' submissions is that injunctions against newcomers are by their nature a form of prohibition aimed, potentially at least, at anyone tempted to trespass or camp (depending upon the drafting of the order) on the relevant land, so that they operate as a form of local law regulating how that land may be used by anyone other than its owner. Furthermore, such an injunction is said in substance to criminalise conduct by anyone in relation to that land which would otherwise only attract civil remedies, because of the essentially penal nature of the sanctions for contempt of court. Not only is it submitted that this offends against the in personam principle, but it also amounts in substance to the imposition of a regime which ought to be the preserve of legislation or at least of byelaws.

155. It will be necessary to take careful account of this objection at various stages of the analysis which follows. At this stage it is necessary to note the following. First, equity has not been blind, or reluctant, to recognise that its injunctions may in substance have a coercive effect which, however labelled, extends well beyond the persons named as defendants (or named as subject to the injunction) in the relevant order. Very occasionally, orders have already been made in something approaching a contra mundum form, as in the *Venables* case already mentioned. More frequently the court

has expressly recognised, after full argument, that an injunction against named persons may involve third parties in contempt for conduct in breach of it, where for example that conduct amounts to a contemptuous abuse of the court's process or frustrates the outcome which the court is seeking to achieve: see the *Bloomsbury* case and *Attorney General v Times Newspapers Ltd*, discussed at paras 37-41, 61-62 and 121-124 above. In all those examples the court was seeking to preserve confidentiality in, or the intellectual property rights in relation to, specified information, and framed its injunction in a way which would bind anyone into whose hands that information subsequently came.

156. A more widespread example is the way in which a *Mareva* injunction is relied upon by claimants as giving protection against asset dissipation by the defendant. This is not merely (or even mainly) because of its likely effect upon the conduct of the defendant, who may well be a rogue with no scruples about disobeying court orders, but rather its binding effect (once notified to them) upon the defendant's bankers and other reputable custodians of his assets: see *Z Ltd v A-Z and AA-LL* (para 41 above).

157. Courts quietly make orders affecting third parties almost daily, in the form of the embargo upon publication or other disclosure of draft judgments, pending hand-down in public: see para 35 above. It cannot we hope be doubted that if a draft judgment with an embargo in this form came into the hands of someone (such as a journalist) other than the parties or their legal advisors it would be a contempt for that person to publish or disclose it further. Such persons would plainly be newcomers, in the sense in which that term is here being used.

158. It may be said, correctly, that orders of this kind are usually made so as to protect the integrity of the court's process from abuse. Nonetheless they have the effect of attaching to a species of intangible property a legal regime giving rise to a liability, if infringed, which sounds in contempt, regardless of the identity of the infringer. In conceptual terms, and shorn of the purpose of preventing abuse, they work in rem or contra mundum in much the same way as an anti-trespass injunction directed at newcomers pinned to a post on the relevant land. The only difference is that the property protected by the former is intangible, whereas in the latter it is land. In relation to any such newcomer (such as the journalist) the embargo is made without notice.

159. It is fair comment that a major difference between those types of order and the anti-trespass order is that the latter is expressly made against newcomers as "persons unknown" whereas the former (apart from the exceptional *Venables* type) are not. But if the consequences of breach are the same, and equity looks to the substance rather than to the form, that distinction may be of limited weight.

160. Protection of the court's process from abuse, or preservation of the utility of its future orders, may fairly be said to be the bedrock of many of equity's forays into new forms of injunction. Thus freezing injunctions are designed to make more effective the enforcement of any ultimate money judgment: see *Broad Idea* at paras 11-21. This is what Lord Leggatt there called the enforcement principle. Search orders are designed to prevent dishonest defendants from destroying relevant documents in advance of the formal process of disclosure. *Norwich Pharmacal* orders are a form of advance third party disclosure designed to enable a claimant to identify and then sue the wrongdoer. Anti-suit injunctions preserve the integrity of the appropriate forum from forum shopping by parties preferring without justification to litigate elsewhere.

161. But internet blocking orders (para 49 above) stand in a different category. The applicant intellectual property owner does not seek assistance from internet service providers ("ISPs") to enable it to identify and then sue the wrongdoers. It seeks an injunction against the ISP because it is a much more efficient way of protecting its intellectual property rights than suing the numerous wrongdoers, even though it is no part of its case against the ISP that it is, or has even threatened to be, itself a wrongdoer. The injunction is based upon the application of "ordinary principles of equity": see *Cartier* (para 20 above) per Lord Sumption at para 15. Specifically, the principle is that, once notified of the selling of infringing goods through its network, the ISP comes under a duty, but only if so requested by the court, to prevent the use of its facilities to facilitate a wrong by the sellers. The proceedings against the ISP may be the only proceedings which the intellectual property owner intends to take. Proceedings directly against the wrongdoers are usually impracticable, because of difficulty in identifying the operators of the infringing websites, their number and their location, typically in places outside the jurisdiction of the court: see per Arnold J at first instance in *Cartier* [2014] EWHC 3354 (Ch); [2015] Bus LR 298; [2015] RPC 7 at para 198.

162. The effect of an internet blocking order, or the cumulative effect of such orders against ISPs which share most of the relevant market, is therefore to hinder the wrongdoers from pursuing their infringing sales on the internet, without them ever being named or joined as defendants in the proceedings or otherwise given a procedural opportunity to advance any defence, other than by way of liberty to apply to vary or discharge the order: see again per Arnold J at para 262.

163. Although therefore internet blocking orders are not in form injunctions against persons unknown, they do in substance share many of the supposedly objectionable features of newcomer injunctions, if viewed from the perspective of those (the infringers) whose wrongdoings are in substance sought to be restrained. They are, quoad the wrongdoers, made without notice. They are not granted to hold the ring pending joinder of the wrongdoers and a subsequent interim hearing on notice, still less a trial. The proceedings in which they are made are, albeit in a sense indirectly, a form of enforcement of rights which are not seriously in dispute, rather than a means of dispute resolution. They have the effect, when made against the ISPs who control almost the

whole market, of preventing the infringers carrying on their business from any location in the world on the primary digital platform through which they seek to market their infringing goods. The infringers whose activities are impeded by the injunctions are usually beyond the territorial jurisdiction of the English court. Indeed that is a principal justification for the grant of an injunction against the ISPs.

164. Viewed in that way, internet blocking orders are in substance more of a precedent or jumping-off point for the development of newcomer injunctions than might at first sight appear. They demonstrate the imaginative way in which equity has provided an effective remedy for the protection and enforcement of civil rights, where conventional means of proceeding against the wrongdoers are impracticable or ineffective, where the objective of protecting the integrity or effectiveness of related court process is absent, and where the risk of injustice of a without notice order as against alleged wrongdoers is regarded as sufficiently met by the preservation of liberty to them to apply to have the order discharged.

165. We have considered but rejected summary possession orders against squatters as an informative precedent. This summary procedure (avoiding any interim order followed by final order after trial) was originally provided for by RSC Order 113, and is now to be found in CPR Part 55. It is commonly obtained against persons unknown, and has effect against newcomers in the sense that in executing the order the bailiff will remove not merely squatters present when the order was made, but also squatters who arrived on the relevant land thereafter, unless they apply to be joined as defendants to assert a right of their own to remain.

166. Tempting though the superficial similarities may be as between possession orders against squatters and injunctions against newcomers, they afford no relevant precedent for the following reasons. First, they are the creature of the common law rather than equity, being a modern form of the old action in ejectment which is at its heart an action in rem rather than in personam: see *Manchester Corp'n v Connolly* [1970] Ch 420, 428-9 per Lord Diplock, *McPhail v Persons, Names Unknown* [1973] Ch 447, 457 per Lord Denning MR and more recently *Meier*, paras 33-36 per Lady Hale. Secondly, possession orders of this kind are not truly injunctions. They authorise a court official to remove persons from land, but disobedience to the bailiff does not sound in contempt. Thirdly, the possession order works once and for all by a form of execution which puts the owner of the land back in possession, but it has no ongoing effect in prohibiting entry by newcomers wishing to camp upon it after the order has been executed. Its shortcomings in the Traveller context are one of the reasons prayed in aid by local authorities seeking injunctions against newcomers as the only practicable solution to their difficulties.

167. These considerations lead us to the conclusion that, although the attempts thus far to justify them are in many respects unsatisfactory, there is no immovable obstacle in

the way of granting injunctions against newcomer Travellers, on an essentially without notice basis, regardless of whether in form interim or final, either in terms of jurisdiction or principle. But this by no means leads straight to the conclusion that they ought to be granted, either generally or on the facts of any particular case. They are only likely to be justified as a novel exercise of an equitable discretionary power 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). This is a condition which would need to be met on the particular facts about unlawful Traveller activity within the applicant local authority's boundaries.

(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 (see paras 226-231 below); and the most generous provision for liberty (ie permission) 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. It might well not for example be just to grant an injunction restraining Travellers from using some sites as short-term transit camps if the applicant local authority has failed to exercise its power or, as the case may be, discharge its duty to provide authorised sites for that purpose within its boundaries.

168. The issues in this appeal have been formulated in such a way that the appellants have the burden of showing that the balancing exercise involved in weighing those competing considerations can never come down in favour of granting such an injunction. We have not been persuaded that this is so. We will address the main objections canvassed by the appellants and, in the next section of this judgment, set out in a little more detail how we conceive that the necessary protection for newcomers' rights should generally be built into the process for the application for, grant and subsequent monitoring of this type of injunction.

169. We have already mentioned the objection that an injunction of this type looks more like a species of local law than an in personam remedy between civil litigants. It is said that the courts have neither the skills, the capacity for consultation nor the democratic credentials for making what is in substance legislation binding everyone. In other words, the courts are acting outside their proper constitutional role and are making what are, in effect, local laws. The more appropriate response, it is argued, is for local authorities to use their powers to make byelaws or to exercise their other statutory powers to intervene.

170. We do not accept that the granting of injunctions of this kind is constitutionally improper. In so far as the local authorities are seeking to prevent the commission of civil wrongs such as trespass, they are entitled to apply to the civil courts for any relief allowed by law. In particular, they are entitled to invoke the equitable jurisdiction of the court so as to obtain an injunction against potential trespassers. For the reasons we have explained, courts have jurisdiction to make such orders against persons who are not parties to the action, ie newcomers. In so far as the local authorities are seeking to prevent breaches of public law, including planning law and the law relating to highways, they are empowered to seek injunctions by statutory provisions such as those mentioned in para 45 above. They can accordingly invoke the equitable jurisdiction of the court, which extends, as we have explained, to the granting of newcomer injunctions. The possibility of an alternative non-judicial remedy does not deprive the courts of jurisdiction.

171. Although we reject the constitutional objection, we accept that the availability of non-judicial remedies, such as the making of byelaws and the exercise of other statutory powers, may bear on questions (i) and (v) in para 167 above: that is to say, whether there is a compelling need for an injunction, and whether it is, on the facts, just and convenient to grant one. This was a matter which received only cursory examination during the hearing of this appeal. Mr Anderson KC for Wolverhampton submitted (on instructions quickly taken by telephone during the short adjournment) that, in summary, byelaws took too long to obtain (requiring two stages of negotiation with central government), would need to be separately made in relation to each site, would be too inflexible to address changes in the use of the relevant sites (particularly if subject to development) and would unduly criminalise the process of enforcing civil rights. The

appellants did not engage with the detail of any of these points, their objection being more a matter of principle.

172. We have not been able to reach any conclusions about the issue of practicality, either generally or on the particular facts about the cases before the court. In our view the theoretical availability of byelaws or other measures or powers available to local authorities as a potential alternative remedy is not shown to be a reason why newcomer injunctions should never be granted against Travellers. Rather, the question whether byelaws or other such measures or powers represent a workable alternative is one which should be addressed on a case by case basis. We say more about that in the next section of this judgment.

173. A second main objection in principle was lack of procedural fairness, for which Lord Sumption's observations in *Cameron* were prayed in aid. It may be said that recognition that injunctions against newcomers are in substance without notice injunctions makes this objection all the more stark, because the newcomer does not even know that an injunction is being sought against them when the order is made, so that their inability to attend to oppose is hard-wired into the process regardless of the particular facts.

174. This is an objection which applies to all forms of without notice injunction, and explains why they are generally only granted when there is truly no alternative means of achieving the relevant objective, and only for a short time, pending an early return day at which the merits can be argued out between the parties. The usual reason is extreme urgency, but even then it is customary to give informal notice of the hearing of the application to the persons against whom the relief is sought. Such an application used then to be called "ex parte on notice", a partly Latin phrase which captured the point that an application which had not been formally served on persons joined as defendants so as to enable them to attend and oppose it did not in an appropriate case mean that it had to be heard in their absence, or while they were ignorant that it was being made. In the modern world of the CPR, where "ex parte" has been replaced with "without notice", the phrase "ex parte on notice" admits no translation short of a simple oxymoron. But it demonstrates that giving informal notice of a without notice application is a well-recognised way of minimising the potential for procedural unfairness inherent in such applications. But sometimes even the most informal notice is self-defeating, as in the case of a freezing injunction, where notice may provoke the respondent into doing exactly that which the injunction is designed to prohibit, and a search order, where notice of any kind is feared to be likely to trigger the bonfire of documents (or disposal of laptops) the prevention of which is the very reason for the application.

175. In the present context notice of the application would not risk defeating its purpose, and there would usually be no such urgency as would justify applying without

notice. The absence of notice is simply inherent in an application for this type of injunction because, quoad newcomers, the applicant has no idea who they might turn out to be. A practice requirement to advertise the intended application, by notices on the relevant sites or on suitable websites, might bring notice of the application to intended newcomers before it came to be made, but this would be largely a matter of happenstance. It would for example not necessarily come to the attention of a Traveller who had been camping a hundred miles away and who alighted for the first time on the prohibited site some time after the application had been granted.

176. But advertisement in advance might well alert bodies with a mission to protect Travellers' interests, such as the appellants, and enable them to intervene to address the court on the local authority's application with focused submissions as to why no injunction should be granted in the particular case. There is an (imperfect) analogy here with representative proceedings (paras 27-30 above). There may also be a useful analogy with the long-settled rule in insolvency proceedings which requires that a creditors' winding up petition be advertised before it is heard, in order to give advance notice to stakeholders in the company (such as other creditors) and the opportunity to oppose the petition, without needing to be joined as defendants. We say more about this and how advance notice of an application for a newcomer injunction might be given to newcomers and persons and bodies representing their interests in the next section of this judgment.

177. It might be thought that the obvious antidote to the procedural unfairness of a without notice injunction would be the inclusion of a liberal right of anyone affected to apply to vary or discharge the injunction, either in its entirety or as against them, with express provision that the applicant need show no change of circumstances, and is free to advance any reason why the injunction should either never have been granted or, as the case may be, should be discharged or varied. Such a right is generally included in orders made on without notice applications, but Mr Drabble KC submitted that it was unsatisfactory for a number of reasons.

178. The first was that, if the injunction was final rather than interim, it would be decisive of the legal merits, and be incapable of being challenged thereafter by raising a defence. We regard this submission as one of the unfortunate consequences of the splitting of the debate into interim and final injunctions. We consider it plain that a without notice injunction against newcomers would not have that effect, regardless of whether it was in interim or final form. An applicant to vary or discharge would be at liberty to advance any reasons which could have been advanced in opposition to the grant of the injunction when it was first made. If that were not implicit in the reservation of liberty to apply (which we think it is), it could easily be made explicit as a matter of practice.

179. Mr Drabble KC's next objection to the utility of liberty to apply was more practical. Many or most Travellers, he said, would be seeking to fulfil their cultural practice of leading a peripatetic life, camping at any particular site for too short a period to make it worth going to court to contest an injunction affecting that site. Furthermore, unless they first camped on the prohibited site there would be no point in applying, but if they did camp there it would place them in breach of the injunction while applying to vary it. If they camped elsewhere so as to comply with the injunction, their rights (if any) would have been interfered with, in circumstances where there would be no point in having an expensive and risky legal argument about whether they should have been allowed to camp there in the first place.

180. There is some force in this point, but we are not persuaded that the general disinclination of Travellers to apply to court really flows from the newcomer injunctions having been granted on a without notice application. If for example a local authority waited for a group of Travellers to camp unlawfully before serving them with an application for an injunction, the Travellers might move to another site rather than raise a defence to the prevention of continued camping on the original site. By the time the application came to be heard, the identified group would have moved on, leaving the local authority to clear up, and might well have been replaced by another group, equally unidentifiable in advance of their arrival.

181. There are of course exceptions to this pattern of temporary camping as trespassers, as when Travellers buy a site for camping on, and are then proceeded against for breach of planning control rather than for trespass: see eg the *Gammell* case and the appeal in *Bromley London Borough Council v Maughan* heard at the same time. In such a case the potential procedural injustice of a without notice injunction might well be sufficient to require the local authority to proceed against the owners of the site on notice, in the usual way, not least because there would be known targets capable of being served with the proceedings, and any interim application made on notice. But the issue on this appeal is not whether newcomer injunctions against Travellers are always justified, but rather whether the objections are such that they never are.

182. The next logical objection (although little was made of it on this appeal) is that an injunction of this type made on the application of a local authority doing its duty in the public interest is not generally accompanied by a cross-undertaking in damages. There is of course a principled reason why public bodies doing their public duty are relieved of this burden (see *Financial Services Authority v Sinaloa Gold plc* [2013] UKSC 11; [2013] 2 AC 28), and that reasoning has generally been applied in newcomer injunction cases against Travellers where the applicant is a local authority. We address this issue further in the next section of this judgment (at para 234) and it would be wrong for us to express more definite views on it, in the absence of any submissions about it. In any event, if this were otherwise a decisive reason why an injunction of this type should never be granted, it may be assumed that local authorities, or some of them, would prefer to offer a cross undertaking rather than be deprived of the injunction.

183. The appellants' final main point was that it would always be impossible when considering the grant of an injunction against newcomers to conduct an individualised proportionality analysis, because each potential target Traveller would have their own particular circumstances relevant to a balancing of their article 8 rights against the applicant's claim for an injunction. If no injunction could ever be granted in the absence of an individualised proportionality analysis of the circumstances of every potential target, then it may well be that no newcomer injunction could ever be granted against Travellers. But we reject that premise. To the extent that a particular Traveller who became the subject of a newcomer injunction wished to raise particular circumstances applicable to them and relevant to the proportionality analysis, this would better be done under the liberty to apply if, contrary to the general disinclination or inability of Travellers to go to court, they had the determination to do so.

184. We have already briefly mentioned Mr Drabble KC's point about the inappropriateness of an injunction against one group of Travellers based only upon the disorderly conduct of an earlier group. This is in our view just an evidential point. A local authority that sought a borough-wide injunction based solely upon evidence of disorderly conduct by a single group of campers at a single site would probably fail the test in any event. It will no doubt be necessary to adduce evidence which justifies a real fear of widespread repetition. Beyond that, the point goes nowhere towards constituting a reason why such injunctions should never be granted.

185. The point was made by Stephanie Harrison KC for Friends of the Earth (intervening because of the implications of this appeal for protesters) that the potential for a newcomer injunction to cause procedural injustice was not regulated by any procedure rules or practice statements under the CPR. Save in relation to certain statutory applications referred to in para 51 above this is true at present, but it is not a good reason to inhibit equity's development of a new type of injunction. A review of the emergence of freezing injunctions and search orders shows how the necessary procedural checks and balances were first worked out over a period of development by judges in particular cases, then addressed by text-book writers and academics and then, at a late stage in the developmental process, reduced to rules and practice directions. This is as it should be. Rules and practice statements are appropriate once experience has taught judges and practitioners what are the risks of injustice that need to be taken care of by standard procedures, but their reduction to settled (and often hard to amend) standard form too early in the process of what is in essence judge-made law would be likely to inhibit rather than promote sound development. In the meantime, the courts have been actively reviewing what these procedural protections should be, as for example in the *Ineos* and *Bromley* cases (paras 86-95 above). We elaborate important aspects of the appropriate protections in the next section of this judgment.

