

**IN THE COUNTY COURT SITTING AT WATFORD**

**BEFORE HIS HONOUR JUDGE RICHARD CLARKE**

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

**CLARION HOUSING ASSOCIATION LIMITED**

**Claimant**

and

**MR JOHN CLIFFORD**

**Defendant**

The hearing took place on 7 February 2025 in Open Court

The Claimant was represented by Tristan Salter

The Defendant did not appear and was not represented.

**JUDGMENT**

**His Honour Judge Richard Clarke:**

1. The matter before the Court today is an application for committal of the Defendant, Mr John Clifford, for breach of a civil injunction order. The proceedings are brought under CPR 81.
2. The Injunction Order was made by Deputy District Judge Harding on 20 February 2024 (“the Injunction Order”) in proceedings brought by Clarion Housing Association Limited against Mr John Clifford. Mr Clifford was ordered, within 60 minutes of service of the Injunction Order upon him, to leave 5 Gibbons Close, Borehamwood WD6 4TF and an area outlined and hatched on a Plan which is attached to the Order. He was thereafter forbidden from remaining in and entering or attempting to enter the Area unless by prior agreement with the Claimant. The Injunction Order also contained further provisions which prevented him from acting in certain ways.

3. The Injunction Order was supported by a Power of Arrest. The court has previously seen a Certificate of Service which confirms that the Order was personally served on the Defendant at 2.05 p.m. on 26 February 2024.
4. On 19 March 2024, at approximately 5.07 p.m., the Defendant was arrested whilst at the bus stop on Organ Hall Road in Borehamwood. He was held in custody overnight and brought before the Court within 24 hours, on 20 March 2024. On that day, he appeared before His Honour Judge Vavrecka. He was provided with a further copy of the Injunction Order, the Certificate of Service, Witness Statements of PC Musgrove and PC Pollard and an Information Sheet prepared by the Claimant entitled "Information Sheet for Defendants to a Contempt Application or Proceedings following Arrest". Importantly, he was also provided with a copy of the Remand Order made by His Honour Judge Vavrecka, listing the next hearing to the 15 April 2024.
5. Counsel for the Claimant contacted a local firm of solicitors, Arkrights, and made an appointment for the Defendant to be seen by them. The Defendant was told to attend upon them immediately following the hearing.
6. The Court remanded the Defendant on bail on the basis that he attend court on 15 April 2024 for the hearing of the application for his committal. The Remand Order remanded Mr Clifford on bail on the basis that he would comply with the Injunction Order and attend court on the 15 April 2024
7. Somewhat surprisingly, having been told he needed to comply with the Order, the Defendant was brought back to Court the next day, 21 March 2024. He appeared before District Judge Seikham on that occasion. He had already been provided with advice on his right to remain silent.
8. He had been arrested at about 5.43 p.m. on 20 March 2024 and was in the bedroom of 5 Gibbons Close, Borehamwood WD6 4TF at the time. The order made by Deputy District Judge Seikham included repeating his right to remain silent and the Defendant had kept in his possession the Information Sheet which set out his rights.
9. The Order made by Deputy District Judge Seikham confirms that the Defendant admitted being at 5 Gibbons Close. His Honour Judge Vavrecka had made it very clear to the Defendant that he was not allowed to go to the property at 5 Gibbons

Close. Nevertheless, the Defendant went there anyway, immediately following the hearing.

10. The Court determined that he should be remanded into custody. Under the provisions of s.9 and Schedule 1 of the Anti-social Behaviour, Crime and Policing Act 2014, subject to certain exceptions which do not apply, periods of remand can only be for up to 8 days at a time, although they can be renewed. As a result, it was necessary for the Defendant to be brought back to Court so that the Court could consider whether to further remand him. He was presented back to the Court on 28 March 2024 and came before Deputy District Judge Cochrane.
11. The Defendant represented himself on 28 March 2024. Deputy District Judge Cochrane granted bail to enable him to have the opportunity to obtain legal advice and to attend court on the 15 April 2024 with legal representation.
12. The Defendant did not attend the 'on notice' final hearing on the 15 April 2024. The court made an immediate order for imprisonment for a period of 1 month, with time on remand to be taken into account.
13. On the 24 June 2024 the Claimant, Clarion Housing Group, brought a contempt application by way of N600 form for other breaches which they said had not been brought before the court under the power of arrest. In the schedule of breaches the Claimant sought for the Defendant to be committed to prison for the following:
  - i) On 19 March 2024, that he was there arguing in the street with a resident
  - ii) On 20 March 2024, that he was in Gibbons Close and arguing with Caroline Whitehead.
  - iii) On 3 April 2024, around 9:50am, the Defendant arrived at Gibbons Close, in a taxi
  - iv) On 8 April 2024 the Defendant was seen at Gibbons Close, in a taxi.
  - v) On 16 April the Defendant was arrested in Gibbons Close by the Police for a separate offence.
  - vi) On 10 June 2024, he was arrested again at Gibbons Close
  - vii) On 19 June 2024, at 2.38, he arrived at Gibbons Close in a black car
  - viii) On 1 August 2024 he engaged in altercation with a male

