

B. Re amended Particulars of Claim

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

Claim No: KB-2022-000221

In the matter of an application for an injunction under s.37(1), Senior Courts Act 1981, s.1, Localism Act 2011, s.222, Local Government Act 1972 and s.130, Highways Act 1980.

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) Mr Mohammed Wajahas
Shabbir
(12) Zoe Lloyd
(13) Callum Blunderfield
(14) Gurinder Singh Sahota
(15) Connor Hill
(16) Asim Rahman
(17) Aman Kayani

Defendants

**FURTHER RE-AMENDED PARTICULARS OF
CLAIM**

The Claimant

1. The Claimant is a local authority within the meaning of s.270(1), Local Government Act 1972 and s.8(1), Localism Act 2011. It is a local highways authority within the meaning of s.1(2), Highways Act 1980, and the responsible authority within the meaning of s.5(1), Crime and Disorder Act 1998.
2. Section 1, Localism Act 2011 confers power on a local authority to do anything that individuals, with full capacity, generally may do, in any way whatever and unlimited by the existence of any other power of the authority which to any extent overlaps the general power.
3. Section 222, Local Government Act 1972 confers power upon a local authority to prosecute, defend or appear in legal proceedings, and to institute civil proceedings in its own name, where the authority considers it expedient to do so for the promotion or protection of the interests of the inhabitants of its area. The Claimant considers that the injunctive relief sought in these proceedings is expedient for such purposes.
4. Section 111, Local Government Act 1972 confers power upon a local authority to do anything which is calculated to facilitate, or is conducive to, or incidental to, the discharge of any of its functions.
5. By section 130, Highways Act 1980, the Claimant is 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 Claimant considers that the injunctive relief sought in these proceedings is necessary to protect the rights of the public to the use and enjoyment of highways within its district.

6. By s.6(1),(8) of the Crime and Disorder Act 1998, the Claimant must formulate and implement, inter alia, a strategy for the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment), which strategy the Claimant must keep under review for the purposes of monitoring its effectiveness and making any necessary or expedient changes.
7. By section 17, Crime and Disorder Act 1998, the Claimant is under a statutory duty 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.

The Defendants

- 7A The First Defendant runs the Instagram account @Forza_Birmingham, which has 24000 followers, which he uses to organise, promote and/or publicise street cruising events within Birmingham which are attended by hundreds of vehicles, especially at the Asda superstore at Minworth, Heartlands Parkway, the A38, Sutton Bypass, and West Boulevard, Quinton. The First Defendant has been arrested for his role in organising street cruising events, but a charging decision is yet to be made.
- 7B The Second Defendant manages the closed WhatsApp Group "Rose Gold", which she uses to organise, promote and/or publicise street cruising events. She has organised a large number of events over the past three years, especially in Central Birmingham at Saltley Gate Island on Heartlands Parkway, the A38, Sutton Bypass and Asda at Minworth.
- 7C The Fourth Defendant runs the Instagram account @Birminghamoutlaws, which has 15000 followers, which he uses to

organise, promote and/or publicise street cruising events in Birmingham.

7D The Fifth Defendant runs the Instagram account WV racetracks, which has 700 followers, and which he uses to organise, promote and/or publicise street cruising events. Whilst these events frequently start in Wolverhampton, they travel through Birmingham especially to the A38 Sutton Bypass, Asda at Minworth, Spitfire Island, and Saltley Gate Island on Heartlands Parkway.

7E The Sixth Defendant runs the Instagram account @Modifiedmidlands, which has nearly 9000 followers and which he uses to organise, promote and/or publicise street cruising events throughout the West Midlands and Staffordshire, which typically start at Asda Minworth.

7F

The Seventh Defendant runs the Instagram account REDACTED, which has 2500 followers and which they use to organise, promote and/or publicise street cruising events in Birmingham, especially at Heartlands Parkway and Spitfire Island.

Birmingham

8. The Birmingham City Council local authority area ("Birmingham") is a large metropolitan area containing over 1.14 million people (based on the 2018 mid-year population estimate) and encompassing outlying urban areas such as Sutton Coldfield to the North East. The population continues to grow at an estimated 0.9% per year. It includes the following particular features:

- (i) numerous major roads, including dual carriageways and motorways linking Birmingham with the surrounding local authority areas including Solihull, Sandwell, Walsall, and Warwickshire including the A38, A38(M), A45, A41, M42, and parts of the M6, all of which carry large amounts of traffic both local and from a national catchment area;
- (ii) large centres of population, including residential and commercial properties of all different kinds;
- (iii) national attractions, such as the national indoor arena (the Utilita Arena), the International Conference Centre, Symphony

Hall, Birmingham City and Aston Villa football clubs, and Warwickshire County Cricket Club, with the attendant facilities situated in the locality;

- (iv) commercial, retail and entertainment parks containing retail outlets, cinemas and other entertainment venues, serviced by large car-parking areas.