186. Drawing all these threads together, we are satisfied that there is jurisdiction (in the sense of power) in the court to grant newcomer injunctions against Travellers, and that there are principled reasons why the exercise of that power may be an appropriate

exercise of the court's equitable discretion, where the general conditions set out in paragraph 167 above are satisfied. While some of the objections relied upon by the appellants may amount to good reasons why an injunction should not be granted in particular cases, those objections do not, separately or in the aggregate, amount to good reason why such an injunction should never be granted. That is the question raised by this appeal.

5. *The process of application for, grant and monitoring of newcomer injunctions and protection for newcomers' rights*

187. We turn now to consider the practical application of the principles affecting an application for a newcomer injunction against Gypsies and Travellers, and the safeguards that should accompany the making of such an order. As we have mentioned, these are matters to which judges hearing such applications have given a good deal of attention, as has the Court of Appeal in considering appeals against the orders they have made. Further, the relevant principles and safeguards will inevitably evolve in these and other cases in the light of experience. Nevertheless, they do have a bearing on the issues of principle we have to decide, in that we must be satisfied that the points raised by the appellants do not, individually or collectively, preclude the grant of what are in some ways final (but regularly reviewable) injunctions that prevent persons who are unknown and unidentifiable at the date of the order from trespassing on and occupying local authority land. We have also been invited to give guidance on these matters so far as we feel able to do so having regard to our conclusions as to the nature of newcomer injunctions and the principles applicable to their grant.

*(1) Compelling justification for the remedy*

188. Any applicant for the grant of an injunction against newcomers in a Gypsy and Traveller case must satisfy the court by detailed evidence that there is a compelling justification for the order sought. This is an overarching principle that must guide the court at all stages of its consideration (see para 167(i)).

189. This gives rise to three preliminary questions. The first is whether the local authority has complied with its obligations (such as they are) properly to consider and provide lawful stopping places for Gypsies and Travellers within the geographical areas for which it is responsible. The second is whether the authority has exhausted all reasonable alternatives to the grant of an injunction, including whether it has engaged in a dialogue with the Gypsy and Traveller communities to try to find a way to accommodate their nomadic way of life by giving them time and assistance to find alternative or transit sites, or more permanent accommodation. The third is whether the authority has taken appropriate steps to control or even prohibit unauthorised encampments and related activities by using the other measures and powers at its

disposal. To some extent the issues raised by these questions will overlap. Nevertheless, their importance is such that they merit a degree of separate consideration, at least at this stage. A failure by the local authority in one or more of these respects may make it more difficult to satisfy a court that the relief it seeks is just and convenient.

*(i) An obligation or duty to provide sites for Gypsies and Travellers*

190. The extent of any obligation on local authorities in England to provide sufficient sites for Gypsies and Travellers in the areas for which they are responsible has changed over time.

191. The starting point is section 23 of the Caravan Sites and Control of Development Act 1960 (“CSCDA 1960”) which gave local authorities the power to close common land to Gypsies and Travellers. As Sedley J observed in *R v Lincolnshire County Council, Ex p Atkinson* (1996) 8 Admin LR 529, local authorities used this power with great energy. But they made little or no corresponding use of the related powers conferred on them by section 24 of the CSCDA 1960 to provide sites where caravans might be brought, whether for temporary purposes or for use as permanent residences, and in that way compensate for the closure of the commons. As a result, it became increasingly difficult for Travellers and Gypsies to pursue their nomadic way of life.

192. In the light of the problems caused by the CSCDA 1960, section 6 of the Caravan Sites Act 1968 (“CSA 1968”) imposed on local authorities a duty to exercise their powers under section 24 of the CSCDA 1960 to provide adequate accommodation for Gypsies and Travellers residing in or resorting to their areas. The appellants accept that in the years that followed many sites for Gypsies and Travellers were established, but they contend with some justification that these sites were not and have never been enough to meet all the needs of these communities.

193. Some 25 years later, the CJPOA repealed section 6 of the CSA 1968. But the *power* to provide sites for Travellers and Gypsies remained. This is important for it provides a way to give effect to the assessment by local authorities of the needs of these communities, and these are matters we address below.

194. The position in Wales is rather different. Any local authority applying for a newcomer injunction affecting Wales must consider the impact of any legislation specifically affecting that jurisdiction including the Housing (Wales) Act 2014 (“H(W)A 2014”). Section 101(1) of the H(W)A 2014 imposes on the authority a duty to “carry out an assessment of the accommodation needs of Gypsies and Travellers residing in or resorting to its area”. If the assessment identifies that the provision of sites is inadequate to meet the accommodation needs of Gypsies and Travellers in its

area and the assessment is approved by the Welsh Ministers, the authority has a *duty* to exercise its powers to meet those needs under section 103 of the H(W)A 2014.

(ii) *General “needs” assessments*

195. For many years there has been an obligation on local authorities to carry out an assessment of the accommodation needs of Gypsies and Travellers when carrying out their periodic review of housing needs under section 8 of the Housing Act 1985.

196. This obligation was first imposed by section 225 of the Housing Act 2004. This measure was repealed by section 124 of the Housing and Planning Act 2016. Instead, the duty of local housing authorities in England to carry out a periodic review of housing needs under section 8 of the Housing Act 1985 has since 2016 included (at section 8(3)) a duty to consider the needs of people residing in or resorting to their district with respect to the provision of sites on which caravans can be stationed.

(iii) *Planning policy*

197. Since about 1994, and with the repeal of the statutory duty to provide sites, the general issue of Traveller site provision has come increasingly within the scope of planning policy, just as the government anticipated.

198. Indeed, in 1994, the government published planning advice on the provision of sites for Gypsies and Travellers in the form of Department of the Environment Circular 1/94 entitled “*Gypsy sites and planning*”. This explained that the repeal of the statutory duty to provide sites was expected to lead to more applications for planning permission for sites. Local Planning Authorities (“LPAs”) were advised to assess the needs of Gypsies and Travellers within their areas and to produce a plan which identified suitable *locations* for sites (location-based policies) and if this could not be done, to explain the *criteria* for the selection of appropriate locations (criteria-based policies). Unfortunately, despite this advice, most attempts to secure permission for Gypsy and Traveller sites were refused and so the capacity of the relatively few sites authorised for occupation by these nomadic communities continued to fall well short of that needed, as Lord Bingham explained in *South Bucks District Council v Porter*, at para 13.

199. The system for local development planning in England is now established by the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”) and the regulations made under it. Part 2 of the PCPA 2004 deals with local development and stipulates that the LPA is to prepare a development scheme and plan; that this must set out the authority’s policies; that in preparing the local development plan, the authority must have regard to national policy; that each plan must be sent to the Secretary of State for independent

examination and that the purpose of this examination is, among other things, to assess its soundness and that will itself involve an assessment whether it is consistent with national policy.

200. Meantime, the advice in Circular 1/94 having failed to achieve its purpose, the government has from time to time issued new planning advice on the provision of sites for Gypsies and Travellers in England, and that advice may be taken to reflect national policy.

201. More specifically, in 2006 advice was issued in the form of the Office of the Deputy Prime Minister Circular 1/06 *Planning for Gypsy and Traveller caravan sites*. The 2006 guidance was replaced in March 2012 by *Planning policy for traveller sites* (“PPTS 2012”). In August 2015, a revised version of PPTS 2012 was issued (“PPTS 2015”) and this is to be read with the National Planning Policy Framework. There has recently been a challenge to a decision refusing planning permission on the basis that one aspect of PPTS 2015 amounts to indirect discrimination and has no proper justification: *Smith v Secretary of State for Housing, Communities and Local Government* [2022] EWCA Civ 1391; [2023] PTSR 312. But for present purposes it is sufficient to say (and it remains the case) that there is in these policy documents clear advice that LPAs should, when producing their local plans, identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of sites against their locally set targets to address the needs of Gypsies and Travellers for permanent and transit sites. They should also identify a supply of specific, developable sites or broad locations for growth for years 6-10 and even, where possible, years 11-15. The advice is extensive and includes matters to which LPAs must have regard including, among other things, the presumption in favour of sustainable development; the possibility of cross-authority co-operation; the surrounding population’s size and density; the protection of local amenities and the environment; the need for appropriate land supply allocations and to respect the interests of the settled communities; the need to ensure that Traveller sites are sustainable and promote peaceful and integrated co-existence with the local communities; and the need to promote access to appropriate health services and schools. The LPAs are also advised to consider the need to avoid placing undue pressure on local infrastructure and services, and to provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampments.

202. The availability of transit sites (and information as to where they may be found) is also important in providing short-term or temporary accommodation for Gypsies and Travellers moving through a local authority area, and an absence of sufficient transit sites in an area (or information as to where available sites may be found) may itself be a sufficient reason for refusing a newcomer injunction.

*(iv) Consultation and co-operation*

203. This is another matter of considerable importance, and it is one with which all local authorities should willingly engage. We have no doubt that local authorities, other responsible bodies and representatives of the Gypsy and Traveller communities would benefit from a dialogue and co-operation to understand their respective needs; the concerns of the local authorities, local charities, business and community groups and members of the public; and the resources available to the local authorities for deployment to meet the needs of these nomadic communities having regard to the wider obligations which the authorities must also discharge. In this way a deeper level of trust may be established and so facilitate and encourage a constructive approach to the implementation of proportionate solutions to the problems the nomadic communities continue to present, without immediate and expensive recourse to applications for injunctive relief or enforcement action.

*(v) Public Spaces Protection Orders*

204. The Anti-social Behaviour, Crime and Policing Act 2014 confers on local authorities the power to make Public Spaces Protection Orders (“PSPOs”) to prohibit encampments on specific land. PSPOs are in some respects similar to byelaws and are directed at behaviour and activities carried on in a public place which, for example, have a detrimental effect on the quality of life of those in the area, are or are likely to be persistent or continuing, and are or are likely to be such as to make the activities unreasonable. Further, PSPOs are in general easier to make than byelaws because they do not require the involvement of central government or extensive consultation. Breach of a PSPO without reasonable excuse is a criminal offence and can be enforced by a fixed penalty notice or prosecution with a maximum fine of level three on the standard scale. But any PSPO must be reasonable and necessary to prevent the conduct and detrimental effects at which it is targeted. A PSPO takes precedence over any byelaw in so far as there is any overlap.

*(vi) Criminal Justice and Public Order Act 1994*

205. The CJPOA empowers local authorities to deal with unauthorised encampments that are causing damage or disruption or involve vehicles, and it creates a series of related offences. It is not necessary to set out full details of all of them. The following summary gives an idea of their range and scope.

206. Section 61 of the CJPOA confers powers on the police to deal with two or more persons who they reasonably believe are trespassing on land with the purpose of residing there. The police can direct these trespassers to leave (and to remove any vehicles) if the occupier has taken reasonable steps to ask them to leave and they have

caused damage, disruption or distress as those concepts are elucidated in section 61(10). Failure to leave within a reasonable time or, if they do leave, a return within three months is an offence punishable by imprisonment or a fine. A defence of reasonable excuse may be available in particular cases.

207. Following amendment in 2003, section 62A of the CJPOA confers on the police a power to direct trespassers with vehicles to leave land at the occupier's request, and that is so even if the trespassers have not caused damage or used threatening behaviour. Where trespassers have at least one vehicle between them and are there with the common purpose of residing there, the police, (if so requested by the occupier) have the power to direct a trespasser to leave and to remove any vehicle or property, subject to this proviso: if they have caravans that (after consultation with the relevant local authorities) there is a suitable pitch available on a site managed by the authority or social housing provider in that area.

208. Focusing more directly on local authorities, section 77 of the CJPOA confers on the local authority a power to direct campers to leave open-air land where it appears to the authority that they are residing in a vehicle within its area, whether on a highway, on unoccupied land or on occupied land without the consent of the occupier. There is no need to establish that these activities have caused damage or disruption. The direction must be served on each person to whom it applies, and that may be achieved by directing it to all occupants of vehicles on the land; and failing other effective service, it may be affixed to the vehicles in a prominent place. Relevant documents should also be displayed on the land in question. It is an offence for persons who know that such an order has been made against them to fail to comply with it.

*(vii) Byelaws*

209. There is a measure of agreement by all parties before us that the power to make and enforce byelaws may also have a bearing on the issues before us in this appeal. Byelaws are a form of delegated legislation made by local authorities under an enabling power. They commonly require something to be done or refrained from in a particular area or location. Once implemented, byelaws have the force of law within the areas to which they apply.

210. There is a wide range of powers to make byelaws. By way of example, a general power to make byelaws for good rule and government and for the prevention and suppression of nuisances in their areas is conferred on district councils in England and London borough councils by section 235(1) of the Local Government Act 1972 ("the LGA 1972"). The general confirming authority in relation to byelaws made under this section is the Secretary of State.

211. We would also draw attention to section 15 of the Open Spaces Act 1906 which empowers local authorities in England to make byelaws for the regulation of open spaces, for the imposition of a penalty for breach and for the removal of a person infringing the byelaw by an officer of the local authority or a police constable. Notable too is section 164 of the Public Health Act 1875 (38 & 39 Vict c 55) which confers a power on the local authority to make byelaws for the regulation of public walks and pleasure grounds and for the removal of any person infringing any such byelaw, and under section 183, to impose penalties for breach.

212. Other powers to make byelaws and to impose penalties for breach are conferred on authorities in relation to commons by, for example, the Commons Act 1899.

213. Appropriate authorities are also given powers to make byelaws in relation to nature reserves by the National Parks and Access to the Countryside Act 1949 (as amended by the Natural Environment and Rural Communities Act 2006); in relation to National Parks and areas of outstanding natural beauty under sections 90 and 91 of the 1949 Act (as amended); concerning the protection of country parks under section 41 of the Countryside Act 1968; and for the protection and preservation of other open country under section 17 of the Countryside and Rights of Way Act 2000.

214. We recognise that byelaws are sometimes subjected to detailed and appropriate scrutiny by the courts in assessing whether they are reasonable, certain in their terms and consistent with the general law, and whether the local authority had the power to make them. It is an aspect of the third of these four elements that generally byelaws may only be made if provision for the same purpose is not made under any other enactment. Similarly, a byelaw may be invalidated if repugnant to some basic principle of the common law. Further, as we have seen, the usual method of enforcement of byelaws is a fine although powers to seize and retain property may also be included (see, for example, section 237ZA of the LGA 1972), as may powers to direct removal.

215. The opportunity to make and enforce appropriate elements of this battery of potential byelaws, depending on the nature of the land in issue and the form of the intrusion, may seem at first sight to provide an important and focused way of dealing with unauthorised encampments, and it is a rather striking feature of these proceedings that byelaws have received very little attention from local authorities. Indeed, Wolverhampton City Council has accepted, through counsel, that byelaws were not considered as a means of addressing unauthorised encampments in the areas for which it is responsible. It maintains they are unlikely to be sufficient and effective in the light of (a) the existence of legislation which may render the byelaws inappropriate; (b) the potential effect of criminalising behaviour; (c) the issue of identification of newcomers; and (d) the modest size of any penalty for breach which is unlikely to be an effective deterrent.

216. We readily appreciate that the nature of travelling communities and the respondents to newcomer injunctions may not lend themselves to control by or yield readily to enforcement of these various powers and measures, including byelaws, alone, but we are not persuaded that the use of byelaws or other enforcement action of the kinds we have described can be summarily dismissed. Plainly, we cannot decide in this appeal whether the reaction of Wolverhampton City Council to the use of all of these powers and measures including byelaws is sound or not. We have no doubt, however, that this is a matter that ought to be the subject of careful consideration on the next review of the injunctions in these cases or on the next application for an injunction against persons unknown, including newcomers.

*(viii) A need for review*

217. Various aspects of this discussion merit emphasis at this stage. Local authorities have a range of measures and powers available to them to deal with unlawful encampments. Some but not all involve the enactment and enforcement of byelaws. Many of the offences are punishable with fixed or limited penalties, and some are the subject of specified defences. It may be said that these form part of a comprehensive suite of measures and powers and associated penalties and safeguards which the legislature has considered appropriate to deal with the threat of unauthorised encampments by Gypsies and Travellers. We rather doubt that is so, particularly when dealing with communities of unidentified trespassers including newcomers. But these are undoubtedly matters that must be explored upon the review of these orders.

*(2) Evidence of threat of abusive trespass or planning breach*

218. We now turn to more general matters and safeguards. As we have foreshadowed, any local authority applying for an injunction against persons unknown, including newcomers, in Gypsy and Traveller cases must satisfy the court by full and detailed evidence that there is a compelling justification for the order sought (see para 167(i) above). There must be a strong probability that a tort or breach of planning control or other aspect of public law is to be committed and that this will cause real harm. Further, the threat must be real and imminent. We have no doubt that local authorities are well equipped to prepare this evidence, supported by copies of all relevant documents, just as they have shown themselves to be in making applications for injunctions in this area for very many years.

219. The full disclosure duty is of the greatest importance (see para 167(iii)). We consider that the relevant authority must make full disclosure to the court not just of all the facts and matters upon which it relies but also and importantly, full disclosure of all facts, matters and arguments of which, after reasonable research, it is aware or could with reasonable diligence ascertain and which might affect the decision of the court

whether to grant, maintain or discharge the order in issue, or the terms of the order it is prepared to make or maintain. This is a continuing obligation on any local authority seeking or securing such an order, and it is one it must fulfil having regard to the one-sided nature of the application and the substance of the relief sought. Where relevant information is discovered after the making of the order the local authority may have to put the matter back before the court on a further application.

220. The evidence in support of the application must therefore err on the side of caution; and the court, not the local authority, should be the judge of relevance.

*(3) Identification or other definition of the intended respondents to the application*

221. The actual or intended respondents to the application must be defined as precisely as possible. In so far as it is possible actually to identify persons to whom the order is directed (and who will be enjoined by its terms) by name or in some other way, as Lord Sumption explained in *Cameron*, the local authority ought to do so. The fact that a precautionary injunction is also sought against newcomers or other persons unknown is not of itself a justification for failing properly to identify these persons when it is possible to do so, and serving them with the proceedings and order, if necessary, by seeking an order for substituted service. It is only permissible to seek or maintain an order directed to newcomers or other persons unknown where it is impossible to name or identify them in some other and more precise way. Even where the persons sought to be subjected to the injunction are newcomers, the possibility of identifying them as a class by reference to conduct prior to what would be a breach (and, if necessary, by reference to intention) should be explored and adopted if possible.

*(4) The prohibited acts*

222. It is always important that an injunction spells out clearly and in everyday terms the full extent of the acts it prohibits, and this is particularly so where it is sought against persons unknown, including newcomers. The terms of the injunction - and therefore the prohibited acts - must correspond as closely as possible to the actual or threatened unlawful conduct. Further, the order should extend no further than the minimum necessary to achieve the purpose for which it was granted; and the terms of the order must be sufficiently clear and precise to enable persons affected by it to know what they must not do.

223. Further, if and in so far as the authority seeks to enjoin any conduct which is lawful viewed on its own, this must also be made absolutely clear, and the authority must be prepared to satisfy the court that there is no other more proportionate way of protecting its rights or those of others.

224. It follows but we would nevertheless emphasise that the prohibited acts should not be described in terms of a legal cause of action, such as trespass or nuisance, unless this is unavoidable. They should be defined, so far as possible, in non-technical and readily comprehensible language which a person served with or given notice of the order is capable of understanding without recourse to professional legal advisers.