14. The application to commit is supported by a witness statement of Ms Sharon Curtis, a Tenancy Specialist of the Claimant, who had previously provided a statement in these proceedings.
15. The concern of the Claimant is that Mr Clifford is the son of former tenant. As such he had links to 5 Gibbons Close. His mother has since moved out. At xxx Gibbons Close, he was attending an elderly resident of the "Live Smart" estate. Residents of that estate are vulnerable or elderly. The occupant had been diagnosed with dementia and was over the age of 70. His address has been removed from this judgment because he is a vulnerable individual.
16. This committal application has been before the court on 4 occasions.
17. On 6 September 2024 the Defendant did not attend as there had been no personal service of the papers. The court allowed an adjournment to provide more time for service.
18. It was next listed for 5 November 2024. Again, the Defendant did not attend. The Claimant had been unable to personally serve, but produced evidence of their service attempts. There was an application for alternative service in front of the court and the court gave permission for service by posting, fixing the papers to the door and emailing them to the Defendant at his email address.
19. The next hearing was listed for 17 December 2024. The Order records the Defendant failed to attend despite being served. The court had letters from the probation service. It appears the court needed to respond to those letters. The Order for alternative service was re-affirmed and the matter was listed for today.
20. The court has been provided with evidence of service today by way Certificate of Service confirming the documents were served at the Property:

"Covering letter, committal bundle, index, unsealed committal application, notice of hearing, order dated 06.09.2024, notice of adjourned hearing listing 5 November 2025, order dated 5 November 2024, notice of hearing listed 17 December 2024, order dated 6 January 2025, notice of adjourned hearing listing 7 February 2025."

21. In response to queries from the court, the court received a second Certificate of Service at his email address.
22. The Defendant has failed to attend the hearing, yet again. The court notes the email service was on 8 January 2025, therefore nearly 1 month before this hearing. The court is satisfied that the Claimant has complied with the requirements for service and that the Defendant is on notice. The court is asked to proceed in his absence and is satisfied it would be appropriate to do so.
23. The evidence of the landlord is supported by a number of other documents of the arrest of the Defendant. They included video evidence of camera from the property opposite xxx Gibbons Close.
24. The court is asked to take all the evidence into account.
25. The court is satisfied it is not open to the Claimant to pursue the allegations dated 19 March 2024 and 20 March 2024. The Defendant has already been sentenced to a 1-month custodial term for those breaches on 15 April 2024. You cannot be sentenced twice for the same breach.
26. The last allegation in the schedule does not match up with the dates of the evidence. The wrong date has been included in the schedule. The court is satisfied the allegation cannot be proven as a result.
27. The court is asked to proceed in the Defendant's absence and applies the standard nine stage test, which includes taking into account service and notice of hearing. The Court asks itself whether he has waived his right to be present and if an adjournment is likely to secure his attendance. There is potential prejudice to the Defendant in not being present, albeit he has not engaged in the process. The court is satisfied, given the overriding objective, that it would be inappropriate to adjourn a further time.
28. The court considered the statements of Mr Curtis dated 19 July 2024 and 11 April 2024. It has taken account of the statements attached, most notably of PC 1986 Chacholiades.

