

If this Transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

Neutral citation number: (2022) EWHC 2259 (Ch)

IN THE MANCHESTER COUNTY COURT  
(Sitting at Manchester Magistrates' Court)

No. B00WN680

Wood Street  
Crown Square  
Manchester M670 1PR

Wednesday, 13 July 2022

Before:

HIS HONOUR JUDGE SEPHTON QC

B E T W E E N :

WIGAN COUNCIL

Applicant

- and -

CHRISTOPHER LOVETT

Respondent

---

MR P. BURNS (instructed by Wigan Council Legal Department) appeared on behalf of the Applicant.

THE RESPONDENT appeared in Person.

---

J U D G M E N T

(Transcript prepared without the aid of documentation and from a poor quality recording.)

JUDGE SEPHTON:

1 This is the hearing of two applications, dated 11 February 2022 and 1 April 2022 to commit Christopher Lovett to prison for contempt of court owing to his breaching an order first made on 9 November 2015 and varied subsequently on several occasions.

### The Law

2 I am assisted by the helpful summary of the relevant law given by Theis J in *Re Oddin* [2016] EWCA Civ 173. She said this:

“78 Before any court embarks on hearing a committal application, whether for contempt in the face of the court or for breach of an order, it should ensure that the following matters are at the forefront of its mind:

- (1) There is complete clarity at the start of the proceedings as to precisely what the foundation of the alleged contempt is: contempt in the face the court, or breach of an order.
- (2) Prior to the hearing the alleged contempt should be set out clearly in a document or application that complies with FPR rule 37 and which the person accused of contempt has been served with.
- (3) If the alleged contempt is founded on breach of a previous court order, the person accused had been served with that order, and that it contained a penal notice in the required form and place in the order.
- (4) Whether the person accused of contempt has been given the opportunity to secure legal representation, as they are entitled to.
- (5) Whether the judge hearing the committal application should do so, or whether it should be heard by another judge.
- (6) Whether the person accused of contempt has been advised of the right to remain silent.
- (7) If the person accused of contempt chooses to give evidence, whether they have been warned about self-incrimination.
- (8) The need to ensure that in order to find the breach proved the evidence must meet the criminal standard of proof, of being sure that the breach is established.
- (9) Any committal order made needs to set out what the findings are that establish the contempt of court, which are the foundations of the court’s decision regarding any committal order.”

### Introduction

- 3 Mr Lovett chose to represent himself. Before the case was opened, I explained to Mr Lovett that he had the right to be legally represented. I told him that he was entitled to apply for public funding for legal representation. I also explained that he was not obliged to give evidence but that if he did so he was liable to be cross-examined. I explained that he was not obliged to answer any question the answer might incriminate him. I explained to him that if the court was satisfied that he had committed a contempt, he could be imprisoned or fined, and that if he wished to admit any of this contempt and apologise to the court, then was likely reduce the seriousness of any punishment imposed upon him. Mr Lovett assured me that he wished to represent himself and that he would give evidence.
- 4 Mr Lovett complained that he had only received the trial bundle on 1 July 2022. He accepted that he had received the applications and the evidence supporting them in April and that he had seen the video recordings relied upon by the applicant. He elected not to seek an adjournment on the grounds that he was not ready for trial.
- 5 When he opened the case, Mr Burns applied to withdraw allegation 13 in the application dated 11 February 2022. I permit that allegation to be withdrawn.

### The Background

- 6 Mr Lovett is the owner of 4 Burnside Close, Tyldesley. His conduct was such that an anti-social behaviour injunction was made against him on 9 November 2015. That order has been varied on various occasions, most recently on 4 September 2020. The terms of the order relevant to this hearing are as follows:  
“The court orders that the respondent Christopher Lovett is forbidden from, whether by himself or instructing or encouraging any other person:
- (1) engaging in, or threatening to engage, in conduct which causes or is likely to cause a nuisance, annoyance alarm or distress to any person in Burnside Close, Wycombe Drive or Footman Close Tyldesley.
- ...
- (5) being within the area edged red on the map attached at any time between 6.00 p.m. and 9.00 a.m. daily.”

The area edged red on the map identified 4 Burnside Close, Mr Lovett’s home. Paragraph (5) of the order was introduced on 6 December 2018.