*(5) Geographical and temporal limits*

225. The need for strict temporal and territorial limits is another important consideration (see para 167(iv)). One of the more controversial aspects of many of the injunctions granted hitherto has been their duration and geographical scope. These have been subjected to serious criticism, at least some of which we consider to be justified. We have considerable doubt as to whether it could ever be justifiable to grant a Gypsy or Traveller injunction which is directed to persons unknown, including newcomers, and extends over the whole of a borough or for significantly more than a year. It is to be remembered that this is an exceptional remedy, and it must be a proportionate response to the unlawful activity to which it is directed. Further, we consider that an injunction which extends borough-wide is likely to leave the Gypsy and Traveller communities with little or no room for manoeuvre, just as Coulson LJ warned might well be the case (see generally, *Bromley*, paras 99-109. Similarly, injunctions of this kind must be reviewed periodically (as Sir Geoffrey Vos MR explained in these appeals at paras 89 and 108) and in our view ought to come to an end (subject to any order of the judge), by effluxion of time in all cases after no more than a year unless an application is made for their renewal. This will give all parties an opportunity to make full and complete disclosure to the court, supported by appropriate evidence, as to how effective the order has been; whether any reasons or grounds for its discharge have emerged; whether there is any proper justification for its continuance; and whether and on what basis a further order ought to be made.

*(6) Advertising the application in advance*

226. We recognise that it would be impossible for a local authority to give effective notice to all newcomers of its intention to make an application for an injunction to prevent unauthorised encampments on its land. That is the basis on which we have proceeded. On the other hand, in the interests of procedural fairness, we consider that any local authority intending to make an application of this kind must take reasonable steps to draw the application to the attention of persons likely to be affected by the injunction sought or with some other genuine and proper interest in the application (see para 167(ii) above). This should be done in sufficient time before the application is heard to allow those persons (or those representing them or their interests) to make focused submissions as to whether it is appropriate for an injunction to be granted and, if it is, as to the terms and conditions of any such relief.

227. Here the following further points may also be relevant. First, local authorities have now developed ways to give effective notice of the grant of such injunctions to those likely to be affected by them, and they do so by the use of notices attached to the land and in other ways as we describe in the next section of this judgment. These same methods, appropriately modified, could be used to give notice of the application itself. As we have also mentioned, local authorities have been urged for some time to establish lines of communication with Traveller and Gypsy communities and those representing them, and all these lines of communication, whether using email, social media, advertisements or some other form, could be used by authorities to give notice to these communities and other interested persons and bodies of any applications they are proposing to make.

228. Secondly, we see merit in requiring any local authority making an application of this kind to explain to the court what steps it has taken to give notice of the application to persons likely to be affected by it or to have a proper interest in it, and of all responses it has received.

229. These are all matters for the judges hearing these applications to consider in light of the particular circumstances of the cases before them, and in this way to allow an appropriate practice to develop.

*(7) Effective notice of the order*

230. We are not concerned in this part of our judgment with whether respondents become party to the proceedings on service of the order upon them, but rather with the obligation on the local authority to take steps actively to draw the order to the attention of all actual and potential respondents; to give any person potentially affected by it full information as to its terms and scope, and the consequences of failing to comply with it; and how any person affected by its terms may make an application for its variation or discharge (again, see para 167(ii) above).

231. Any applicant for such an order must in our view make full and complete disclosure of all the steps it proposes to take (i) to notify all persons likely to be affected by its terms; and (ii) to ascertain the names and addresses of all such persons who are known only by way of description. This will no doubt include placing notices in and around the relevant sites where this is practicable; placing notices on appropriate websites and in relevant publications; and giving notice to relevant community and charitable and other representative groups.

*(8) Liberty to apply to discharge or vary*

232. As we have mentioned, we consider that an order of this kind ought always to include generous liberty to any person affected by its terms to apply to vary or discharge the whole or any part of the order (again, see para 167(ii) above). This is so whether the order is interim or final in form, so that a respondent can challenge the grant of the injunction on any grounds which might have been available at the time of its grant.

*(9) Costs protection*

233. This is a difficult subject, and it is one on which we have received little assistance. We have considerable concern that costs of litigation of this kind are way beyond the means of most if not all Gypsies and Travellers and many interveners, as counsel for the first interveners, Friends of the Earth, submitted. This raises the question whether the court has jurisdiction to make a protective or costs capping order. This is a matter to be considered on another day by the judge making or continuing the order. We can see the benefit of such an order in an appropriate case to ensure that all relevant arguments are properly ventilated, and the court is equipped to give general guidance on the difficult issues to which it may give rise.

*(10) Cross-undertaking*

234. This is another important issue for another day. But a few general points may be made at this stage. It is true that this new form of injunction is not an interim order, and it is not in any sense holding the ring until the final determination of the merits of the claim at trial. Further, so far as the applicant is a public body acting in pursuance of its public duty, a cross undertaking may not in any event be appropriate. Nevertheless, there may be occasions where a cross undertaking is considered appropriate, for reasons such as those given by Warby J in *Birmingham City Council v Afsar* [2019] EWHC 1619 (QB), a protest case. These are matters to be considered on a case-by-case basis, and the applicant must equip the court asked to make or continue the order with the most up-to-date guidance and assistance.

*(11) Protest cases*

235. The emphasis in this discussion has been on newcomer injunctions in Gypsy and Traveller cases and nothing we have said should be taken as prescriptive in relation to newcomer injunctions in other cases, such as those directed at protesters who engage in direct action by, for example, blocking motorways, occupying motorway gantries or occupying HS2's land with the intention of disrupting construction. Each of these activities may, depending on all the circumstances, justify the grant of an injunction

against persons unknown, including newcomers. Any of these persons who have notice of the order will be bound by it, just as effectively as the injunction in the proceedings the subject of this appeal has bound newcomer Gypsies and Travellers.

236. Counsel for the Secretary of State for Transport has submitted and we accept that each of these cases has called for a full and careful assessment of the justification for the order sought, the rights which are or may be interfered with by the grant of the order, and the proportionality of that interference. Again, in so far as the applicant seeks an injunction against newcomers, the judge must be satisfied there is a compelling need for the order. Often the circumstances of these cases vary significantly one from another in terms of the range and number of people who may be affected by the making or refusal of the injunction sought; the legal right to be protected; the illegality to be prevented; and the rights of the respondents to the application. The duration and geographical scope of the injunction necessary to protect the applicant's rights in any particular case are ultimately matters for the judge having regard to the general principles we have explained.

#### *(12) Conclusion*

237. There is nothing in this consideration which calls into question the development of newcomer injunctions as a matter of principle, and we are satisfied they have been and remain a valuable and proportionate remedy in appropriate cases. But we also have no doubt that the various matters to which we have referred must be given full consideration in the particular proceedings the subject of these appeals, if necessary at an appropriate and early review.

#### *6. Outcome*

238. For the reasons given above we would dismiss this appeal. Those reasons differ significantly from those given by the Court of Appeal, but we consider that the orders which they made were correct. There follows a short summary of our conclusions:

(i) The court has jurisdiction (in the sense of power) to grant an injunction against 'newcomers', that is, persons who at the time of the grant of the injunction are neither defendants nor identifiable, and who are described in the order only as persons unknown. The injunction may be granted on an interim or final basis, necessarily on an application without notice.

(ii) Such an injunction (a "newcomer injunction") will be effective to bind anyone who has notice of it while it remains in force, even though that person had no intention and had made no threat to do the act prohibited at the time

when the injunction was granted and was therefore someone against whom, at that time, the applicant had no cause of action. It is inherently an order with effect contra mundum, and is not to be justified on the basis that those who disobey it automatically become defendants.

(iii) In deciding whether to grant a newcomer injunction and, if so, upon what terms, the court will be guided by principles of justice and equity and, in particular:

- (a) that equity provides a remedy where the others available under the law are inadequate to vindicate or protect the rights in issue.
- (b) That equity looks to the substance rather than to the form.
- (c) That equity takes an essentially flexible approach to the formulation of a remedy.
- (d) That equity has not been constrained by hard rules or procedure in fashioning a remedy to suit new circumstances.

These principles may be discerned in action in the remarkable development of the injunction as a remedy during the last 50 years.

(iv) In deciding whether to grant a newcomer injunction, the application of those principles in the context of trespass and breach of planning control by Travellers will be likely to require an applicant:

- (a) to demonstrate a compelling need for the protection of civil rights or the enforcement of public law not adequately met by any other remedies (including statutory remedies) available to the applicant.
- (b) to build into the application and into the order sought procedural protection for the rights (including Convention rights) of the newcomers affected by the order, sufficient to overcome the potential for injustice arising from the fact that, as against newcomers, the application will necessarily be made without notice to them. Those protections are likely to include advertisement of an intended application so as to alert potentially affected Travellers and bodies which may be able to represent their interests at the hearing of the application, full provision for liberty to

persons affected to apply to vary or discharge the order without having to show a change of circumstances, together with temporal and geographical limits on the scope of the order so as to ensure that it is proportional to the rights and interests sought to be protected.

(c) to comply in full with the disclosure duty which attaches to the making of a without notice application, including bringing to the attention of the court any matter which (after due research) the applicant considers that a newcomer might wish to raise by way of opposition to the making of the order.

(d) to show that it is just and convenient in all the circumstances that the order sought should be made.

(v) If those considerations are adhered to, there is no reason in principle why newcomer injunctions should not be granted.

## Adam Sheen

---

**From:** Adam Sheen  
**Sent:** 29 November 2023 20:36  
**To:** Sorrel.McHugh@justice.gov.uk  
**Cc:** michael.singleton@stiveschambers.co.uk  
**Subject:** WCC & OTHERS v PERSONS UNKNOWN CLAIM NO: KB-2022-BHM-000188 Next Hearing 20 December 2023 Before Her Honour Judge Kelly (Supreme Court Judgment)  
**Attachments:** WCC v London Gypsies and Travellers Judgment Summary 29 11 23.pdf  
**Importance:** High

FAO: THE CLERK TO HER HONOUR JUDGE KELLY

Dear Madam,

**WCC & OTHERS v PERSONS UNKNOWN CLAIM NO: KB-2022-BHM-000188 Next Hearing: 20 December 2023 Before Her Honour Judge Kelly**

As you may be aware the Claimants in the above matter have undertaken to inform the Court when the Supreme Court handed down its judgment in the case of WOLVERHAMPTON CITY COUNCIL & OTHERS v LONDON GYPSIES, TRAVELLERS & OTHERS [2023] UKSC 47. I can confirm that the Supreme Court handed down its judgment today (29 November 2023).

I attach a copy of the summary of the judgment from the Supreme Court's Website. The judgment itself is unfortunately, too large to attach to an e-mail, so instead the link below will take you to the judgment on the Supreme Court's Website. <https://www.supremecourt.uk/cases/docs/uksc-2022-0046-judgment.pdf>

I will also try to upload the judgment and summary to via CE-File.

Should you have any queries in the matter, please do not hesitate to contact me.

Adam Sheen  
Solicitor-Advocate (Civil & Criminal)  
Tel. 01902 554926  
Email: adam.sheen@wolverhampton.gov.uk

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## Adam Sheen

---

**From:** Litigation  
**Sent:** 30 November 2023 09:31  
**To:** Adam Sheen  
**Subject:** FW: Filing Submission Case No. KB-2022-BHM-000188 Matter No. LIT/AS/LIJ017753P

Sensitivity: PROTECT

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**From:** noreply@thomsonreuters.com <noreply@thomsonreuters.com>  
**Sent:** 29 November 2023 20:46  
**To:** Litigation <Litigation@wolverhampton.gov.uk>; Tracey Christie <Tracey.Christie@wolverhampton.gov.uk>  
**Subject:** Filing Submission Case No. KB-2022-BHM-000188 Matter No. LIT/AS/LIJ017753P

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## Adam Sheen

---

**From:** Adam Sheen  
**Sent:** 30 November 2023 10:33  
**To:** KB.Birmingham  
**Cc:** michael.singleton@stiveschambers.co.uk  
**Subject:** FW: WCC & OTHERS v PERSONS UNKNOWN CLAIM NO: KB-2022-BHM-000188  
Next Hearing 20 December 2023 Before Her Honour Judge Kelly (Supreme Court Judgment)  
**Attachments:** WCC v London Gypsies and Travellers Judgment Summary 29 11 23.pdf  
**Importance:** High

Dear Sirs,

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I have also uploaded the judgment and summary to via CE-File and sent this judgment and summary to the Clerk to Her Honour Judge Kelly.

Should you have any queries in the matter, please do not hesitate to contact me.

Yours faithfully

Adam Sheen  
Solicitor-Advocate (Civil & Criminal)  
Tel. 01902 554926  
Email: adam.sheen@wolverhampton.gov.uk

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**Subject:** WCC & OTHERS v PERSONS UNKNOWN CLAIM NO: KB-2022-BHM-000188 Next Hearing 20 December 2023  
Before Her Honour Judge Kelly (Supreme Court Judgment)

**Importance:** High

FAO: THE CLERK TO HER HONOUR JUDGE KELLY

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**WCC & OTHERS v PERSONS UNKNOWN CLAIM NO: KB-2022-BHM-000188 Next Hearing: 20 December 2023 Before Her Honour Judge Kelly**

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Solicitor-Advocate (Civil & Criminal)  
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LIJ017753P/02016872

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C. SECTION C - Evidence Filed on Behalf of Claimants for Hearing 20  
December 2023

For: Claimants  
Statement of: Pardip  
Nagra  
Statement no: 6  
Exhibits: PN1-PN4  
Date: 11.12.23

**IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION**

**CLAIM NO: KB-2022-BHM-000188**

**BETWEEN:**

**(1) WOLVERHAMPTON CITY COUNCIL  
(2) DUDLEY METROPOLITAN BOROUGH COUNCIL  
(3) SANDWELL METROPOLITAN BOROUGH COUNCIL  
(4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

**1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

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**3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**Defendants**

---

**WITNESS STATEMENT OF PARDIP NAGRA**

---

I, Pardip Nagra, Anti-Social Behaviour Team Leader of Wolverhampton Homes, Wednesfield Housing Office, Alfred Squire Road, Wednesfield, Wolverhampton, WV11 1XU, WILL SAY AS FOLLOWS:

1. Except where indicated to the contrary, the facts in this statement are within my knowledge and are true. Where the facts in this statement are not within my direct knowledge, they are based on the source indicated and are true to the best of my information and belief.
2. I make this statement further to my statement dated 28<sup>th</sup> November 2023 and following the interim injunction that was granted by Mrs Justice Hill sitting at the High Court (Royal Courts of Justice) London on 21<sup>st</sup> December 2022 against persons unknown regarding the issue of street racing within the Black Country.
3. I can advise that Wolverhampton's Anti-social behaviour (ASB) Team have continued to receive complaints of street racing on a weekly basis, though the number of complaints received has noticeably dropped since I made my statement in September 2023. The complaints received since September are from anonymous residents, who have complained about street racing in Wolverhampton over weekends and occasionally during mid-week.
4. Residents have advised that they are being caused nuisance, annoyance and distress by the street racing and have also expressed concerns for other road users whilst racers drive at such dangerous and erratic speeds.
5. I can confirm that all street racing signage erected in Wolverhampton is still in situ and that a breach of the injunction in Wolverhampton was recently proven in Birmingham High Court on 11<sup>th</sup> November 2023. This resulted in the driver receiving a custodial sentence of 28 days, suspended for 12 months. This breach should serve as a warning to other potential street racers in the Black Country and coupled with the Police's increasing patrols to tackle street racing,

may be a reason for the decrease in street racing within Wolverhampton at the present time.

6. I have also liaised with representatives of Sandwell, Dudley and Walsall Councils, in order to ascertain how the interim High Court injunction is affecting street racing within their local authority areas.
7. ASB Town Lead Pardip Sandhu, of Sandwell Metropolitan Council, informs me that Sandwell's ASB Team have continued to receive complaints of car cruising. The complaints received have included incidents of unknown persons riding off road motorcycles and quad bikes along canal towpaths, parks, fields and even setting them alight after use in the past.
8. Complaints of street racing have predominantly occurred on Kenrick Way, West Bromwich, where local residents continue to complain about the distress that street racing on Kenrick Way is causing them. Residents have recently contacted local newspaper 'The Express and Star' regarding their concerns about street racing along Kenrick Way. A copy of this news article along with Pardip Sandhu's statement is here and exhibited to this statement as exhibit "**PN1**".
9. Mark Wilson, Community Safety Officer of Dudley Metropolitan Council reports that complaints of street racing have increased along Manor Way, Halesowen, specifically large gatherings of vehicles gathering at the Shell Petrol Station and racing along the dual carriageway.
10. Mark confirmed that Dudley's Highways Department has inspected all signage within Dudley and confirmed that they are all remain in situ and in good condition, bar one, for which a repair has been booked. A copy of Mark's statement in regards to this matter is here and exhibited to this statement as exhibit "**PN2**".

11. Steve Gittens, Community Safety Manager at Walsall Metropolitan Council reports that complaints of street racing within Walsall, whilst reduced in number, are still being received and remain a concern within the borough.
  
12. Steve also advises that Walsall's Highways Department have recently conducted a survey of Walsall street racing signage and can confirm that all large, metal signage remains in situ and in good condition. The Highways team have informed Steve that a number of smaller foamex signage is no longer in situ. A review will of the specific locations of the missing signage is due to be arranged and replacement signs ordered and put up. A copy of Steve Gittins' recent statements in regards to this matter are here and exhibited to this statement as exhibit "**PN3**".
  
13. A schedule of committals for the Black Country street racing injunction has been prepared and details all committals that have been finalised in this matter as well as any pending proceedings. This schedule of committals is here and exhibited to this statement as exhibit "**PN4**".

14. The above information clearly illustrates that car cruising is still a problem within the Black Country and that the interim High Court injunction is being utilised to address the issues. The need for a full order is necessary to continue to tackle street racing within the Black Country and in turn make the lives of residents and other road users safer.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed

*Pardip Nagra*

Date

11.12.23

Print name in full Pardip Nagra

For: Claimants  
Statement of: Pardip Sandhu  
Statement no: 4  
Exhibits:  
Date: 8<sup>th</sup> December 2023

**IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION**

**CLAIM NO: KB-2022-BHM-000188**

**BETWEEN:**

- (1) WOLVERHAMPTON CITY COUNCIL**
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL**
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL**
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

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**WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**Defendants**

---

**WITNESS STATEMENT OF PARDIP SANDHU**

---

I, Pardip Sandhu, Town Lead Anti-Social Behaviour Officer for Sandwell Metropolitan Borough Council, based in Oldbury, Sandwell, West Midlands, WILL SAY AS FOLLOWS:

1. Except where indicated to the contrary, the facts in this statement are within my knowledge and are true. Where the facts in this statement are not within my direct knowledge, they are based on the source indicated and are true to the best of my information and belief.
2. This is my fourth statement in this matter.
3. Car cruising within Kenrick Way, West Bromwich continues to cause alarm and distress to local residents who live nearby. The Council continues to receive calls for service when this activity is occurring along Kenrick Way.
4. Local residents have recently spoken to the local newspaper regarding their concerns. A copy of the newspaper article on the Express and Star is here marked as “**PS2**” within my statement.
5. The signage on Kenrick Way, still remain missing and a request has been made to the Highways Department to get these replaced, however the area where we want to install the signage is an area where there is a mainline pipeline running through the borough. Therefore, the work has to be authorised and inspected by the organisation who maintain the mainline pipeline. We have again requested this work be carried out as soon as possible and are still awaiting for this to be done.
6. In respect of a request for a domehawk camera on Kenrick Way. The Councils CCTV Control room have a number of cameras in this location monitoring the blocks of flats. These cameras also cover Kenrick Way, and I have been advised that a further camera would not be beneficial due to the fact the current

cameras are sufficient and cover the whole stretch of Kenrick Way and can pick up CCTV coverage of the Car Cruising.