29. Turning to the allegations, on 3 April 2024 the Defendant arrived in a taxi. That is information provided by Karen Panty of 4 Gibbons Court. The court is informed that there is CCTV, but this is not before the court. However, the court notes the description, that he was helped by the taxi driver who took a push bike out of the boot, and that the police were contacted but did not attend. Later the same day he was seen leaving the property in another taxi.
30. On 8 April 2024 there is a video showing the Defendant coming out of 32 Gibbons Close. Ms Curtis was able to confirm it was him coming out.
31. On 16 April 2024 PC 1986 Chacholiades' statement is that the Defendant was arrested inside xxx Gibbons Close.
32. There was a hearing on 10 June 2024. Following that hearing the Defendant was seen at xxx Gibbons Close. It is the Claimant's case that he was arrested inside the property. While the arrest is not shown in video evidence, the court is satisfied he did attend.
33. On 19 June 24 there is video of the defendant arriving at the property. Ms Curtis was able to confirm it was the Defendant.
34. Having considered all the evidence, the court finds each of the five allegations are proven to the criminal standard of proof.
35. As far as the breaches are confirmed, those on 3 April and 8 April took place during ongoing committal proceedings. The breach of 16 April was the day after the court made a 1-month committal order against the Defendant. On 10 June he attended court for another hearing and then returned to the Property. The breach on 19 June 2024 was not as flagrant a breach as the others. However, they would appear to be persistent breaches.
36. The Court has considered whether to adjourn for the Defendant to attend to be heard on sentencing. In addition to the evidence that has been filed by the Claimant, the court has the benefit on two separate occasions of dealing with the Defendant, on 15 April 2024 and on 19 April 2024. The decision to issue fresh proceedings was undertaken, and it was clear to the court the behaviour was likely to continue. On 19 April 2024 the Defendant accepted he had been arrested, spoke about his mother

and that he was going to help her if called. He also accepted he had been there a couple of days before. He confirmed to the court he had gone back, although he said that was where his sister lived. He appeared to be clear that if his mother came back to the area he would come back to the area.

37. The court is satisfied of further offences and the act of not attending today is deliberate. Looking at the history he only attends when he is arrested or remanded and, on that occasion, he was remanded for a further 7 days to ensure he attended.

38. The court in those circumstances is satisfied it should proceed with sentencing today.

39. The court is asked to treat this matter as a case of persistent breach. The court is referred to the case of *Lovatt v Wigan* [2022] EWCA Civ 1631 and the appropriate sentence, which starts with an assessment of the level of culpability and secondly the level of harm.

40. There are three levels of culpability. A to C:

A High culpability; very serious breach or persistent serious breaches.

B Deliberate breach falling between A and C.

C Lower culpability; minor breach or breaches.

41. The court is satisfied it is dealing with a category A breach. Given the culminative effect of the breaches, it is dealing with persistent and serious breaches.

42. The next stage is to look at the nature of the breach, taking into account the level of harm. There are three levels of harm. Category 1, a breach causing very serious harm or distress, to category 3, breaches causing little or no harm or distress. Category 2 sits in the middle of these.

43. Having considered the concerns of the residents, this is assessed as a Category 2 breach, between very serious harm and little or no harm.

44. The starting point for sentencing for a Category A2 offence is 3 months custodial, with a range of 6 months imprisonment to adjourned consideration.

45. The court has already set out its reasoning not to adjourn this matter further. It is always an option open to the Defendant to seek to attend the court and purge his contempt.
46. When the court looks at aggravating factors, the breaches of injunction took place very close to the original injunction. On at least one of the occasion the Defendant went back to the property after a court hearing. On another occasion he went back the day after he had been committed, but before his arrest. Moreover, the order was clear. By 3 April 2024 he was well aware of what he should and should not be doing. The court is satisfied he understood it.
47. Taking account of all the circumstances, the Court imposes an immediate custodial sentence of 3 months.
48. It is clear that in the past an order for imprisonment has failed to achieve the purpose of the Injunction. The court is not satisfied a suspension will have any effect and an immediate term is appropriate.
49. The Court is aware that time spent on remand is not automatically taken into account when determining the overall time the Defendant will spend in prison. The Court is satisfied that the seven days the Defendant spent on remand should be taken into account when determining the time the Defendant should spend in custody.
50. Therefore, on the breaches cumulative 3 months, with previous 7 days already spent to be taken into account.
51. On costs, the Court has summarily assessed these in the sum of £4,488.50.

**HHJ Richard Clarke**  
**7 February 2025**