- 7 There have been several previous applications to commit Mr Lovett for breach of the order. The applicants have persuaded a variety of judges to the criminal standard that Mr Lovett was in breach of the order on 177 separate occasions. I remind myself that, whatever Mr Lovett’s previous conduct may have been, I must decide these applications with an open mind and applying the highest standards of fairness. It is relevant to note that Mr Lovett has sought to appeal against various decisions made in this case. It is unnecessary to set out the long history of detail. Suffice it to say that Mr Lovett’s right to appeal the making of the injunction in its present form was exhausted long ago. I record that Mr Lovett nevertheless submitted to me that he has never had the opportunity to appeal against the injunction order.

### The Evidence

- 8 I heard from Mr William Gregory, who lives next door to Mr Lovett. Mr Gregory produced 34 video recordings to support his evidence. Two of those recordings were made from his mobile phone from outside Mr Lovett’s home. As to the other 32 recordings, Mr Gregory

explained to me that he had installed a CCTV outside his house in June 2021. It overlooks part of number 4. The camera functions continuously. Mr Gregory told me that he had produced to the court all of the recordings in his possession that support the current application to commit. In fact, Mr Gregory had not produced the recordings made by the CCTV. Instead, he produced recordings made on his mobile phone of part of the screen on which the CCTV recordings were being displayed. Some of the recordings contained a caption displaying an address different from Mr Gregory's own. Mr Gregory could not explain this. He said that this was technology that was beyond him. He assured me that he had not edited or falsified the recordings. Mr Gregory told me that the CCTV does not record sound, something which I found surprising. Mr Gregory told me that he had heard various occasions on which he said that Mr Lovett had made an annoying noise. I am sceptical that Mr Gregory actually heard all of the noises he claims. I suspect that he saw what had been recorded on the video and concluded that a noise had been made. For example, Mr Gregory claims to have heard Mr Lovett making a noise on 13 February 2022 at 1.00 a.m. and on 27 February 2022 at about 4.00 a.m. He does not explain in his affidavit that he had been woken from sleep, which I would have expected at those hours, or why he was awake at those times. Absent such an explanation, I cannot be sure that his account about hearing these noises is accurate.

- 9 I heard from Mrs Denise Young, who lives at 1 Wycombe Drive, which is immediately behind the rear boundary of Mr Lovett's property. Mrs Young told me, and I accept, that she made no recording of the noise about which she complained. I formed the impression that both Mr Gregory and Mrs Young have developed an antipathy towards Mr Lovett. I have not considered the previous history of this case in any detail and it may well be that their antipathy is entirely justified. Having regard to the resentment that both of these witnesses feel towards Mr Lovett, I feel sure that, if they could have, they would have produced any other evidence available related to Mr Lovett's behaviour in the relevant period.
- 10 I reject the submission that Mr Gregory and Mrs Young have conspired to tell lies about Mr Lovett. I reject the suggestion that Mr Gregory has edited the CCTV recordings in order to paint an unfair picture of events. Although I consider that it is unsatisfactory that Mr Gregory has made recordings of the recordings rather than present the court with extracts from the original medium on which the CCTV recordings are stored, I accept that they are an accurate illustration of what actually happened.
- 11 Mrs Young's affidavit refers to three incidents. Paragraph 5 of her affidavit refers to an incident said to have occurred on 30 January 202 at 17:45. I suspect that this evidence was intended to support allegation 13 of the application of 11 February 2022 which has been withdrawn. However, the evidence is troubling. The body of the affidavit refers to "banging". Mrs Young exhibits what I take to be her contemporaneous note of the incident. The note is dated "30th Dec 2001" and makes no reference to noise of any kind. The differences between this note and the affidavit evidence do not bespeak the careful attention to detail required to provide reliable evidence in a case where the liberty of the subject is at stake. Paragraph 4 of her affidavit refers to an incident on 11 December 2021. The note she exhibits is dated 11 December 2001. I heard no plausible explanation for this mistake. The consequence of these unsatisfactory features in Mrs Young's evidence is that I cannot treat it as sufficiently reliable to support an allegation to the criminal standard.
- 12 I heard from Mr Lovett. Mr Lovett's evidence was argumentative and it was sometimes difficult to identify his evidence about the facts of the case from his submissions. Mr Lovett accepted that he had been served with a copy of the injunction order dated 4 September

2020, which appears in the bundle and which contains a penal notice. He did not dispute that he featured in all of the video recordings made by Mr Gregory. His frank admissions gave me some confidence in the honesty of his answers.