7. The Injunction is needed to deter further activity and for the Police and the local authority to take enforcement action against individuals involved in this activity.
8. I therefore fully support all the authorities in the application for the injunction.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed



Date

8<sup>th</sup> December  
2023

Print name in full Pardip Sandhu

**IN THE HIGH COURT OF JUSTICE  
CLAIM NO KB-2022-BHM-000188  
KING'S BENCH DIVISION**

- (1) WOLVERHAMPTON CITY COUNCIL**
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL**
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL**
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

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**WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

---

**EXHIBIT "PS2"**

---

I verify that this exhibit is marked as "PS2" in my statement.





**IN THE HIGH COURT OF JUSTICE  
CLAIM NO KB-2022-BHM-000188  
KING'S BENCH DIVISION**

- (1) WOLVERHAMPTON CITY COUNCIL**
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL**
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL**
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

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**WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**WITNESS STATEMENT OF  
PARDIP SANDHU**

## Article from Express & Star – 5 December 2023

Hyperlink to Article on Express & Star Plus:

[Watch illegal racers turn road into deafening race track - causing misery to residents | Express & Star \(expressandstar.com\)](https://plus.expressandstar.com/news/local-hubs/sandwell/west-bromwich/2023/12/05/watch-illegal-racers-turn-black-country-road-into-deafening-race-track)

Source:

<https://plus.expressandstar.com/news/local-hubs/sandwell/west-bromwich/2023/12/05/watch-illegal-racers-turn-black-country-road-into-deafening-race-track>

Text copied and pasted from Article on Express & Star Plus:

# Watch illegal racers turn road into deafening race track - causing misery to residents

The unmistakable sound of cars racing bounces off the urban landscape, infuriating local residents who do not want to live above a race track.

Plus

By [Adam Smith](#)

Published 8 hours ago



Illegal street racers at their favourite spot to start in West Bromwich

The Express & Star has been given videos capturing the nightly cacophony of car cruising in the Black Country.

The unfortunate residents of the Kenrick Park estate in West Bromwich happen to live above a start line for both drag racing and car cruising.

Unable to sleep due to the roar of engines and turbos being boosted, those with an unwanted bird's eye view are astounded to see families turn up to watch the illegal 'car meets', seemingly undeterred by last year's tragedy of two teenagers being killed whilst in a crowd of spectators at a car meet they had seen advertised on Snapchat.

For 10 years Jake Russell has watched illegal racers, who regularly top speeds of 100mph on 40mph Kenrick Way, in dismay as they continually outfox the police and flout the law.

Jake said: "The sound is horrific. I live six floors up behind triple glazing and I can hear them. First I hear them parking up on the industrial estate, then to the pub car park. And when I hear spectators turning up I know we are in for a long night.

"There are sometimes up to 200 cars and people, the other night they were holding up ambulances because they were organising the start of a drag race.

"They are very social media savvy, these guys. When I am phoning 999, I know after 10pm there just is not the police resources, but they know it as well. They don't care if they eventually see blue lights. I have taken photos but have been threatened."

Last year two 'car meet' spectators were killed in Oldbury; Ben Corfield, 19, was killed alongside 16-year-old Liberty Charris, after a Nissan Skyline ploughed into the crowd just before midnight on a Sunday. They had seen the car meet advertised on Snapchat.

Circuits can vary but the racing usually takes in Kenrick Way, All Saints Way, in West Bromwich Manor Way in Halesowen, then through Cradley Heath and Dudley via the Birmingham New Road and onwards to Wolverhampton.

Such is the concern about car cruising Walsall, Sandwell, Dudley and Wolverhampton Councils have worked with West Midlands Police to get a high court injunction to get new powers to stop the racing. However, as the videos from the Kenrick estate show, the determination, patience and sheer carelessness of the drivers using public roads as drag race tracks, car cruising is still very much a problem for residents.

Last week the High Court extended it again and it will be ruled on permanently in January next year.

However, though the injunction gives police extra powers to stop racers and even seize cars they have not got extra resources to enforce the injunction.

Jake said: "The injunction is great, in one way, as the only thing that seems to work is when they get nicked. When you take away their wheels. This really annoys them."

Two drivers were caught on Kenrick Way after clocking 80mph and 90mph in May, they pleaded guilty to contempt of court after breaking the injunction. One was sentenced to 23 days imprisonment, which was suspended for 12 months.



Cars jockey for position as they begin a "drag race"

The other, who was seen racing at 90mph in the same 40mph zone on the same night, was given 28 days imprisonment, also suspended for 12 months. If they break the injunction again they could have their assets seized.

Councillor Syeda Khatun, Sandwell Council's Cabinet Member for Public Health and Protection, said: "The two successful court cases show that we take breaches of the injunction very seriously and that those involved in street racing are at risk of going to prison.

"Our priority is the safety of people and tackling the anti-social behaviour that is linked to street racing. People in West Bromwich have been really concerned about street racing on Kendrick Way – I am pleased that two people have been brought to justice for this dangerous activity and it serves as a warning to others, too."

The car cruising community share race and meet locations on various online platforms, many in private groups which the police cannot penetrate.

The popularity of watching high-performance cars on residential roads has become a major concern especially due to the danger posed to the drivers, spectators and other road users.



The view of Kendrick Way where the cruising takes place

West Bromwich Central Councillor Tirath Singh Dhatt vowed to help Jake and fellow residents after hearing the noise of the racers whilst knocking doors on the estate.

He said: "If people in the tower blocks can hear it six floors up then on the ground it will be half a mile. Knocking doors we found so many people who were being really affected by this, from pensioners to young people. We met some brothers who were doing all the right things, like reporting the racing on the app, but if it is the same night it is too late.

"These car meets are like an event. There can be 200 cars some nights. Authorities have to work together. The council, police, the PCC, the courts - it needs to be a joined-up approach. There needs to be intelligence-gathering, there needs to be prosecutions and the fear of prosecutions and seizures of cars.

Security expert Jake added: "They block off the road to hold their own drag races - the other night they were holding up ambulances behind them as they got in place ready for a drag start.

"I have been here 10 years, we had a little respite during Covid but it was back again after lockdown. Recently with the help of Councillor Dhatt, the police seem to be upping their game. I have a lot of

sympathy for the police, I work in the night time economy and know there is just not the manpower after 10pm."

During a round table meeting with councillors, police officers, West Midlands Police and Crime Commissioner Simon Foster, Shadow Police Minister Alex Foster and West Bromwich Parliamentary candidate Sarah Coombes, Jake confronted the PCC.

He said: "I have emailed the Police and Crime Commissioner at least five times this year and nothing, I just got a generic car theft email, which was really disappointing. But I know there is not the resources."

West Midlands Police and Crime Commissioner Simon Foster agrees there needs to be more resources to implement the injunction.



Bird's eye view - Jake Russell looking down on the street race track from his Kenrick estate flat

He said: "It comes down to resources, each of the seven local authorities have a separate agreement with the police, and we want to join this up so there is just one agreement. I have been campaigning to keep the money which motorists pay in fixed penalties fines in the West Midlands, the money currently goes to Westminster.

"That would be £1.7m we could invest in law enforcement, locally."

Sergeant Paul Bishop has been tasked with ensuring Sandwell's roads are not being used as race tracks and its fields are free of off-roading motorcyclists and uninsured scooter riders.

He believes progress is slowly being made against the car cruisers in West Bromwich. He said: "This is specialist work, which requires skilled workers, we have automated stingers now. We have put a camera near the island as that is where cars slow down, however, we cannot just put a speed camera anywhere.

"There needs to be certain criteria. Data has to be collected, and the trouble with Kenrick Way is for the most part motorists drive sensibly. So the 80mph and 90mph speeds in the data will be from a certain time and be equalled out by the rest of the day."

Jake is astounded at the illegal drivers' knowledge of the road he calls home. "A few years ago they resurfaced the road, the racers left it a few weeks until the tarmac had settled perfectly and then returned, they had been given their perfect race track - you could not make it up."

# Conversation

FOLLOW THIS CONVERSATION TO BE NOTIFIED WHEN NEW COMMENTS ARE POSTED [FOLLOW](#)

[SIGN OUT](#)

CO

[ALL COMMENTS 5](#)

[NEWEST](#)

## All Comments

1. Comment by Pandapower.

PA

**Pandapower** 1 HR AGO

If they really think their driving skills are so great, and they can afford such souped up wheels,

why don't they club together, rent a track and organise a proper concourse/race/drag meet.

They could even charge admittance to all their 'followers'.

REPLY 0 0

SHARE

REPORT

2. Comment by Winforgazza.

WI

**Winforgazza** 2 HRS AGO

there is a really easy way to stop this..... Just think about it ....

REPLY 0 0

SHARE

REPORT

3. Comment by Mrs Ivy Trellis.

MI

**Mrs Ivy Trellis** 3 HRS AGO

We must rid the streets of this Teddy Boy Menace!

REPLY 0 0

SHARE

REPORT

4. Comment by RetiredPC.

RE

**RetiredPC** 4 HRS AGO

The very expensive injunction works then. No police and probably too scared to deal incase they have to profile someone.

REPLY 1 0

SHARE

REPORT

5. Comment by the dog.

TD

**the dog** 4 HRS AGO

Start crushing their cars on the spot.

REPLY 1 0

SHARE

REPORT

For: Claimants  
Statement of: Mark Wilson  
Statement no: 3  
Exhibits:  
Date: November 2023

**IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION**

**CLAIM NO: KB-2022-BHM-000188**

**BETWEEN:**

**(1) WOLVERHAMPTON CITY COUNCIL  
(2) DUDLEY METROPOLITAN BOROUGH COUNCIL  
(3) SANDWELL METROPOLITAN BOROUGH COUNCIL  
(4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

**1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**Defendants**

---

**THIRD WITNESS STATEMENT OF MARK WILSON**

---

**I, MARK WILSON, Community Safety Officer, will say as follows:-**

1. I am employed by Dudley Metropolitan Borough Council as a Community Safety Officer. As the Borough's lead for Anti-Social Behaviour, Car Cruising, Public Space Protection Orders, Prevent and Hate Crime, part of my role is to ensure that Dudley is a safe place to live, work and visit and to work collaboratively across the West Midlands region in respect of community safety issues.
2. I make this statement supplemental to the witness statements which I signed on 25<sup>th</sup> April 2023 and 20<sup>th</sup> September 2023.
3. This statement is provided to update the Court on car cruising activities within the Dudley Borough since my last statement.
4. Since my previous witness statement, reports of car cruise activity in the evenings along Manor Way, Halesowen, have increased, specifically large numbers of vehicles gathering at the Shell Petrol Station and racing along the dual carriageway.
5. There are also sporadic complaints of activity at Showcase Cinema and Tesco Extra at Castlegate, Dudley and the Waterfront at Merry Hill. These relate mainly to 'meet-up's' of small groups in car parks to donut and speed around the enclosed area in front of spectators, largely at night. A 'donut' is a manoeuvre performed while driving a vehicle, which entails rotating the rear or front of the vehicle around the opposite set of wheels in a continuous motion, creating a circular skid-mark pattern of rubber on a carriageway and possibly even causing

the tires to emit smoke from friction. It has not solely been cars engaging in these activities as there is at least one instance involving motorbikes.

6. There have also been complaints of vehicles racing around Stourbridge ring road, although these appear to have reduced and there have been only 2 reports at this location since July 2023.
7. In response to an enquiry by our legal team, our ICT Department have shared analytics for the Dudley MBC webpage which contains links to the car cruising injunction documents, and these are attached and marked “**MW1**”.
8. Nick Hooper from our Highways Department has confirmed that on 30 November 2023 he inspected all of the injunction signage within the Dudley Borough and all appear to be in good condition apart from the sign referred to in his previous statement (for which repairs have been booked).
9. I believe that the injunction has had a positive effect and continues to be a necessary tool to ensure the public safety and protection of law abiding members of the public and businesses who have suffered for many years from the negative impact of car cruising and street racing. However, as sought, the terms of the injunction demonstrably need widening.
10. I believe the facts stated in this statement to be true. I understand that proceedings for contempt may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

### Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

**Signed**



**Date**

30.11.2023

**Print name in full** Mark Wilson

For: Claimants  
Statement of: Mark Wilson  
Statement no: 3  
Exhibits:  
Date: November 2023

**IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION**

**CLAIM NO: KB-2022-BHM-000188**

**BETWEEN:**

**(1) WOLVERHAMPTON CITY COUNCIL  
(2) DUDLEY METROPOLITAN BOROUGH COUNCIL  
(3) SANDWELL METROPOLITAN BOROUGH COUNCIL  
(4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

**1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**Defendants**

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**EXHIBIT 1 TO THE THIRD WITNESS STATEMENT OF MARK WILSON (MW1)**

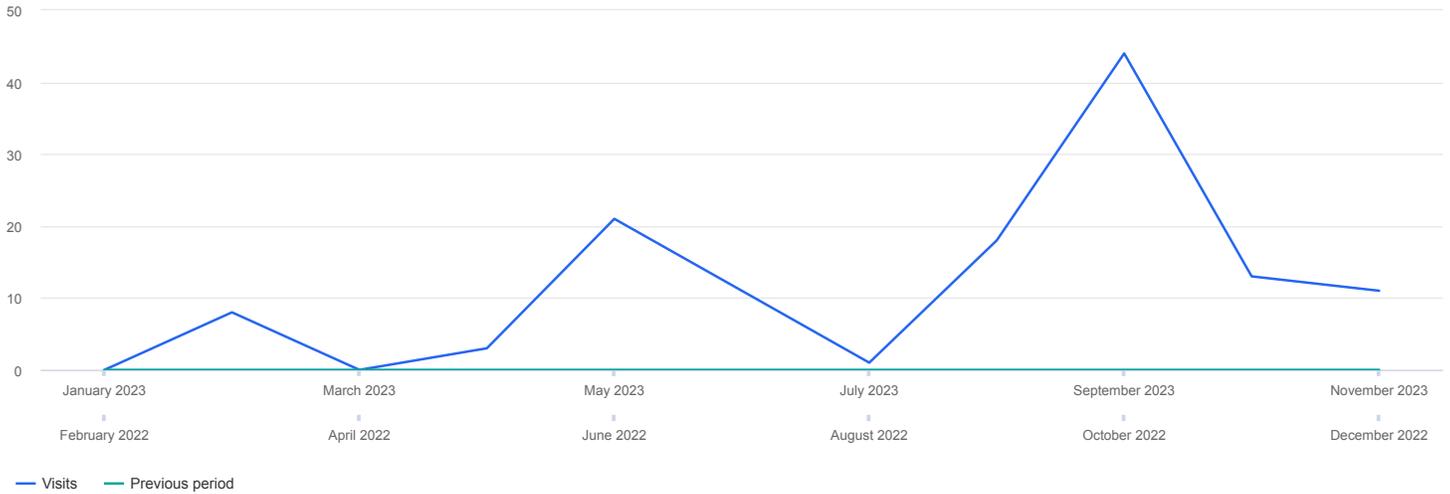
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Page  
**Interim injunction bans street racing in the Black Country | Dudley Council**  
<https://www.dudley.gov.uk/car-cruising-injunction>  
Period  
**2023**

# Page Overview

## Historical overview and comparison

Visits <b>130</b> +130 ⓘ	Page views <b>149</b> +149 ⓘ	Unique visitors <b>108</b> +108 ⓘ	Returning visitors <b>6</b> +6 ⓘ	Bounce rate <b>89.74%</b> +89.74 ⓘ
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[Annotations](#)

## Most frequent visitor dimensions

From  
 United Kingdom

Using  
Mobile

Operating system  
iOS 16

Browser  
Mobile Safari  
(Version unknown)

Resolution  
390 844

**SCHEDULE OF COMMITTALS  
BLACK COUNTRY CAR CRUISING INJUNCTION  
DECEMBER 2022 – DECEMBER 2023**

No	Name	Local Authority Area in which breach(es) occurred or are alleged to have occurred	Date of Breach(es) or Alleged Breaches	Status of Case	Outcome
1	Mason Phelps	Sandwell MBC	September 2023	Ongoing	Next Hearing: 4 January 2024
2	Rebecca Richold	Sandwell MBC	September 2023	Ongoing	Next Hearing: 9 January 2024
3	Anthony Gale	Sandwell MBC	May 2023	Completed	<p>3 October 2023 –</p> <p>Defendant’s admission of racing on Kenrick Way, West Bromwich, Sandwell in breach of injunction, accepted by court and breaches of injunction found to be made out.</p> <p>Sentence: (1/3 credit given for early admission): 23 days’ imprisonment suspended for 12 months on condition that Defendant complies with terms of the injunction.</p>
4	Wiktoria Szczublinska	Sandwell MBC	May 2023	Completed	<p>3 October 2023 –</p> <p>Defendant’s admission of racing on Kenrick Way, West Bromwich, Sandwell in breach of injunction, accepted by court and breaches of injunction found to be made out.</p> <p>Sentence: (1/3 credit given for early admission): 28 days’ imprisonment suspended for 12 months on condition that Defendant complies with terms of the injunction.</p>
5	Isa Iqbal	Wolverhampton City Council	May 2023	Completed	<p>3 October 2023 –</p> <p>Defendant’s admission of performing a “drifting” manoeuvre around a traffic roundabout in Bilston, Wolverhampton in breach of injunction, accepted by court and breaches of injunction found to be made out.</p> <p>Sentence: (1/3 credit given for early admission): 28 days’ imprisonment suspended for 12 months on condition that Defendant complies with terms of the injunction.</p>

Claimants  
Steven Gittins  
Second Witness  
Statement  
30<sup>th</sup> November 2023

**IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION**

**CLAIM NO. KB-2022-BHM000188**

**BETWEEN:**

**(1) WOLVERHAMPTON CITY COUNCIL  
(2) DUDLEY METROPOLITAN BOROUGH COUNCIL  
(3) SANDWELL METROPOLITAN BOROUGH COUNCIL  
(4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

**PERSONS UNKNOWN ENGAGING IN DANGEROUS DRIVING AND  
ASSOCIATED ACTIVITIES**

**Respondents**

---

**WITNESS STATEMENT OF STEVEN GITTINS**

---

I, STEVEN JOHN GITTINS, Community Safety Manager, Walsall Metropolitan Borough Council, Civic Centre, Darwall Street, Walsall, WS1 1TP ("the Council") WILL SAY AS FOLLOWS:

1. I make this statement further to that which I made on 22<sup>nd</sup> September 2023.
2. This statement relates to the Black Country boroughs' application for an injunction prohibiting people from engaging in street racing and car cruising. An injunction was initially granted from 1 February 2014 to 1 February 2018, and subsequently extended until it lapsed on 1 February 2021. A further interim injunction was granted on 22 December 2022 and subsequently extended in February and October 2023. I provided evidence in support of both the original and subsequent applications.