The History

9. From about 2008, the area of the A47 from Heartlands to Fort Parkway, Chester Road and Dunlop Way and the surrounding roads and industrial estates has attracted car enthusiasts. In particular, large numbers of people congregated in this area to attend gatherings known, amongst other things, as “street-cruises” or “car-cruises”. Participants would race along the A47 Heartlands to Fort Parkway; on the Chester Road between Spitfire Island and Tyburn Island and/or Spitfire Island to the Ford Shopping Centre.
10. In February 2010, the Claimant applied for an injunction to restrain these activities in its local authority area. The application was successful and the activity abated. That injunction expired in 2013.
11. On 2 February 2015, Wolverhampton City Council, Dudley Metropolitan Borough Council, Sandwell Metropolitan Borough Council and Walsall Metropolitan Borough Council applied for an injunction under s.222, Local Government Act 1972 in similar terms to the Claimant’s 2010 injunction. That application was granted and the injunction made final on 1 December 2015.
12. After that, the Claimant saw these activities return throughout its local authority area. The congregations also included motorcycles, and separate events for motorcycles were organised and advertised. Numerous complaints were received from the general public.
13. On 3 October 2016, His Honour Judge Worster, sitting as a Deputy Judge of the High Court, granted the Claimant an injunction applicable to the whole of Birmingham against persons unknown, prohibiting street-cruising together with the organisation and promotion of street-

cruising (the “2016 injunction”). The Judge attached a power of arrest to the injunction pursuant to s.27, Police and Justice Act 2006.

14. The said injunction came into force on 24 October 2016 and was due to expire at midnight on 24 October 2019 but was extended on 22 October 2019 by His Honour Judge Rawlings (also sitting as a deputy Judge of the High Court) until 1 September 2022 (the “extended injunction”).
15. Since the grant of the 2016 injunction, West Midlands Police have arrested 30 individuals for breaching it, of which 16 have been successfully committed.
16. Between 2016 – 2019, the Claimant saw a reduction in telephone complaints regarding street-cruising of approximately 60%.
17. In 2019, however, as a result of a challenge to the 2016 injunction in the case of *Sharif v Birmingham CC* [2020] EWCA Civ 1488, many committal applications were stayed or adjourned generally with liberty to restore.
18. The *Sharif* challenge was ultimately dismissed by the Court of Appeal; Bean LJ stated that it was “a classic case for the grant of an injunction.”
19. As a result of the litigation in *Canada Goose v Persons Unknown* [2020] EWCA Civ 303, and the first instance judgment in *Barking & Dagenham LBC v Persons Unknown* [2021] EWHC 1201 (QB), it appeared doubtful whether the extended injunction could continue to be enforced, and given that the Covid 19 restrictions had suppressed the continuation of large-scale street cruising, the Claimant awaited the decision of the Court of Appeal in the Barking & Dagenham case before deciding what action to take. The Court of Appeal handed down judgment earlier this year [2022] EWCA Civ 13, overruling the first instance decision and declining to follow *Canada Goose* in the Court of Appeal.
20. Although on a smaller scale than prior to the grant of the 2016 injunction, street-cruising continues to exist. With the lifting of

restrictions connected to the COVID-19 crisis, the start of the summer season, and the imminent expiry the extended injunction, the Claimant is seriously concerned about the likely increase in incidents related to street-cruising, if left without the protection of an injunction to deter such behaviour. Accordingly, it has decided to apply for a new injunction to continue the protection afforded by the extended injunction.

The conduct

21. The conduct complained of affects the whole of the Claimant's area but is particularly focused on the following locations within Birmingham:

- (i) the A38:
 - i. often described as Bassetts Pole
 - ii. Sutton Coldfield Bypass, Minworth
 - iii. Tyburn Road
- (ii) the A47
 - i. Between Heartlands Parkway Island and Saltley Gate Island, Nechells Parkway
 - ii. Fort Parkway;
 - iii. Fort Parkway/Spitfire Island
 - iv. Nechells Parkway towards the A45 including St Andrews Retail Park and the Applegreen Service Station;
 - v. Bromford Lane
- (iii) the A45
 - i. Small Heath Highway
- (iv) the B4121
 - i. West Boulevard between Quinton and Weoley Castle
- (v) The Tyburn Industrial Estate, Ashold Farm Rd, Birmingham B24 9QG
- (vi) Morrisons Small Heath Car Park, 280 Coventry Rd, Small Heath, Birmingham B10 0XA
- (vii) Asda Minworth Car Park, Walmley Ash Rd, Minworth, Sutton Coldfield B76 1XL
- (viii) Asda Barnes Hill Car Park, 51 Barnes Hill, Birmingham B29 5UP
- (ix) Tesco Coleshill Rd, Hodgehill, Birmingham B36 8DT