- 13 In relation to the allegations that he had slammed doors and windows shut, he said that he had not closed them in order to make an unacceptable noise; he was simply closing them. In relation to the allegation that he was banging on the frame of the window located on the stair opposite Mr Gregory's camera, he stated that there was a loose board there and he was merely attempting to fix it in place. I am sceptical that Mr Lovett's actions were innocent DIY, as he maintains. I cannot see why he would repeatedly fix a loose object on multiple occasions and in the hours of darkness.

### Submissions

- 14 Mr Burns, who represented the claimant, provided a helpful skeleton argument that encapsulates his submissions. I need not recount those submissions in this judgment.
- 15 Mr Lovett made submissions about the history of this case and pointed out that some of the alleged breaches referred to in the application dated 11 February 2020 occurred before a previous application to commit made Mr Recorder McLoughlin on 24 January 2022. He submitted that those allegations ought to have been heard at the previous hearing. He submitted that he had not had any opportunity to appeal the injunction order made against him.
- 16 Mr Lovett made submissions that he said related to the law. His submissions were difficult to follow and repetitive. I record my understanding of the points he was making. He submitted that the only remedy open to a local authority in the face of an allegation of noise nuisance was to serve an enforcement notice pursuant to the Environmental Protection Act 1990. He submitted (I think) that it was not open to the claimant to seek an injunction order under the Anti-social Behaviour, Crime and Policing Act 2015. He submitted that paragraph 5 of the injunction constitutes an infringement upon his rights under Article 8 and Article 1 of the First Protocol to the European Convention on Human Rights. He submitted that his Article 6 rights had been infringed because he had no right of appeal. He submitted that the terms of the injunction amounted to false imprisonment and represented an unlawful punishment. Mr Lovett also made submissions about the facts, which I deal with later in this judgment.

### Analysis and Findings

- 17 My task is to hear the evidence and reach a conclusion about whether Mr Lovett was in breach of the terms of the injunction in the manner alleged. I have no jurisdiction to consider whether the injunction order ought to have been made in the first place or not. Accordingly, I do not need to, indeed I may not, address the question whether the council was constrained to use the apparatus of the Environmental Protection Act or whether the injunction breached Mr Lovett's Convention rights. The principle to be applied has been enunciated in many cases, including by Lord Cottenham in *Chuck v Cremer* (1846) Cooper temp. Cott. 205, 338 as follows:

“It is the plain and unqualified obligation of every person against or in respect of whom an order is made by a court of competent jurisdiction, to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases when the person affected by an order believes it to be irregular or even void. A party who knows of an order, whether

null and void, regular or irregular, cannot be permitted to disobey it... It would be most dangerous to hold that the suitors, or their solicitors, could themselves judge whether an order was null and void – whether it was regular or irregular. That they should come to the court and not take upon themselves to determine such a question; that the course of a party knowing of an order, which was null and irregular and who might be affected by it, was plain. He should apply to the court that it might be discharged. As long as it existed it must not be disobeyed.”

The point was more pithily put by Lord Donaldson MR in *Johnson v Walton* [1990] 1 FLR 350 as follows:

“It cannot be too clearly stated when an injunctive order is made or wherein an undertaking is given, it operates until it is revoked on appeal or by the court itself, and it has to be obeyed whether or not it should have been granted and accepted in the first place.”

It follows that I reject as irrelevant the submissions Mr Lovett made to me about the lawfulness of the injunction order.