3. There have to date been no applications for committals for breaches of the above injunction in the Borough of Walsall.
4. As per my previous statements it continues to be the case that problems associated with street racing and car cruising related activity within the borough, remain reduced since the original car cruising injunction and then subsequent injunctions came into effect.
5. Since making my previous statement in September of this year, the Council's Community Protection Team has received one further report concerning anti-social behaviour relating to "joy riding/motor vehicles". This was on behalf of a number of residents who were complaining of frequent car racing activity in a residential street in Darlaston. Police report that since the 23<sup>rd</sup> September this year, they have recorded a further 12 incident logs for the borough which contain the word racing. Although it remains the case that there are reports from various locations within the borough, Darlaston, Moxley and Junction 9 of the M6/Black Country Route remain areas of concern.
6. Although the number and frequency of car cruising related incidents in Walsall has reduced since the original injunction was granted, reports of this dangerous anti-social activity and the dangers associated with it are still received, and it remains a significant concern. This including the potential displacement if Walsall were not included in the injunction, due to its location at the end of the Black Country Route and other arterial road networks. Also, it is feared that if Walsall were not included then this dangerous anti-social activity would once again increase within the borough.
7. It is still my view that the granting of the previous injunctions has had a very beneficial effect in protecting the boroughs inhabitants by reducing the level of anti-social behaviour and significant danger caused by street racing and car cruising activity.

8. Walsall's Community Safety Partnership is currently considering and will very likely adopt a new "Road Harm" reduction priority in its 2024 – 27 Community Safety Strategy. Although this will cover a number of harms associated with anti-social and criminal road/vehicle use, it will include those connected with street racing and demonstrates how seriously the partnership and the borough is treating these issues. The injunction is an important tool to help to deliver against this priority and address and reduce the significant risks and danger to the borough's inhabitants resulting from this anti-social activity.
  
9. I have recently requested that our Highways Team undertake an updated survey of our Car Cruising/Street Racing signage, with a view to ensuring that all signage is in order and if any repairs or replacements are required.

**Statement of Truth**

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

**Signed**



**Date**

30/11/2023

**Print name in full** STEVEN JOHN GITTINS

Claimant

Steven Gittins  
Second Witness  
Statement  
30 November 2023

**IN THE HIGH COURT OF JUSTICE  
CLAIM NO. KB-2022-BHM000188  
QUEEN'S BENCH DIVISION**

**BETWEEN:**

- (1) WOLVERHAMPTON CITY COUNCIL**
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL**
- (3) SANDWELL METROPOLITAN BOROUGH  
COUNCIL**
- (4) WALSALL METROPOLITAN BOROUGH  
COUNCIL**

**Claimants**

**-and-**

**PERSONS UNKNOWN**

**Respondents**

---

**WITNESS STATEMENT OF STEVEN GITTINS**

---

**David Pattison  
Director of Governance  
Wolverhampton City Council  
Civic Centre  
St Peters Square  
Wolverhampton  
WV1 1RG**

**Ref: LIJ017753P/01314155**

**Solicitor for the Council**

Claimants  
Steven Gittins  
Second Witness  
Statement  
8<sup>th</sup> December 2023

**IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION**

**CLAIM NO. KB-2022-BHM000188**

**BETWEEN:**

**(1) WOLVERHAMPTON CITY COUNCIL  
(2) DUDLEY METROPOLITAN BOROUGH COUNCIL  
(3) SANDWELL METROPOLITAN BOROUGH COUNCIL  
(4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

**PERSONS UNKNOWN ENGAGING IN DANGEROUS DRIVING AND  
ASSOCIATED ACTIVITIES**

**Respondents**

---

**WITNESS STATEMENT OF STEVEN GITTINS**

---

I, STEVEN JOHN GITTINS, Community Safety Manager, Walsall Metropolitan Borough Council, Civic Centre, Darwall Street, Walsall, WS1 1TP ("the Council") WILL SAY AS FOLLOWS:

1. I make this statement further to that which I made on 30<sup>th</sup> November 2023.
2. On the 4<sup>th</sup> December 2023 officers from the Council's Highways Team undertook a detailed survey of the boroughs fixed and temporary Street Racing/Car Cruising signage. The audit demonstrated that all fixed signs are in place and in good order but that a number of the smaller, temporary signs are missing. Work will be undertaken locally to review the locations of these signs and to replace them where they are still required. The audit also highlights a number of locations where vegetation may become an issue.

These will be passed to the relevant council team for investigation and follow up.

- 3 I now produce as exhibit SJG5 the recent audit of Street Racing/Car Cruising signage in Walsall.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed



Date

08/12/2023

Print name in full STEVEN JOHN GITTINS

Claimant  
Steven Gittins  
Second Witness  
Statement  
08 December 2023

IN THE HIGH COURT OF JUSTICE  
CLAIM NO. KB-2022-BHM000188  
QUEEN'S BENCH DIVISION

**BETWEEN:**

- (1) WOLVERHAMPTON CITY COUNCIL**
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL**
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL**
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

**PERSONS UNKNOWN**

**Respondents**

---

**WITNESS STATEMENT OF STEVEN GITTINS**

---

**David Pattison  
Director of Governance  
Wolverhampton City Council  
Civic Centre  
St Peters Square  
Wolverhampton  
WV1 1RG**

**Ref: LIJ017753P/01314155**

**Solicitor for the Council**

Location	Sign Type	Sign Present	Comments	Photograph
A462 Essington Road near footway link to Kewstoke Close	Large fixed	Yes 04/12/2023	Sign and post in good condition	
A4124 Lichfield Road near footpath link to Highmoor Close	Large fixed	Yes 04/12/2023	Sign and post in good condition	
Moxley Road Lamppost 28	Small foamex	Yes 04/12/2023	Sign and post in good condition	

<p>High Street, Moxley Lamppost 6</p>	<p>Small foamex</p>	<p>Yes 04/12/2023</p>	<p>Sign and post in good condition</p>	
<p>High Street, Moxley, lamppost 10</p>	<p>Small foamex</p>	<p>No 04/12/2023</p>	<p>Missing Sign</p>	

<p>High Street, Moxley Lamppost 11</p>	<p>Small foamex</p>	<p>No 04/12/2023</p>	<p>Missing sign</p>	
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<p>High Street, Moxley Lamppost 12</p>	<p>Small foamex</p>	<p>No 04/12/2023</p>	<p>Missing sign</p>	
<p>Black Country New Road (on traffic island by junction with Church Street) Lamppost 13</p>	<p>Small foamex</p>	<p>No 04/12/2023</p>	<p>Missing sign</p>	

<p>A41 Black Country New Road between Southern Way and Bull Lane</p>	<p>Large fixed</p>	<p>Yes 04/12/2023</p>	<p>Sign and post in good condition.</p> <p>Trees need cutting back.</p>	
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<p>Black Country New Road Lamppost 12 (Rowley View junction)</p>	<p>Small foamex</p>	<p>Yes 04/12/2023</p>	<p>Sign and post in good condition</p>	
<p>Black Country New Road Pedestrian Crossing Lamppost 18</p>	<p>Small foamex</p>	<p>Yes 04/12/2023</p>	<p>Sign and post in good condition.  Trees are not an issue at present but may need cutting back at some point.</p>	

<p>Black Country New Road Pedestrian Crossing Lamppost 19</p>	<p>Small foamex</p>	<p>Yes 04/12/2023</p>	<p>Sign and post in good condition</p>	
<p>Black Country New Road (opposite All Saint's Church) Lamppost 35</p>	<p>Small foamex</p>	<p>No 04/12/2023</p>	<p>Missing sign</p>	
<p>A463 Black Country Route towards Keyway from Lunt junction</p>	<p>Large fixed x 2</p>	<p>Yes 04/12/2023</p>	<p>Both signs in good condition.  Trees need cutting back near the first sign positioned on Lunt junction island.</p>	<p>Unable to obtain a photograph of this location.</p>
<p>A454 Keyway,</p>	<p>Large fixed</p>	<p>Yes 04/12/2023</p>	<p>Sign in good condition.</p>	<p>Unable to obtain a photograph of this location.</p>

Walsall bound exit off Portobello Island			Trees need cutting back.	
A454 Little Aston Road, Aldridge, opp Old Irish Harp	Large fixed	Yes 04/12/23	Vegetation needs cutting back. Good otherwise	
A452 Chester Road North, Brownhills, near junction Coppice Lane	Large Fixed	Yes 04/12/23	Minor graffiti. Good otherwise	

<p>Brickyard Road, Aldridge, lamppost 3</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	
<p>Brickyard Road, Aldridge lamppost 6</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	

<p>Brickyard Road, Aldridge, lamppost 28</p>	<p>Small foamex</p>	<p>Yes 04/12/23</p>	<p>Good</p>	
<p>Brickyard Road, Aldridge, lamppost 29</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	

<p>Northgate Way, Aldridge, lamppost 1</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	
<p>Northgate Way, Aldridge, lamppost 2</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	

Coppice Road, Walsall Wood, lamppost 3	Small foamex	Yes 04/12/23	Vegetation. Otherwise good.	
Coppice Road, Walsall Wood, lamppost 5	Small foamex	Yes 04/12/23	Good.	

<p>Coppice Road, Walsall Wood, lamppost 21</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	
<p>Coppice Road, Walsall Wood, lamppost 22</p>	<p>Small foamex</p>	<p>Yes 04/12/23</p>	<p>Needs rotating, otherwise good.</p>	

<p>Maybrook Road, Walsall Wood, lamppost 3</p>	<p>Small foamex</p>	<p>Yes 04/12/23</p>	<p>Good</p>	
<p>Maybrook Road, Walsall Wood, lamppost 6</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	

<p>Maybrook Road, Walsall Wood, lamppost 13</p>	<p>Small foamex</p>	<p>Yes 04/12/23</p>	<p>Good</p>	
<p>Maybrook Road, Walsall Wood, lamppost 20</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	

<p>A452 Chester Road, Brownhills, Shire Oak Junction</p>	<p>Large fixed</p>	<p>Yes 04/12/23</p>	<p>Good</p>	
<p>A34 Stafford Road, Bloxwich, near borough boundary</p>	<p>Large fixed</p>	<p>Yes 04/12/23</p>	<p>Good</p>	

<p>A451 Bescot Road, Walsall, near M6 J9</p>	<p>Large fixed</p>	<p>Yes 04/12/23</p>	<p>Good</p>	
<p>Bescot Crescent, Walsall, lamppost 24</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	

<p>Bescot Crescent, Walsall, lamppost 38</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	
<p>A4031 West Bromwich Road, Walsall, junction Greenside Way</p>	<p>Large fixed</p>	<p>Yes 04/12/23</p>	<p>Good</p>	

<p>Wisemore, Walsall, signal post 5</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	
<p>Wisemore, Walsall, on westbound direction sign near Day Street</p>	<p>Small foamex</p>	<p>No 04/12/23</p>	<p>Missing Sign</p>	

i) Statement of: Paul Brown  
ii) Statement No: 17  
iii) For: Claimants  
iv) Dated: 30.11.2023  
v) Exhibits:

**IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION**

**CLAIM NO: KB-2022-BHM000188**

**B E T W E E N:**

- (1) WOLVERHAMPTON CITY COUNCIL**
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL**
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL**
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**and**

**1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**Defendants**

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**SEVENTEENTH WITNESS STATEMENT OF PAUL STEVEN BROWN**

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I, PAUL STEVEN BROWN of the City of Wolverhampton Council, Civic Centre, St Peter's Square, Wolverhampton, WV1 1RG WILL SAY AS FOLLOWS:

1. Except where indicated to the contrary, the facts in this statement are within my knowledge and are true. Where the facts in this statement are not within my direct knowledge, they are based on the source indicated and are true to the best of my information and belief. This is my 17th statement in these proceedings.
2. The City of Wolverhampton Council is the authority which is leading the joint application of the Councils of Wolverhampton, Dudley, Sandwell and Walsall (hereinafter referred to as the "Black Country Boroughs") seeking injunctive relief to restrain street racing (also referred to as car cruising) in the Black Country Boroughs.
3. I have been employed since 25 June 2007 as a Senior Communications Adviser and latterly Communications Manager in the communications team of the City of Wolverhampton Council.
4. In collaboration with my colleagues Pardip Nagra (ASB Team Leader) and Adam Sheen (Senior Solicitor, Legal Services) a communications plan has been developed, with the initial steps implemented, initially to raise awareness of the application to the High Court for an interim street racing injunction for the Black Country Area and, should the court be minded to grant this, to promote the existence of the injunction, and the power of arrest, once it is formally in place.
5. Recognising this is a joint enterprise, I have been liaising closely with my counterparts in the communications teams of Dudley, Sandwell and Walsall Councils and West Midlands Police.
6. The order of the High Court made by Her Honour Judge Kelly on 4 October, 2023, required the Claimants to take a series of publicity steps publicising the outcome of the hearing to bring notice of the hearing to the attention of "Persons Unknown".

7. As a result, a range of communications activity has taken place following the hearing of 4 October 2023, and these are described in my 16th statement. The court may wish to know that a series of posts were made on social media (Facebook, Twitter (now called 'X') and Instagram. These achieved:
8. Posts on Facebook received 60,740 impressions, a reach of 53,577, 2,377 engagements and eight comments.

Posts on X received 7,065 impressions, 82 engagements and 31 link clicks.

Posts on Instagram reached 1,290 accounts.

Reach is described by Orlo, the social media management system used by the City of Wolverhampton Council as follows: "This shows you the total number of times the posts in this campaign have been seen by different people."

Impressions. "This gives you the total number of times the posts in this campaign have been shown on a person's screen."

Engagement: "This shows the level of engagement the content you have shared has generated during the campaign."

Total comments: "This is the total number of public comments or mentions received for the reported time period."

Please note, the above relates only to posts issued by The City of Wolverhampton Council. Partner councils and West Midlands Police shared a number of posts, and the data around reach and impressions will be captured in the above. They may have received additional comments on their shared posts, which are not captured in the above, which would affect the overall engagement rate.

9. Furthermore, between 4 October 2023 and 29 November 2023, the City of Wolverhampton Council's street racing webpage received 243 views,

the Walsall Council street racing webpage received 117 views, the Sandwell Council street racing webpage received 312 views and the Dudley Council street racing webpage received 90 views.

10. The Court may also wish to know that the City of Wolverhampton Council shared street racing information in some of its weekly residents' e-newsletter, which reaches approximately 18,000 people, and that Sandwell Council shared street racing information in some of its weekly e-newsletters, which are sent to approximately 30,000 people per bulletin, depending on categories selected for the e-newsletter.

11. I will continue to ensure future steps in the Communications Plan are acted upon at the relevant time and will continue to liaise with my counterparts in Communications Teams of Dudley, Sandwell and Walsall Councils and West Midlands Police to ensure that they are disseminating the information as and when necessary.

**STATEMENT OF TRUTH**

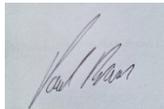
I believe that the facts stated in this Witness Statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Full Name: PAUL STEVEN BROWN

Position: COMMUNICATIONS MANAGER

Name of Claimant: City of Wolverhampton Council

Signed



Print Name PAUL BROWN

Dated: 30 November 2023

For: Claimants  
Statement of: PC Mark Campbell  
Statement no: 4  
Exhibits: -  
Date: December 2023

**IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION**

**CLAIM NO: KB-2022-BHM-000188**

**BETWEEN:**

- (1) WOLVERHAMPTON CITY COUNCIL**
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL**
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL**
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

**1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00 P.M. AND 7:00 A.M. IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**2. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00 P.M. AND 7:00 A.M. IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00 P.M. AND 7:00 A.M. OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**Defendants**

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**THIRD WITNESS STATEMENT OF PC MARK CAMPBELL**

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I, MARK CAMPBELL, Police Constable 6018 of West Midlands Police, currently stationed at Chelmsley Wood police station, WILL SAY AS FOLLOWS:

1. I am PC 6018 Campbell, and I am making this statement on behalf of the West Midlands Police in support of the claimant's application for a new Section 222 High Court street racing injunction in relation to Street racing within the Black Country local authority area.
2. I have been a Police officer for over 27 years and have worked on a number of specialist teams including Road Policing Unit. I am now the subject lead for Operation Hercules, which is the West Midlands Police tactical approach to combating street racing, which over the last couple of years has become an ever-growing issue.
3. I have been the West Midlands lead on this subject for 4 years, and in that time, I have witnessed the ever increasing professionally organised approach that the street racing organisers are taking to facilitate these events. I have had a leading role in a number of different tactics utilised to tackle the issue of street cruises and the inevitable anti-social behaviour caused. This application, however, is made knowing the positive impact a further injunction would have in supporting the Police to tackle the unlawful behaviour of the individuals who put the public at risk on a weekly basis.
4. I have been asked to provide evidence of the impact that the High Court interim injunction has had since my last statement from September 2023, since my last statement provided in September street cruising in the Black Country has reduced on the whole. The Police are seeing less calls to service in the main historical street racing locations such as Manor Way Dudley, Kenrick Way, Sandwell and the Black country Route. This fall in recorded street cruising is also being seen in Birmingham and Solihull. Smaller more localised groups of street cruisers are still being seen, but as a whole the large gatherings are in decline. There may be a number of reasons for this which include the darker, colder and wetter nights naturally occurring as we enter the winter months.
5. The West Midlands Police have continued to provide bespoke Policing of the street cruisers on a weekly basis, often running larger scale operations featuring the local neighbourhood teams to provide extra support. The reduction in incidents is also highlighted by the reduction of arrests made by

the Road Harm Prevention team for breach of the High Court Street Cruising Injunction. I have also seen this downward trend mirrored in the reduction in the numbers of traffic officers, since September 50 Notices of prosecutions/traffic tickets have been issued, 90 section 59 warnings and 5 vehicles seized. This is a massive reduction from previous months.

6. The Road Harm Prevention Team and Force Traffic officers are utilising new tactics in their approach to tackling the organised large-scale street cruising, these include large operations, utilising specialist teams of officers including the use of drones, pre-emptively using automatic stingers to reduce the speed of approaching vehicles, the use of new Pro laser devices. Operation officers in conjunction with Fire Officers and local authority partners also run diversionary courses for attendees of street cruises, the attendees are informed of the dangers of street racing and also of the covering Section 222 High Court injunction, and what it means to breach that order.
7. The majority of the street cruises within the Black Country and West Midlands in general are still being organised via social media. The organisers are using faceless accounts that are closed to none members/followers, this is purely a security measure to prevent any disruption by the Police. These mainly Instagram pages are actively being targeted by Police to try to close down these accounts to help prevent the weekly meets.
8. In general, I would state that the Street cruising Injunction has had a positive effect, certainly in the last couple of months the Police has seen a dramatic drop in calls to service. Going forward into 2024, I believe we will see a even bigger fall in the amount of organised street racing meets. West Midlands Police are restructuring the Force traffic dept and this will correspond to a larger number of officers able to proactively police the street cruises, this in turn will enable new tactics to be utilized, again having a larger impact on the meets.
9. I believe the application to renew the interim High Court Street cruising injunction within the Black Country area is extremely necessary to deter large scale street cruising meets that blight the lives of local residents.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

**Signed**

M.Campbell

**Date**

10/12/2023

**Print name in full** MARK CAMPBELL

D. SECTION D - Orders and Sealed Documents from Hearing 4 October 2023 and Claimants' evidence purporting to show compliance with those orders



Case No: **KB-2022-BHM-000188**  
**KB-2022-BHM-000221**

KB-2022-BHM-000188

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

**In the matter of an application for an injunction under s.37(1), Senior Courts Act 1981, s.222, Local Government Act 1972 and s.130, Highways Act 1980.**

**KB-2022-BHM-000188**

**B E T W E E N**

- (1) WOLVERHAMPTON CITY COUNCIL**
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL**
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL**
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**and**

**(1) PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**(2) PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**(3) PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**(4) PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA**

**SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH  
DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS  
OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**(5) Mr ANTHONY GALE  
(6) Miss WIKTORIA SZCZUBLINSKA**

**Defendants**

**AND**

**KB-2022-BHM-000221**

**B E T W E E N**

**BIRMINGHAM CITY COUNCIL**

**Claimant**

**-and-**

**(1) AHZI NAGMADIN  
(2) JESSICA ELLEN ROBERTS  
(4) RASHANI REID  
(5) THOMAS WHITTAKER  
(6) ARTHUR ROGERS  
(7) ABC  
(8) PERSONS UNKNOWN WHO PARTICIPATE OR INTEND  
TO PARTICIPATE IN STREET-CRUISES IN BIRMINGHAM,  
AS CAR DRIVERS, MOTORCYCLE RIDERS, PASSENGERS  
AND/OR SPECTATORS  
(9) PERSONS UNKNOWN WHO, OR WHO INTEND TO,  
ORGANISE, PROMOTE OR PUBLICISE STREET CRUISES  
IN BIRMINGHAM  
(10) PERSONS UNKNOWN WHO PARTICIPATE OR INTEND  
TO PARTICIPATE IN STREET CRUISES IN BIRMINGHAM AS  
CAR DRIVERS, MOTORCYCLE RIDERS OR PASSENGERS IN  
MOTOR CARS OR ON MOTORCYCLES  
(11) MOHAMMED SHABBIR  
(12) ZOE LLOYD  
(13) CALLUM BLUNDERFIELD**

**Defendants**

BEFORE Her Honour Judge Emma Kelly, sitting as a Judge of the High Court of Justice at the Birmingham District Registry, Birmingham Civil and Family Justice Centre, Priory Courts, 33 Bull Street, Birmingham B4 6DS on 4 October 2023.

**UPON** hearing:

- (i) Mr Singleton of counsel for the Claimants in Claim No. KB-2022- BHM-000188 (respectively the “Wolverhampton Claimants” and the “Wolverhampton claim”) and
- (ii) Mr Manning and Ms Crocombe of counsel for the Claimants in Claim No. KB-2022- BHM-000221 (respectively “Birmingham CC” and the “Birmingham claim”),

**AND UPON** there being no appearance by any Defendant, and no other person having notified the Court, the Wolverhampton Claimants or Birmingham CC that they wished to be joined as a party or heard.

**AND UPON** Birmingham CC’s application for an interim injunction and power of arrest dated 9 December 2022 pursuant to section 222 Local Government Act 1972 and section 130 Highways Act 1980 and the Wolverhampton Claimants’ like application dated 13 December 2022

**AND UPON** the Court reviewing the grant by the Honourable Mrs Justice Hill of Interim Injunctions and Powers of Arrest dated 22 December 2022 as amended by the Honourable Mr Justice Ritchie on 16 May 2023 in both the Wolverhampton claim and the Birmingham claim.

**AND UPON** the Court having dispensed with the need for Birmingham CC to serve the Eighth, Ninth and Tenth Defendants via the method stipulated in paragraph 13(6) of the Order of Mr Justice Ritchie dated 16 May 2023, the Court having concluded, for the reasons given in a Judgment in the case of Birmingham CC v Lloyd, on 4 September 2023, that paragraph 13(6) was impossible to comply with.

**IT IS ORDERED THAT:**

1. In both the Wolverhampton claim and the Birmingham claim, the Interim Injunctions and Power of Arrest granted by the Honourable Mrs Justice Hill, sealed on 22 December 2022, and as amended by the Honourable Mr Justice Ritchie on 16 May 2023 shall remain in force until the hearing until the hearing of the claim unless varied or discharged by further Order of the Court.

2. (i) Birmingham CC has permission to file and serve a version 4 of the Claim Form, Particulars of Claim, Interim Injunction and Power of Arrest so as to record the addition of the 13<sup>th</sup> Defendant as a party by 4.00 pm on 11 October 2023.  
(ii) The Wolverhampton claimants shall have permission to file and serve version 3 of the Claim Form, the Particulars of Claim, and the Injunction and the Power of Arrest to add the 5<sup>th</sup> and 6<sup>th</sup> Defendants by 4.00 pm on 11 October 2023

Hereafter any amended Statements of Case and Orders shall be described in the following manner: identifying the nature of the document, which version of the document it is and when and by whom permissions to amend was given.

e.g. Particulars of Claim (version 2) amended pursuant to an order of Ritchie J made on 19 May 2023 would be the Wolverhampton Claimants Amended Particulars of Claim.

### **Case Management**

3. There shall be the following further hearings set out below at which hearings the court will consider the Wolverhampton claim and the Birmingham claim together. For the avoidance of doubt, the Wolverhampton claim and the Birmingham claim have not been consolidated but it is convenient for them to be heard together as they raise similar issues.

4. A further review hearing shall take place before a High Court Judge at 10.30 am on 20 December 2023 in the High Court of Justice at the Birmingham District Registry, Birmingham Civil and Family Justice Centre, Priory Courts, 33 Bull Street, Birmingham B4 6DS, with a time estimate 1 day, and prior Judicial reading time of 1 day.

(a) Not less than 7 days prior to the hearing the Wolverhampton claimants and Birmingham CC shall file with the Court case summaries to inform the Court of the current position in particular in relation to the awaited judgment of the Supreme Court in *Wolverhampton CC v London Gypsies and Travellers and others* [2022] UKSC/0046 and any current enforcement proceedings and Defendants to be named in connection with the interim injunction and/or the power of arrest.

(b) The Wolverhampton claimants and Birmingham CC have permission to file updating evidence not less than 7 days prior to the hearing. Alternative service of any

such evidence may be effected by taking like steps to those set out at paragraphs 14 and 16 of this Order in the Wolverhampton claim and paragraphs 18 and 20 of this Order in the Birmingham claim.

(c) Not less than 7 days prior to the hearing the Wolverhampton claimants and Birmingham CC shall file with the Court a hard copy of each bundle containing all the Orders, application documents and evidence relevant to the application. It should also include drafts of any proposed orders.

(d) Both the Wolverhampton claimants and Birmingham CC must give active consideration as to whether this hearing can be converted into a final hearing if the judgment of the Supreme Court in *Wolverhampton CC v London Gypsies and Travellers and others* [2022] UKSC/0046 is handed down in good time prior to 20 December 2023. Any request that the hearing to be converted into a final hearing must be made in writing to the Court to include details as to what time estimate is being proposed and why, whereupon the matter shall be referred to HHJ Kelly for consideration as to further case management directions and as to whether the Court can accommodate a final hearing commencing on 20 December 2023

(e) At the review hearing, the Court will determine, amongst other things, the appropriate directions for the final hearing of each claim which has been listed in accordance with paragraph 5 of this Order.

5. There shall be a final hearing, before a High Court Judge at 10.30 am on 27 and 28 February 2024 in the High Court of Justice at the Birmingham District Registry, Birmingham Civil and Family Justice Centre, Priory Courts, 33 Bull Street, Birmingham B4 6DS, with a time of 2 days and prior Judicial reading time of 1 additional day.

6. Any person served with a copy of, or affected by, this Order including, for the avoidance of doubt, the Interim Injunctions and Powers of Arrest, may apply to the Court to vary or discharge it on 48 hours written notice to the Wolverhampton claimants or Birmingham CC, whichever be the relevant claimant, at the applicable address set out at the foot of this Order. Further information is contained at paras 21-23 of and Schedule 1 to this Order.

## **Service**

7. In both the Wolverhampton claim and the Birmingham claim, and pursuant to CPR r.6.27 and CPR r.81.4, the steps that the Wolverhampton claimants and Birmingham CC have taken to serve the order of Ritchie J sealed on 16 May 2023; notice of this hearing and the further evidence filed in advance of this hearing shall amount to good and proper service on the each of the Defendants.

8. Personal service of this Order and the amended Claim Form, Particulars of Claim, Interim Injunction and Power of arrest above is dispensed with in relation to the first, second, third and fourth Defendants in the Wolverhampton claim, and in relation to the Eighth to Thirteenth Defendants inclusive in the Birmingham claim.

### Service of this Order

9. The Wolverhampton claimants shall serve this Order on the First, Second, Third and Fourth Defendants by completing the following steps before 16:00 on 25 October 2023:

- (a) Issuing a media release highlighting the continuation of the Injunction and Power of Arrest, such release must provide:
  - (i) Details of the application and summarise the orders made;
  - (ii) Any deadline for filing any documents by the Defendants;
  - (iii) The date, time and location of the future hearings.
  - (iv) The addresses of the dedicated webpages maintained by the Claimants regarding car cruising;
  - (v) The Claimants' contact details; and
  - (vi) Details of where and how copies of the Injunction, Power of Arrest, this Order, the Documents and the Evidence 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.

(b) Placing on the Claimants' social media including X (previously known as Twitter), Facebook and Instagram links to the above media release.

(c) Updating the dedicated pages on the websites of Wolverhampton City Council, Dudley Council, Sandwell Council and Walsall Council about the Injunction and Power of Arrest and this Order:

<https://www.wolverhampton.gov.uk/street-racing-injunction>

<https://www.dudley.gov.uk/residents/parking-and-roads/roadshighways-and-pavements/car-cruising-injunction>

[https://www.sandwell.gov.uk/info/200284/roads\\_travel\\_and\\_parking/3231/street\\_racing](https://www.sandwell.gov.uk/info/200284/roads_travel_and_parking/3231/street_racing)

[https://go.walsall.gov.uk/black\\_country\\_car\\_cruising\\_injunction](https://go.walsall.gov.uk/black_country_car_cruising_injunction)

Such pages shall carry a direct link to this Order.

(d) Ensuring that the home (or landing) page of each of the Claimants' main websites have and retain a prominent direct link to the dedicated webpages referred to above.

(e) Ensuring that a copy of this Order is available at the front desks of the Claimants' main offices.

(f) Requesting that the police forces for the West Midlands, Warwickshire, West Mercia, Staffordshire and Leicestershire post on their website and Instagram, X (previously known as Twitter), and Facebook accounts, a link to this Order on the dedicated web-pages referred to at (c) above.

10. The Wolverhampton Claimants shall serve this Order on the fifth and sixth Defendants ('the named Defendants') by email, the named Defendants having agreed to accept service by this method. Service must be completed by 16:00 on 11 October 2023.

11. Birmingham CC shall personally serve this Order on the First, Second, Fourth, Fifth, Sixth and Seventh Defendants by 16:00 on 18 October 2023.

12. Birmingham CC shall serve this Order on the Eighth, Ninth and Tenth Defendants by completing the following steps before 16:00 on 25 October 2023:

(a) Issuing a media release highlighting the continuation of the Injunction and Power of Arrest, such release must provide:

- (i) Details of the application and summarise the orders made;
- (ii) Any deadline for filing any documents by the Defendants;
- (iii) The date, time and location of the future hearings.
- (iv) The addresses of the dedicated webpages maintained by the Claimants regarding car cruising;
- (v) The Claimants' contact details; and
- (vi) Details of where and how copies of the Injunction, Power of Arrest, this Order, the Documents and the Evidence 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.

(b) Placing on the Claimants' social media including X (previously known as Twitter), Facebook and Instagram links to the above media release.

(c) Updating its dedicated page on its website about the Injunction and Power of Arrest and this Order:

<https://www.birmingham.gov.uk/streetcruiseapplication2022>

Such page shall carry a direct link to this Order.

(d) Ensuring that the home (or landing) page of its main website has and retains a prominent direct link to the dedicated webpage referred to above.

(e) Ensuring that a copy of this Order is available at the front desks of the Claimants' main offices.

(f) Requesting that the police forces for the West Midlands, Warwickshire, West Mercia, Staffordshire and Leicestershire post on their website and Instagram, X (previously known as Twitter), and Facebook accounts, a link to this Order on the dedicated webpage referred to at (c) above.

13. Birmingham CC shall serve this Order on the Eleventh, Twelfth and Thirteenth Defendants by email, the said Defendants having agreed to accept service by this method. Service must be completed by 16:00 on 11 October 2023.

Service of the Amended Claim Documents, Interim Injunction and Power of Arrest

14. Wolverhampton Claimants shall serve version 3 of the Claim Form, the Particulars of Claim, and the Injunction and the Power of Arrest on the First, Second, Third and Fourth Defendants by completing the following steps before 16:00 on 25 October 2023:

(a) Uploading copies to the dedicated pages on the websites of Wolverhampton City Council, Dudley Council, Sandwell Council and Walsall Council about the Injunction and Power of Arrest and this Order:

<https://www.wolverhampton.gov.uk/street-racing-injunction>

<https://www.dudley.gov.uk/residents/parking-and-roads/roadshighways-and-pavements/car-cruising-injunction>

[https://www.sandwell.gov.uk/info/200284/roads\\_travel\\_and\\_parking/3231/street\\_racing](https://www.sandwell.gov.uk/info/200284/roads_travel_and_parking/3231/street_racing)

[https://go.walsall.gov.uk/black\\_country\\_car\\_cruising\\_injunction](https://go.walsall.gov.uk/black_country_car_cruising_injunction)

(b) Placing on the Claimants' social media including X (previously known as Twitter), Facebook and Instagram links to the relevant website containing version 3 of the Claim Form, the Particulars of Claim, and the Injunction and the Power of Arrest.

(c) Placing hard copies of version 3 of the Claim Form, the Particulars of Claim, and the Injunction and the Power of Arrest at the front desks of the relevant Claimant's offices.

15. This Order shall be deemed served on the First, Second, Third and Fourth Defendants at 23:59 on the date upon which, in each case, the final step in paragraph 14 has been complied with.

16. The Wolverhampton Claimants shall serve version 3 of the Claim Form, the Particulars of Claim, and the Injunction and the Power of Arrest on the named Defendants by email, the said Defendants having agreed to accept service by email. Service must be completed by 16:00 on 11 October 2023.

17. Birmingham CC shall personally serve version 4 of the Claim Form, Particulars of Claim, Interim Injunction and Power of Arrest on the First, Second, Fourth, Fifth, Sixth and Seventh Defendants by 16:00 on 18 October 2023.

18. Birmingham CC shall serve version 4 of the Claim Form, Particulars of Claim, Interim Injunction and Power of Arrest on the Eighth Ninth and Tenth Defendants by completing the following steps before 16:00 on 25 October 2023:

(a) Uploading copies to its dedicated page on its website about the applications to the High Court for an injunction and power of arrest:

<https://www.birmingham.gov.uk/streetcruiseapplication2022>

(b) Placing on the Claimants' social media including X (previously known as Twitter), Facebook and Instagram links to the Fourth Amended Claim Form, Particulars of Claim, Interim Injunction and Power of Arrest.

(c) Placing hard copies of version 4 of the Claim Form, Particulars of Claim, Interim Injunction and Power of Arrest at the front desk of the Claimant's main office.

19. This Order shall be deemed served on the Eighth, Ninth and Tenth Defendants at 23:59 on the date upon which, in each case, the final step in paragraph 18 has been complied with.

20. Birmingham CC shall serve this Order on the Eleventh, Twelfth and Thirteenth Defendants by email, the said defendants having agreed to accept service by this method. Service must be completed by 16:00 on 11 October 2023.

### **Further matters**

21. Without prejudice to the foregoing, any person wishing to exercise a right granted by paragraph 6 of this Order may apply to the Court at any time but if they wish to do so they must inform the relevant Claimants' solicitors in writing immediately (and in any event not less than 48 hours before the hearing of any such application) via the contact details set out below at the foot of this Order. Schedule 1 to this Order indicates the process which must be followed for any such application.

22. Any person applying to vary or discharge either Interim Injunction or Power of Arrest must provide their full name and address, an address for service, and must also apply to be joined as a Named Defendant to the proceedings at the same time.

23. Any Defendant who fails to comply with paragraphs 21 and 22 above shall not be permitted to defend or take any role in these proceedings without further order of the Court and shall be liable to have injunctive relief continued against them.

### **Communications with Claimants and the Court**

24. All communications to the Court about the Wolverhampton claim or the Birmingham claim (which should quote the case number) should be sent to:

Birmingham District Registry Civil Justice Centre

Priory Courts

33 Bull Street,

Birmingham B4 6DS

E: kb.birmingham@justice.gov.uk T: 0121 681 4441

DX: 701987 Birmingham 7

25. Any person who wishes to make an application under para.6 and 21 of this Order or otherwise to contact the Wolverhampton claimants or Birmingham CC about these claims shall contact the relevant Claimants' solicitors via the contact details below:

The Wolverhampton claimants' solicitors and their contact details are:

FAO: Black Country Car Cruise

Legal Services  
Wolverhampton City Council  
Civic Centre  
St Peters Square  
Wolverhampton  
WV1 1RG  
E: litigation@wolverhampton.gov.uk  
T: T: 01902 556556  
DX: 744350 Wolverhampton 27  
Ref: LIT/AS/LIJ017753P

Birmingham CC's solicitors' contact details are:  
Birmingham City Council Legal and Governance  
Ref: LSCSY/HM/150673  
PO Box 15992  
Birmingham B2 2UQ  
E: HousingLitigationTeam@birmingham.gov.uk  
T: 0121 303 2808  
DX: MDX 326401 Birmingham 87

**Costs**

26. Costs in the application.

## **SCHEDULE 1 – STEPS TO VARY OR DISCHARGE THIS ORDER**

If, in accordance with paragraph 6 above, any Defendant or any other person affected by this Order wishes to apply to vary or discharge this Order, to ensure effective case management by the Court the following indicative steps must be followed:

1. Any person seeking to contest the Claimants' entitlement to interim relief should file with the court (i.e. send to the court) and serve (i.e. send to the Claimants):

- (a) An N244 application form<sup>1</sup>;
- (b) Written grounds (which may be contained in within the N244 application form or a separate document) for:
  - i. permission to bring the application; and
  - ii. the application (i.e. reasons for the proposed variation / discharge of the Order).
- (c) A witness statement(s) containing and/or appending all of the evidence to be relied upon in support of the application.

2. In order to file the above documents with the Court, the applicant should:

- (a) Send physical copies of the documents to the address at paragraph 24 of this Order; and/or
- (b) Speak to the Court to obtain an address to send electronic copies of the documents to.

3. In order to serve the above documents on the Claimants, the applicant should:

- (a) Identify the relevant Claimants (the Wolverhampton Claimants or Birmingham CC); and then
- (b) Send physical copies of the documents to the relevant address at paragraph 25 of this Order; and/or

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<sup>1</sup> See the following link which provides a digital version of the form, and guidance notes: <https://www.gov.uk/government/publications/form-n244-application-notice>

(c) Send electronic copies of the documents to the relevant e-mail address at paragraph 25 above.

4. The person making the application should indicate to the Court and Claimants whether they consider the matter requires a court hearing or can be dealt with by the judge reviewing the paper application and any response from the Claimants.

5. Thereafter the Claimants shall have 14 days to file and serve evidence and submissions in response, including as to whether an oral hearing is required to determine the application.

6. Within 21 days the Court shall decide

(a) whether to grant permission for the application to proceed; and

(b) if permission is granted, whether a hearing is necessary, and/or may request from the parties evidence on any further matters necessary to determine the application. If the Court decides that a hearing is necessary, it shall seek to schedule the hearing (accommodating availabilities of the parties) within 42 days (6 weeks).

7. If the Court decides that further evidence is needed from any party, it may set strict deadlines by which that evidence must be filed. Both parties should be aware that the Court may restrict the use of evidence which is filed late or impose other penalties for non-compliance.