- 18 I concede Mr Lovett’s point that some of the allegations in the application dated 11 February 2022 could have been tried before Mr Recorder McLoughlin in January 2022. However, in my judgment, Mr Lovett would have to show that the claimant’s failure to raise these allegations earlier amounts to an abuse of process before the court could refuse to entertain them. In my judgment, it is not reasonably arguable that the claimant is guilty of an abuse of process.
- 19 I turn then to consider the task that the claimant faces in establishing that Mr Lovett was in breach of paragraph 1 of the injunction order. It must persuade me so that I am sure that Mr Lovett had engaged or threatened to engage in “conduct which causes or is likely to cause a nuisance, annoyance, alarm or distress.” Accordingly, absent evidence that Mr Lovett’s conduct has caused or is likely to cause a nuisance, annoyance, alarm or distress, the allegation that Mr Lovett was in breach by reason of noise will not succeed. The claimant has chosen not to lead oral evidence, such as recordings, to convince the court about the level of noise. I must, therefore, scrutinise carefully the subjective impressions of the witnesses to determine whether I can be sure that the defendant is in breach. Assessing this evidence, I take into account the point Mr Lovett made on several occasions that there was some distance between his property and those of the witnesses who gave evidence.

### The Allegations

20 Application dated 11 February 2022

Allegation 1: I find that, on 29 October 2021, Mr Lovett was within the area edged red on the map, at home, in breach of paragraph 5 of the injunction. I find that on three occasions he closed his landing window. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home. I am not convinced by Mr Gregory’s evidence that the closing of the windows on three occasions was sufficiently loud to cause annoyance for the reason given in this judgment.

Allegation 2: I reject this allegation because I do not regard Mrs Young’s evidence to be reliable, for the reasons given earlier in this judgment.

Allegation 3: I find that Mr Lovett was at home in breach of paragraph 5 of the injunction. I accept (and Mr Lovett admits) that the video recordings show Mr Lovett being at home.

Allegation 4: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I am not satisfied that Mr Lovett was in breach of paragraph 1. These findings are because I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home. There is no evidence that Mr Lovett's actions, a single closing of the window, caused annoyance, or was likely to do so.

Allegation 5: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home.

Allegation 6: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home.

Allegation 7: I find Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home. But there is no evidence that Mr Lovett's actions caused annoyance or was likely to do so.

Allegation 8: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home.

Allegation 9: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home.

Allegation 10: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home. I note that although Mr Gregory alleges that Mr Lovett was opening and closing his landing window and banging, no breach of paragraph 1 of the injunction is alleged.

Allegation 11: I am not persuaded that this allegation is made out. There is no evidence that Mr Gregory was annoyed by Mr Lovett's conduct.

Allegation 12: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home.

Allegation 13 is withdrawn.

Allegation 14: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home.

21 Application dated 1 April 2022

Allegation 1: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show him being at home.

Allegation 2: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home. I am not convinced that Mr Lovett was making a noise that caused or was likely to cause a nuisance or annoyance because I am not persuaded by Mr Gregory's evidence on this issue.

Allegation 3: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home. I am not persuaded that Mr Lovett was making an annoying noise. This allegation is recorded on Mr Gregory's mobile phone and so has a sound recording. I could detect no noise coming from Mr Lovett's actions.

Allegation 4: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home. I am not convinced that Mr Lovett's conduct caused or was likely to cause a nuisance or an annoyance.

Allegation 5: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home.

Allegation 6: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett accepts, that the video recordings show Mr Lovett being at home. I am not convinced that Mr Lovett's conduct caused or was likely to cause a nuisance or a noise.

Allegation 7: I find that Mr Lovett was at home, in breach of paragraph 5 the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home. Allegation 8: I find Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home.

Allegation 9: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show him being at home.

Allegation 10: I find that Mr Lovett was at home, in breach of paragraph 5 of the injunction. I accept, and Mr Lovett admits, that the video recordings show Mr Lovett being at home.

## Conclusion

22 I am satisfied so that I am sure that Mr Lovett was within the area edged red on the map, in breach of paragraph 5 of the injunction, on the 21 occasions identified in allegations 1, 3, 4, 5, 6, 7, 8, 9, 10, 12 and 14 of the application dated 11 February 2022 and allegations 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 of the application dated 1 April 2022. I am not satisfied that Mr Lovett was in breach of paragraph 1 of the injunction in the respects alleged in the two applications.

---



**CERTIFICATE**

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

*Transcribed by **Opus 2 International Limited**  
Official Court Reporters and Audio Transcribers  
5 New Street Square, London, EC4A 3BF  
Tel: 020 7831 5627 Fax: 020 7831 7737  
civil@opus2.digital*

This transcript has been approved by the Judge.