# Claim Form (CPR Part 8)

In the High Court of Justice, King's Bench Division, Birmingham District Registry	
Claim no.	KB-2022-BHM-000188
Fee Account no.	PBA0082797 09 Oct 2023
Help with Fees - Ref no. (if appli- cable)	H W F - BIRMINGHAM

KB-2022-BHM-000188

## Claimant

- (1) WOLVERHAMPTON CITY COUNCIL
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL



## Defendant(s)

- (1-4) PERSONS UNKNOWN (AS DESCRIBED IN THE AMENED ATTACHED PARTICULARS OF CLAIM)
- (5) ANTHONY PAUL GALE
- (6) WIKTORIA SZCZUBLINSKA

Does your claim include any issues under the Human Rights Act 1998?  Yes  No

## Details of claim (see also overleaf)

The Claimants respectfully invite the honourable court to grant injunctive relief (reinforced with a power of arrest) Pursuant to the Court's powers under section 37(1) Senior Courts Act 1981, to restrain street racing and associated dangerous driving activities in the Black Country Area (which the Claimants define, for the purposes of this injunction application, as the entirety of the combined local government areas of Dudley, Sandwell, Walsall and Wolverhampton Councils).

Should the honourable court be minded to grant the injunctive relief sought by the Claimants. the Claimants further invite the Court to exercise the discretion granted to it pursuant to rule 81.8 of the Civil Procedure Rules and dispense with the requirement to serve any injunction and power of arrest on Persons Unknown personally and instead serve any injunction and power of arrest granted by alternative means.

Full details of the Claim, together with draft orders and further details of the requisite steps the Claimants suggest would achieve effective alternative service of the order should the honourable court be minded to grant any injunction and power of arrest on persons unknown, and should the honourable court further be minded to permit the Claimants to serve any order by alternative means to personal service, are particularised in the attached documentation.

Defendant's name and address

(1-4) PERSONS UNKNOWN (as described in the Amended Particulars of Claim)  
(5) Mr ANTHONY PAUL GALE (care of Messrs Waldrons Solicitors)  
(6) Miss WIKTORIA SZCZUBLINSKA (care of Messrs Charles Strachan Solicitors)

	£
Court fee	569.00
Legal representative's costs	
Issue date	

For further details of the courts [www.gov.uk/find-court-tribunal](http://www.gov.uk/find-court-tribunal).

When corresponding with the Court, please address forms or letters to the Manager and always quote the claim number.

**Details of claim** (continued)

The Claimants would respectfully draw attention to the attached amended particulars of claim for full details of this claim.

"BLACK COUNTRY CAR CRUISE"  
Wolverhampton City Council, Civic Centre, St Peter's  
Square, Wolverhampton, WV1 1RG  
DX744350 Wolverhampton 27  
Ref: LIT/AS/LIJ017753P  
E-mail: [litigation@wolverhampton.gov.uk](mailto:litigation@wolverhampton.gov.uk)

Claimant's or claimant's legal representative's address to which documents should be sent if different from overleaf. If you are prepared to accept service by DX, fax or e-mail, please add details.

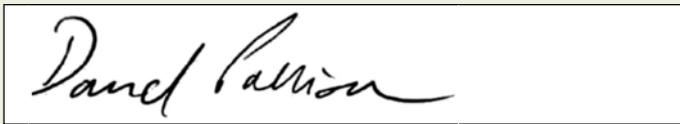
## Statement of Truth

I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I believe that the facts stated in these particulars of claim are true.

**The Claimant believes** that the facts stated in these particulars of claim are true. **I am authorised** by the claimant to sign this statement.

### Signature



Claimant

Litigation friend (where claimant is a child or a Protected Party)

Claimant's legal representative (as defined by CPR 2.3(1))

### Date

Day

06

Month

10

Year

2023

Full name

DAVID PATTISON

Name of claimant's legal representative's firm

WOLVERHAMPTON CITY COUNCIL

If signing on behalf of firm or company give position or office held

CHIEF OPERATING OFFICER

Find out how HM Courts and Tribunals Service uses personal information you give them when you fill in a form: <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

Claim No. KB-2022-BHM-000188  
IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION  
BIRMINGHAM DISTRICT REGISTRY

B E T W E E N:-

1. WOLVERHAMPTON CITY COUNCIL
2. DUDLEY METROPOLITAN BOROUGH  
COUNCIL
3. SANDWELL METROPOLITAN BOROUGH  
COUNCIL
4. WALSALL METROPOLITAN BOROUGH  
COUNCIL

Claimants

-and-

- 1-4 PERSONS UNKNOWN
5. Mr ANTHONY PAUL GALE
6. Miss WIKTORIA SZCZUBLINSKA

Defendants

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PARTICULARS OF CLAIM (Version  
3 amended pursuant to the  
Order of HHJ Kelly, dated 4  
October 2023)

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Wolverhampton City Council,  
Legal Services,  
Civic Centre,  
St Peter's Square,  
Wolverhampton

Ref: LIJ017753P/01201576

Solicitors for the Claimants

Amended pursuant to Order of the Court (HHJ Kelly) on 4 October 2023

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

Claim No. KB-BHM-2022-000188

In the matter of an application for an injunction under s.222 Local Government Act 1972 and s.130 of the Highways Act 1980

B E T W E E N:-

1. WOLVERHAMPTON CITY COUNCIL
2. DUDLEY METROPOLITAN BOROUGH COUNCIL
3. SANDWELL METROPOLITAN BOROUGH COUNCIL
4. WALSALL METROPOLITAN  
BOROUGH COUNCIL

Claimants

-and-

1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)  
4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR  
ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF  
3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN  
THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH  
SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR  
OTHER DANGEROUS OR OBSTRUCTIVE DRIVING

5. Mr ANTHONY PAUL GALE

6. Miss WIKTORIA SZCZUBLINSKA

Defendants

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PARTICULARS OF CLAIM (Version  
3 amended pursuant to the Order  
of HHJ Kelly, dated 4 October  
2023)

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*Introduction*

- 1 Part 8 of the Civil Procedure Rules 1998 applies to this claim.
  
- 2 In these Particulars of Claim the following definitions have been applied:
  - (1) "The Black Country" the combined local authority areas of all the Claimants. The Claimants areas are shown on the plan annexed hereto (Plan A).
  
  - (2) "Car Cruising" organised or impromptu events at which drivers of cars race, perform driving stunts, drive dangerously and drive in convoy. Such activities may be noisy, dangerous and illegal, obstructing highways and the premises bordering

them, damaging property and putting the safety of spectators and other persons at risk.

- (3) The "Original Injunction" Injunction granted by HHJ Owen QC on 1 December 2014 and renewed by HHJ McKenna on 9 January 2018 in *Wolverhampton & Others v Persons Unknown* [2014] (Claim No A90BM228) which was in effect from 2 February 2015
- (4) "Stunts" Driving manoeuvres often undertaken as part of car cruising including:
  - (a) "Burnouts" Causing a vehicle to destroy its tyres by applying power to the drive wheels while braking so as to remain in place while the wheels revolve at speed.
  - (b) "Donuts/Donutting" Causing a vehicle to rotate around a fixed point (normally the front axle) while not moving-off causing noise, smoke and tyre marks to be created.
  - (c) "Drifting" Turning by placing the vehicle in a skid so that most sideways motion is due to the skid not any significant steering input.
  - (d) "Undertaking" passing a vehicle on its nearside so as to overtake in circumstances not permitted by the Highway Code.

- 3 The Claimants are local authorities with the meaning of the Local Government Act 1972.

The Defendants

3A The First, Second, Third and Fourth Defendants are persons, as yet unknown, who have engaged or intend to engage in the conduct that the Injunction seeks to restrain.

3B The Fifth and Sixth Defendants (“the Named Defendants”) are persons who were found to be in breach of interim injunction granted by the Honourable Mrs Justice Hill on 22 December 2022, and amended by the Honourable Mr Justice Ritchie on 19 May 2023 who thereby became parties to the claim.

4 The West Midland Police Force (‘the Police’) serve the areas of all the Claimants.

5 Since, at least, 2012 the Claimants have, in co-operation with the Police, have been attempting to eliminate car cruising in their areas.

6 By this claim the Claimants seek an injunction restraining car cruising across the whole of the Black Country.

### *Background*

- 7 The Claimants obtained the Original Injunction which was in effect from 2 February 2015 until 1 February 2021.
- 8 The Claimants aver that the Original Injunction caused or contributed to a substantial reduction in car cruising in the Black Country and the committal proceedings brought for breach of the Original Injunction served as a deterrent to persons contemplating car cruising.
- 9 The Original Injunction did not eliminate car cruising but did cause a decrease in such activity. Since the order lapsed there has been a marked increase.

### *Relevant Enactments*

- 10 Section 37(1) Senior Courts Act 1981 provides that:

“The High Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases in which it appears to the court to be just and convenient to do so.”

11 For the reasons set out in the evidence filed herewith (and the evidence in support of the application for the Original Injunction) the Claimants will contend it is just and convenient for the honourable court to grant an injunction in this instance.

12 Section 111(1) Local Government Act 1972 provides that:

“Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.”

13 Section 222 Local Government Act 1972 extends that power and empowers local authorities to become involved in litigation if so doing facilitates the discharge of their functions and is in the interest of their inhabitants.

14 Section 222(1) Local Government Act 1972 provides that:

(1) “Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area—

- (a) they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name, and
- (b) they may, in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment.”

15 Further, section 1 of the Localism Act 2011 provides that a local authority has power to do anything that individuals may do.

16 Accordingly, the Claimants are entitled to bring this claim for the benefit of all inhabitants of the Black Country. Further it is just and convenient and in accordance with the overriding objective for all the Claimants to bring a single claim.

17 By section 130, Highways Act 1980, the Claimants are under a duty to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority. The injunctive relief sought in these proceedings is necessary to protect the rights of the public to the use and enjoyment of highways within the Claimants' districts.

18 By section 6 of the Crime and Disorder Act 1998, local authorities must formulate and implement, *inter alia*, a strategy for the reduction of crime and disorder in their areas (including anti-social and other behaviour adversely affecting the local environment), which strategy the authorities must keep under review for the purposes of monitoring its effectiveness and making any necessary or expedient changes.

19 Section 17(1) Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

20 The Claimants contend that taking measures to combat car cruising falls within and forms part of their statutory function (set out above) to reduce crime and disorder in their areas.

### *Factual Background*

21 The Claimants will rely upon the witness statements filed with this Claim Form and those filed in support of the adjourned application to extend the Original Injunction.

22 In summary the Claimants aver that:

- (1) Persons participating in car cruising meet on highways and areas adjacent to highways. Such areas include industrial estates and carparks.
- (2) The locations for such meetings vary but are to be found throughout the Black Country.
- (3) Such meetings may be publicised in advance via social media or word of mouth or may be impromptu.
- (4) At such meetings some or all of conduct set out above takes place.
- (5) Such conduct affects the safety, comfort, well-being and livelihoods of inhabitants of the Black Country.
- (6) Such conduct diverts the resources of the Police, Ambulance Service and hospitals away from other legitimate matters.

23 The Original Injunction was effective in reducing and inhibiting car cruising.

24 Since 2 February 2021 car cruising has again increased with more events and larger numbers of spectators at such events. The Police are receiving an increased volume of calls relating to such activities.

25 Such increased activity has continued following the relaxation of restrictions on social gatherings imposed during the covid-19 pandemic. There appears to be a growing perception among those who engage in car cruising that the Claimants and the Police are impotent to restrict the activity.

25A The conduct described above frequently involves the commission of criminal offences which is deliberate and which cannot adequately be prevented or restrained by the use of criminal law sanctions.

25B Such offences may include but are not limited to:

- (1) Dangerous driving;
- (2) Speeding;
- (3) Racing;
- (4) Driving without insurance

25C The said conduct is also tortious and, in particular, constitutes a public nuisance.

25D Further, by engaging in the conduct described above, the Defendants infringe or threaten to infringe

- (1) other road users' and pedestrians' right to life, pursuant to Article 2, European Convention on Human Rights (the "Convention").

On 20 November 2022 a fatal road traffic collision occurred in the area of the Third Defendant when a vehicle collided with persons spectating at a cruise/street race.

and/or

- (2) the right to respect for the private and family lives, pursuant to Article 8, Convention, of residents living in the locality of the roads or spaces used for street-cruising.

25E While all persons have the right to freedom of association and peaceful assembly (Convention, Art.11), such rights are qualified and may lawfully be interfered with in the interests of 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.

25F Such rights do not extend to permitting the commission of serious criminal activity that imperils the lives of others.

25G Injunctive relief sought is necessary in a democratic society and is proportionate. It represents the only way to protect the rights referred to above and is in accordance with a legitimate aim.

### *Justification for an Injunction*

26 An Injunction in the terms sought would assist the Claimants in discharging their statutory duties set out above.

27 Such an Injunction would be of benefit to persons generally throughout the Black Country.

28 The proposed Injunction does not interfere with rights and freedoms of the Defendants since the behaviour that it seeks to prohibit is illegal and/or anti-social. The Defendants remain free to attend lawful motor-sports events and exhibitions.

### *Power of Arrest*

29 Section 27 of the Police and Justice Act 2006 provides *inter alia*:

“(1) This section applies to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972 (c 70) (power of local authority to bring,

defend or appear in proceedings for the promotion or protection of the interests of inhabitants of their area).

(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 mentioned in subsection (2) consists of or includes the use or threatened use of violence, or

(b) there is a significant risk of harm to the person mentioned in that subsection...”

30 The Claimants aver that car cruising causes and is capable of causing nuisance or annoyance to persons in the Black Country and that the car cruising creates a significant risk of harm to such persons.

*Service of this Claim Form*

31 The Claimants seek orders for service of the Claim Form and supporting documentation by alternative means pursuant to CPR 6.15 & 6.27. The proposed steps to effect service are set out in a draft Order. Such steps are likely to bring this Claim and the hearing of the application for an Injunction to the attention of those persons who may wish to oppose the making of the order or intervene in the proceedings.

*Service of any Injunction Granted*

32 The Claimants will also seek an order dispensing with personal service of the Injunction. The proposed steps to bring the order to the attention of persons likely to be affected by any Injunction are set out in a draft order.

33 The Claimants submit that such steps are likely to ensure that awareness of the existence of the Injunction will be widespread throughout the Black Country.

**And the Claimants claim:**

- (1) An Injunction Order in the form annexed hereto;
- (2) A Power of Arrest ancillary to such Injunction;
- (3) Such further or other relief as the Court thinks fit.

**MICHAEL SINGLETON**

DATED this 07 day of October 2022

The Claimants believe that the facts stated in these Particulars of Claim are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by all the Claimants to sign this statement.

FULL NAME: DAVID PATTISON

POSITION OR OFFICE HELD: CHIEF OPERATING OFFICER

SIGNED:



REDATED this Sixth day of June 2023

The Claimants believe that the facts stated in these Amended Particulars of Claim are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by all the Claimants to sign this statement.

FULL NAME DAVID PATTISON

POSITION OR OFFICE HELD: CHIEF OPERATING OFFICER

SIGNED 

DATED this Sixth day of October 2023

The Claimants believe that the facts stated in these Particulars of Claim (version 3) are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by all the Claimants to sign this statement.

FULL NAME DAVID PATTISON

POSITION OR OFFICE HELD: CHIEF OPERATING OFFICER

SIGNED

A handwritten signature in black ink that reads "David Pattison". The signature is written in a cursive style with a long horizontal flourish at the end.



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

**Claim No. KB-2022-BHM-000188**

**Original Order of the Honourable Mrs Justice Hill 22 December 2022** KB-2022-BHM-000188  
**Amended by Order of the Honourable Mr Justice Ritchie 19 May 2023**

**In the matter of an application for an injunction under s.222 Local Government Act 1972 and s.130 of the Highways Act 1980**

**B E T W E E N:-**

- 1. WOLVERHAMPTON CITY COUNCIL**
- 2. DUDLEY METROPOLITAN BOROUGH COUNCIL**
- 3. SANDWELL METROPOLITAN BOROUGH COUNCIL**
- 4. WALSALL METROPOLITAN BOROUGH COUNCIL**

**Claimants**

**-and-**

**1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**4. PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH DEFENDANTS ENGAGE IN**

**MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**5. Mr ANTHONY PAUL GALE**

**6. Miss WIKTORIA SZCZUBLINSKA**

**Defendants**

**Amended by Order of the Honourable Mr Justice Ritchie on 19 May 2023**

**Fifth and Sixth Defendants added as parties pursuant to the Order of HHJ Kelly made on 4 October 2023**

To: the Fourth Defendants being Persons Unknown being drivers, riders or passengers in or on motor vehicle(s) who participate between the hours of 3:00pm and 7:00am in a gathering of 2 or more persons within the Black Country Area shown on Plan A (attached) at which such Defendants engage in motor racing or motor stunts or other dangerous or obstructive driving

**And to: the Fifth and Sixth Defendants (“the Named Defendants”) being persons who have been found to be in breach of this Interim Injunction and who thereby became parties to the claim.**

**PENAL NOTICE**

**IF YOU THE WITHIN NAMED PERSONS UNKNOWN AND THE NAMED DEFENDANTS , 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**

**IMPORTANT NOTICE TO THE DEFENDANTS**

This Order prohibits you from doing the acts set out in this Order. You should read it very carefully. You are advised to consult a solicitor as soon as possible. You have the right to ask the Court to vary or discharge this Order but you must obey the order unless it is varied or discharged by the Court.

A Defendant who is an individual who is ordered not to do something must not do it himself/herself or in any other way. He/she must not do it through others acting on his/her behalf or on his/her instructions or with his/her encouragement.

This Order was made when the Defendants were not present at court but notice of the Claimants' application had been given

**Before the Honourable Mr Justice Ritchie** sitting at the High Court of Justice, Birmingham District Registry, Priory Courts, 33 Bull Street, Birmingham, B4 6DS on 19 May 2023.

**Upon** hearing Mr Singleton of counsel for the Claimants and there being no appearance by any other person and neither the Court nor the Claimants having received any notification that any other person wished to be joined as a party or heard.

**And Upon** the Claimants' application, by an Application Notice dated 7 October 2022 for an injunction pursuant to section 222 Local Government Act 1972 and section 130 Highways Act 1980.

**And Upon** the Court having granted an Injunction and Power of Arrest, by Order of the Honourable Mrs Justice Hill sealed on 22 December 2022.

**And Upon** the Court having further reconsidered the grant of the Injunction and Power of Arrest (following a previous review held by the Honourable Mr Justice Freedman on 6 and 13 February 2023), as directed by paragraph 2 of the Order of Freedman J sealed on 16 February 2023.

**And Upon** the court having exercised its discretion to grant injunctive relief pursuant to section 37(1) Senior Courts Act 1981.

**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 the Injunction Order and that the Power of Arrest should therefore be continued.

**And Upon** the Court noting the order of the Honourable Mr Freedman sealed on 16 February 2023 giving directions and approving service by alternative means pursuant to CPR r.6.27 and CPR r.81.4 of that order; and further evidence.

**And Upon** it appearing to the court that there is good reason to authorise service by a method or place not otherwise permitted by CPR Parts 6 & 81.

**And Upon** the Claimants renewing their undertaking to inform the Court forthwith if the Supreme Court deliver judgement in the appeal known as *Wolverhampton City Council and others (Respondents) v London Gypsies and Travellers and others (Appellants)* [2022] UKSC/0046.

**And Upon** the Claimants reconfirming that this Order is not intended to prohibit lawful motorsport taking place on private land where planning permission has been granted (or is not required) and such activities take place under an approved code or licence from a recognised regulatory body.

**And Upon** the Court considering that further clarification was necessary as to the particular categories of Defendant who are Person Unknown to whom this injunction and power of arrest applies

**And further upon** the Claimant undertaking, and being given permission, to file an Amended Claim Form and An Amended Particulars of Claim to reflect the addition to the proceedings of the Fourth Defendant referred to above and to specify the tort(s) and/or crime(s) that this Order is intended to prevent or inhibit. Such amendments to be filed by 4.00pm, 9 June 2023 and served by the same date by adopting like measures to those set out at paragraphs 11 (3) & (6) in the Combined Directions Order.

**IT IS ORDERED THAT:**

**Injunction in force**

1 The Injunction and Power of Arrest granted by the Honourable Mrs Justice Hill, sealed on 22 December 2022, shall remain in force save that paragraph 1 of that Order be amended as set out below until the hearing of the claim unless varied or discharged by further Order of the Court

**IT IS FORBIDDEN** for any of the Fourth Defendants or any of the Named Defendants being a driver, rider or passenger in or on a motor vehicle to participate between the hours of 3:00pm and 7:00am in a gathering of 2 or more persons within the Black Country Area shown on Plan A (attached) at which such Defendants engage in motor racing or motor stunts or other dangerous or obstructive driving.

Stunts are driving manoeuvres often undertaken at such gatherings including but not limited to:

- (1) “Burnouts” Causing a vehicle to damage or destroy its tyres by applying power to the drive wheels while braking so as to remain in place while the wheels revolve at speed.
- (2) “Donuts/Donutting” Causing a vehicle to rotate around a fixed point (normally the front axle) while not moving off causing noise, smoke and tyre marks to be created.
- (3) “Drifting” Turning by placing the vehicle in a skid so that most sideways motion is due to the skid not any significant steering input.

- (4) “Undertaking” passing a vehicle on its nearside so as to overtake in circumstances not permitted by the Highway Code

A Power of Arrest pursuant to section 27 Police and Criminal Justice Act 2006 shall apply to paragraph 1 of this Order.

## **Definitions**

2 In this Order the following definitions have been applied:

- (1) “the Injunction” means the Order of Hill J sealed on 23 December 2022 and as amended by this Order
- (2) “the Power of Arrest” means the Power of Arrest, sealed on 23 December 2022 and as amended by this Order
- (3) “the Interim Relief Application” - the Application Notice of 13 December 2022, including the draft Injunction Order referred to therein.
- (4) “the Alternative Service Application” – the Application Notice of 7 October 2022, seeking permission for alternative service of Claim Form.
- (5) “the Applications” – the Interim Relief Application, the Alternative Service Application and the application for a final injunction issued on 13 October 2022.
- (6) “the Documents”
- (a) Notice of Hearing and a sealed copy of this Order
  - (b) Part 8 Claim Form;
  - (c) Particulars of Claim

- (d) N16A application for an Injunction;
  - (e) Draft Injunction Order
  - (f) Draft Power of Arrest
  - (g) The Interim Relief Application;
  - (h) The Alternative Service Application.
- (7) “the Evidence” materials set out at Schedule A below
- (8) “the Combined Directions Order” means the order made on 19 May 2023 by Ritchie J giving further directions for this matter and the case of Claim No. KB-2022-BHM-000221 (respectively “Birmingham CC” and the “Birmingham claim”).

### **Commencement**

- 3 This Amended Order shall come into force immediately and be deemed served on the Defendants at 23.59 on the date upon which, in each case, the final step in paragraph 11 of the Combined Directions Order have been complied with.

### **Further Matters**

- 4 Without prejudice to the foregoing, any person affected by this Amended Interim Injunction or Power of Arrest may apply to the Court at any time to vary or discharge it but if they wish to do so they must inform the Claimants’

solicitors immediately (and in any event not less than 48 hours before the hearing of any such application).

- 5 Further information on how to make such application and useful sources of information are set out in the Combined Directions Order.
- 6 The costs of this application are reserved.

## SCHEDULE A

Please see:

- (1) Material contained in the Bundle of Evidence in support of Application for an Injunction as set out at Parts, B, C, D, E, F, G, H, I and K of the attached Index
- (2) Material contained in the “Bundle of Documents for Review Hearing 15 May 2023 (sic)” in support of Application for an Injunction as set out at Parts B, C, and D of the attached Index
- (3) Witness statements of:
  - (a) Tenth witness statement of Paul Brown, dated 9 May 2023
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**B E T W E E N:**

- (1) WOLVERHAMPTON CITY COUNCIL
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL
- (4) WALSALL METROPOLITAN BOROUGH COUNCIL

**Claimants**

**and**

**1. PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**2 PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING**

**3. PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)**

**Defendants**

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**BUNDLE OF DOCUMENTS FOR REVIEW HEARING 15 MAY 2023**

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## A. SECTION A - Statements of Case

1. Wolverhampton CC & Ors v Persons Unknown - Statement of Case for Hearing 15 May 2023 A 1 - A 7

## B. SECTION B - Evidence Filed on Behalf of the Claimant

1. Witness Statement Pardip Nagra (Wolverhampton City Council) 02 May 2023 B 1 - B 3
2. Statement of Mark Wilson (Dudley MBC) 25 April 2023 B 4 - B 6
3. Statement of Pardip Sandhu (Sandwell MBC) 3 May 2023 B 7 - B 17
4. Witness Statement of Steve Gittins (Walsall MBC) 03 May 2023 B 18 - B 21
5. Statement of PC Mark Campbell 02 May 2023 B 22 - B 25
6. 7th Statement of Paul Brown 27 2 23 B 26 - B 33
7. Exhibit Cover PB7A B 34
8. EXHIBIT PB7A B 35 - B 45
9. Exhibit Cover PB7B B 46
10. EXHIBIT PB7B B 47 - B 61
11. Exhibit Cover PB7C B 62
12. EXHIBIT PB7C B 63 - B 67
13. Exhibit Cover PB7D B 68
14. EXHIBIT PB7D B 69 - B 70
15. Exhibit Cover PB7E B 71
16. EXHIBIT PB7E B 72 - B 78
17. Exhibit Cover PB7F B 79
18. EXHIBIT PB7F B 80 - B 88
19. 8th Statement of Paul Brown 28 April 23 B 89 - B 93
20. Exhibit Cover PB8A B 94
21. EXHIBIT PB8A B 95 - B 108
22. 9th Witness Statement of Paul Brown B 109 - B 112
23. EXHIBIT PB9A B 113 - B 143

## C. SECTION C - Evidence Filed on Behalf of The Defendant

1. Confirmation of No Evidence from Any Defendant C 1

## D. SECTION D - Court Orders, Judgments and Transcripts of Hearings

1. SEALED INJUNCTION ORDER (Order of Hill J) 22.12.22 Wolverhampton City Council and others v Unknown KB-2022-BHM-000188 D 1 - D 24
2. SEALED POWER OF ARREST (Order of Hill J) 22.12.22 KB-2022-BHM-000188 D 25 - D 27
3. Wolverhampton City Council v Persons Unknown and Others: KB- 2022-BHM 000188 (21.12.22) - Approved judgment of Hill J D 28 - D 45
4. Order 13 02 23 (sealed 16 February 23) Wolverhampton City Council v Persons Unknown and Others 2023 KB-2022-BHM-000188 D 46 - D 59
5. Schedule A Index (Schedule to Order Sealed 16 February 2023) D 60 - D 66
6. Plan A (attached to order 16 February) D 67
7. TRANSCRIPT of JUDGMENT 13 February 2023 - Wolverhampton City Council v Persons Unknown (KB-2022-BHM-000188) D 68 - D 84

8. TRANSCRIPT of HEARING 06 February 2023 Wolverhampton City Council & Ors v Persons Unknown - KB.2022.BHM-00188 D 85 - D 143
9. Hearing Notice - Hearing: 15 May 2023 at 10.30 a.m. D 144

B E T W E E N:

<p>(1) WOLVERHAMPTON CITY COUNCIL (2) DUDLEY METROPOLITAN BOROUGH COUNCIL, (3) SANDWELL METROPOLITAN BOROUGH COUNCIL (4) WALSALL METROPOLITAN BOROUGH COUNCIL</p>	Claimants
<p>(1) PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SOME OF THOSE PRESENT ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING</p> <p>(2) PERSONS UNKNOWN WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING</p> <p>(3) PERSONS UNKNOWN PROMOTING ORGANISING PUBLICISING (BY ANY MEANS WHATSOEVER) ANY GATHERING BETWEEN THE HOURS OF 3:00PM AND 7:00AM OF 2 OR MORE PERSONS WITH THE INTENTION OR EXPECTATION THAT SOME OF THOSE PRESENT WILL ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED)</p> <p>(4) PERSONS UNKNOWN BEING DRIVERS, RIDERS OR PASSENGERS IN OR ON MOTOR VEHICLE(S) WHO PARTICIPATE BETWEEN THE HOURS OF 3:00PM AND 7:00AM IN A GATHERING OF 2 OR MORE PERSONS WITHIN THE BLACK COUNTRY AREA SHOWN ON PLAN A (ATTACHED) AT WHICH SUCH DEFENDANTS ENGAGE IN MOTOR RACING OR MOTOR STUNTS OR OTHER DANGEROUS OR OBSTRUCTIVE DRIVING</p> <p>(5) ANTHONY PAUL GALE</p> <p>(6) WIKTORIA SZCZUBLINSKA</p>	Defendants

**INJUNCTION - SECTION 37(1) SENIOR COURTS ACT 1981  
(PROCEEDINGS BROUGHT PURSUANT TO SECTION 222 LOCAL GOVERNMENT ACT 1972)**

**POWER OF ARREST**

**Under section 27 Police and Criminal Justice Act 2006**

**(VERSION 3)**

Granted by Order of Hill J on 22 December 2022  
Amended by Order of Ritchie J on 19 May 2023  
Amended by Order of HHJ Kelly on 04 October 2023



WOLVERHAMPTON CITY COUNCIL & OTHERS v PERSONS UNKNOWN

**The Court orders that a power of arrest under Section 27 Police and Criminal Justice Act 2006 applies to the following paragraph of an order made on 22 December 2022 and amended on 19 May 2023.**

(Here set out the provisions of the order to which this power of arrest applies and no others).

(Where marked \* delete as appropriate)

IT IS FORBIDDEN for any of the Fourth Defendants or either of the Fifth and Sixth Defendants, being a driver, rider or passenger in or on a motor vehicle to participate between the hours of 3:00 p.m. and 7:00 a.m. in a gathering of 2 or more persons within the Black Country Area shown on Plan A (attached) at which such Defendants present engage in motor racing or motor stunts or other dangerous or obstructive driving.

“Stunts” are driving manoeuvres often undertaken at such gatherings including but not limited to:

- a. “Burnouts” – Causing a vehicle to destroy its tyres by applying power to the drive wheels while braking so as to remain in place while the wheels revolve at speed.
- b. “Donuts/Donutting” – Causing a vehicle to rotate around a fixed point (normally the front axle) while not moving-off causing noise, smoke and tyre marks to be created.
- c. “Drifting” – Turning by placing the vehicle in a skid so that most sideways motion is due to the skid not any significant steering input.
- d. “Undertaking” – Passing a vehicle on its nearside so as to overtake in circumstances not permitted by the Highway Code

**POWER OF ARREST**

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In respect of a power of arrest under section 27 Police and Criminal Justice Act 2006, the Court, upon being satisfied pursuant to section 27(3) Police and Criminal Justice Act 2006 that the relevant conduct consists of or includes the use or threatened use of violence and/or there is a significant risk of harm to a person mentioned in section 27(2) of the said Act, has ordered that a power of arrest be attached to the order.

A power of arrest is attached to the order whereby any constable may (under the power given by Section 27(4) Police and Criminal Justice Act 2006) arrest without a warrant a person whom he has reasonable cause for suspecting to be in breach of any of the provisions set out in this order or otherwise in contempt of court in relation to such provision.

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**This Power of Arrest**

Originally came into effect on 12.01 a.m. (00:01 hours) on 22 December 2022 and remains in force with the amendments ordered by the court on 19 May 2023 and 4 October 2023, and shall continue until 11:59 pm (23:59 hours) on 21 December 2023, unless it is extended, varied or discharged by further order of the court.

**Note to the Arresting Officer**

Where a person is arrested under the power given by section 27(4) Police and Criminal Justice Act 2006, section 27(6) Police and Criminal Justice Act 2006 requires that:

- A constable shall, after making such an arrest, forthwith inform the person on whose application the injunction was granted;
- Such person shall be brought before the relevant judge within 24 hours beginning at the time of his arrest; And if the matter is not then disposed of forthwith, the Judge may remand such person.
- Nothing in section 155 authorises the detention of such person after the expiry of the period of 24 hours beginning at the time of his arrest, unless remanded by the court.
- In reckoning any period of 24 hours for these purposes, no account shall be taken of Christmas Day, Good Friday or any Sunday.

Ordered by

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The Honourable Mrs Justice Hill, The Honourable Mr Justice Ritchie  
and Her Honour Judge Kelly

On

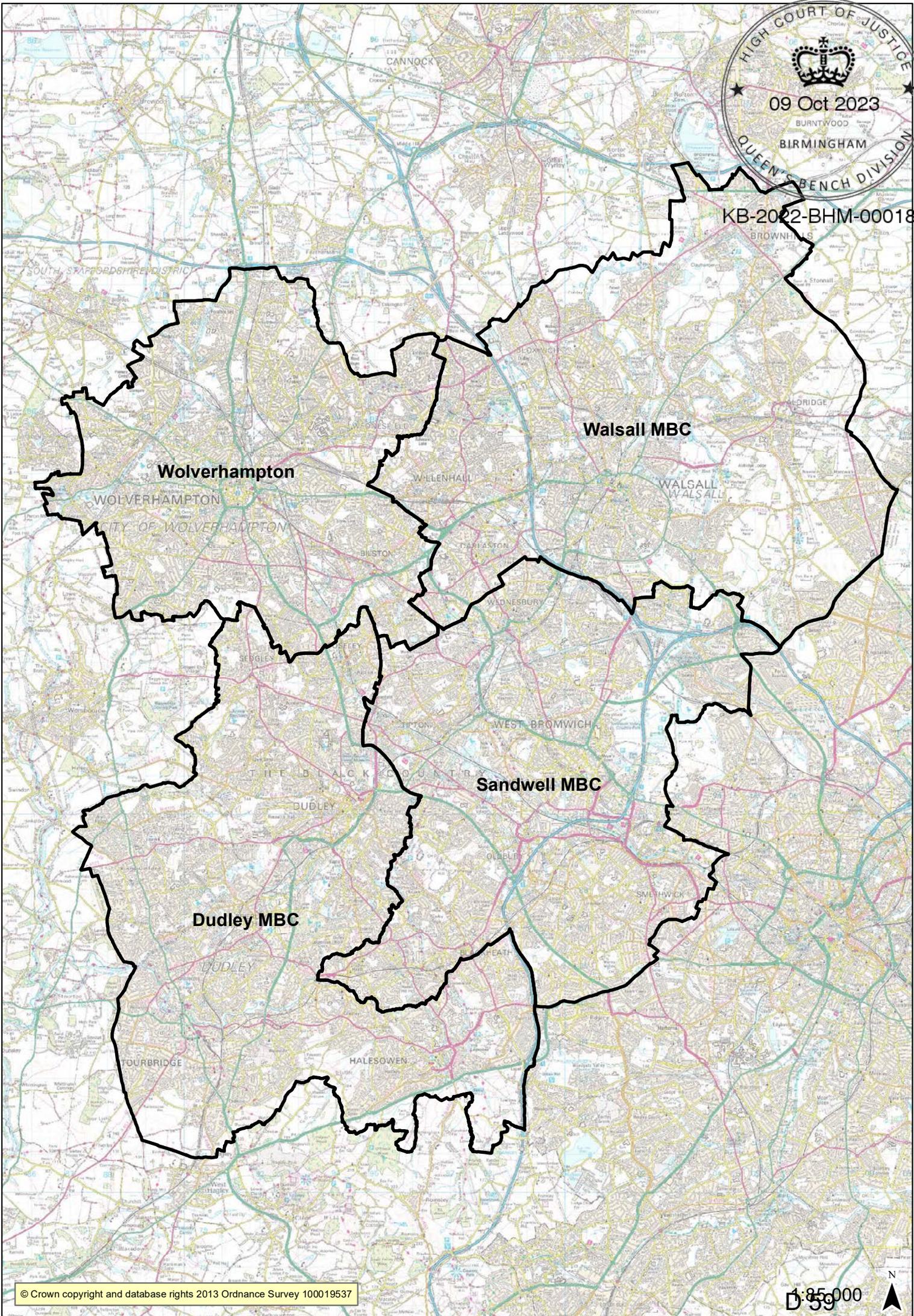
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22 December 2022, 19 May 2023 and 4 October 2023

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KB-2022-BHM-000188



**Wolverhampton**

**Walsall MBC**

**Sandwell MBC**

**Dudley MBC**



## Adam Sheen

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**From:** Adam Sheen  
**Sent:** 11 October 2023 13:59  
**To:** Olivia Stenton at; Mandy Edwards  
**Cc:** amanda.jenkins@waldrons.co.uk  
**Subject:** WOLVERHAMPTON CITY COUNCIL & OTHERS v PERSONS UNKNOWN AND ANTHONY GALE & WIKTORIA SZCZUBLINSKA Claim no: KB-2022-BHM-000188 (Amended Statements of Case etc.)  
**Attachments:** 1980056 - Car Cruise 2022 Part 8 Amended Particulars of Claim v3 Oct23.pdf; 1980055 - Sealed Amended Part 8 Claim Form 6 10 23.pdf; 1980059 - Sealed Wolverhampton CC v PU Interim Injunction v3 to include D5 and D6 4 Oct 2023.pdf; 1980057 - Sealed Plan A 9 October 2023.pdf; 1980127 - Schedule A to Injunction Index to injunction order 19 May 2023 amended 4 October 2023.pdf; 1980143 - Amended Power of Arrest amended 04 10 23.pdf

Dear Sirs,

**WOLVERHAMPTON CITY COUNCIL & OTHERS v PERSONS UNKNOWN AND ANTHONY GALE & WIKTORIA SZCZUBLINSKA Claim no: KB-2022-BHM-000188**

**Your clients: Mr Anthony Gale (Care of Messrs Waldrons Solicitors) and Miss Szczublińska (Care of Messrs Charles Strachan Solicitors)**

**Order from Hearing 4 October 2023 (substantive injunction proceedings)**

On Tuesday 3 October 2023, your Clients were joined as parties to the above claim.

Your clients both indicated that they were not minded to become involved in the substantive injunction proceedings and that they would prefer service of documents to go to their solicitors via e-mail.. On 04 October, the Court ordered that by 4 p.m. today (11 October) the Claimants serve your clients (via e-mail to their solicitors) with the amended statements of case and amended injunction order and power of arrest in the substantive proceedings, amended claim form and amended particulars of claim.

I attach, by way of service, amended injunction order (together with index of documents referred to in the injunction and Plan A appended to the injunction), the amended claim form and amended particulars of claim.

I attach an unsealed version of the amended power of arrest. Owing to an administrative error, the court erroneously sealed an earlier version of the power of arrest. I have re-sent a copy of the amended power of arrest (as attached) to court and asked for this to be sealed. I will forward a sealed copy of this power of arrest as soon as practicable. (I confirm for the avoidance of doubt, the sealed plan A is the sealed copy referred to in the power of arrest and the injunction).

Yours faithfully

Adam

Adam Sheen  
Solicitor-Advocate (Civil & Criminal)  
Tel. 01902 554926  
Email: adam.sheen@wolverhampton.gov.uk

Legal Services  
Wolverhampton City Council  
Civic Centre  
St Peters Square

Wolverhampton  
WV1 1RG

LIJ017753P/01980120

Please note: these details do not constitute a digital signature.  
Wolverhampton City Council does not accept service of documents by email or fax.  
This e-mail is sent by or on behalf of Tracey Christie, Head of Legal Services.