(x) Tesco Spring Hill, 32 Ellen St, Birmingham B18 7LF

(xi) Landor Street, Birmingham

(xii) Soho, Birmingham

22. At street-cruising events, participants drive cars or ride motorcycles (frequently high-performance vehicles which have been modified to increase their power and engine/exhaust noise) in a dangerous manner, causing obstruction and/or nuisance to other road users, pedestrians and to those living or working in the locality including, for example, by:

- (i) driving or riding fast and/or dangerously and/or
- (ii) performing stunts and/or manoeuvres and/or racing while other road users are in the locality, and/or
- (iii) obstructing the entrances and exits of public roads and/or commercial premises.

23. Street-cruises also attract participants who, whether or not taking part in the activities described in the last paragraph, attend for the purpose of any or all of the following activities:

- (i) watching and discussing the activities described in paragraph 22 above with other participants;
- (ii) supporting or encouraging the participants in the activities described in paragraph 22 above;
- (iii) showing off their own cars or motorcycles to other participants;
- (iv) revving their engines;
- (v) playing loud music on their car radios;
- (vi) sounding their horns;
- (vii) shouting and cheering, and using foul language;
- (viii) harassing, intimidating and/or assaulting other people including throwing missiles such as fireworks;
- (ix) causing damage to property, whether accidentally (e.g. by colliding with other vehicles, walls, fences etc.) or deliberately;
- (x) generally behaving in an intimidating and harassing manner;
- (xi) causing obstruction to the entrances of surrounding residential and commercial premises, including service stations;

- (xii) congregating in large crowds at the sides of dual carriageways and other roads, so as to cause obstruction to other road users and create a significant risk of harm.
24. Street-cruises are organised, promoted and publicised
- (i) on the Internet, including on websites such as a Facebook group called *Motorheadz.uk*, which also has a “bike division” for motorcycle cruises, and
 - (ii) by word of mouth across the West Midlands region and possibly further afield.
25. Complaints by local residents and businesses are made to West Midlands Police in relation to the above-mentioned activities. The matters complained of include:
- (i) noise and disruption to local residents caused by revving engines, squealing tyres and engines as the cars race, loud exhausts and loud music that often keeps residents awake and/or wakes them from sleep;
 - (ii) driving at high speed so as to cause a significant risk of harm to the drivers of the vehicles and other road users;
 - (iii) obstruction of public highways, entrances to commercial premises and residential premises;
 - (iv) disruption to local businesses, their staff and customers, including threats made to staff if they attempt to prevent participants from entering private premises by, for example, closing gates to car parks; and
 - (v) threatening and abusive language.
26. Street-cruises may occur on any day of the week, although they are most commonly held at the weekends and particularly on Sunday nights. They tend to begin in the mid-afternoon, usually with a convoy driving around a particular area of the city, before congregating in one particular spot where they will engage in the activities listed above until the early hours of the morning if left uninterrupted by the Police. The number and duration of street-cruises increases during the summer months. Such cruises are held virtually every week in at least one location in Claimant’s area.

27. The conduct described above constitutes the commission of criminal offences which are deliberate and flagrant and/or which cannot effectively be restrained by the use of criminal law sanctions.
28. The said conduct is also tortious and, in particular, constitutes a public nuisance.
29. Further, by engaging in the conduct described above, the Defendants infringe or threaten to infringe:
- (i) other road users' and pedestrians' right to life, pursuant to Article 2, European Convention on Human Rights (the "Convention"). This is nationwide issue. On 18 July 2019, a crash occurred during a street-cruise in Stevenage resulting in 19 people being injured, many seriously; and/or
 - (ii) 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.
30. While all persons have the right to freedom of association and peaceful assembly (Convention, Art.11), these 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.
31. The relief sought is the only way to protect the rights referred to above. It is in accordance with a legitimate aim, is necessary in a democratic society and is proportionate.
32. The Claimant is satisfied that it is expedient for the promotion and protection of the interests of the inhabitants of Birmingham to seek the relief claimed.

Loss and Damage

33. The street-cruises have caused and continue to cause a significant nuisance, disturbance, annoyance and expense to residential and commercial occupiers in the Claimant's area.

PARTICULARS

- (i) Residents have suffered disturbance, harm and property damage by reason of the matters complained of.
- (ii) Pedestrians and other road users have felt threatened and intimidated, and have been put at serious risk of harm by the said matters.
- (iii) Businesses have had access to their premises obstructed and interrupted, causing financial loss as customers cannot access the premises to make purchases, and delivery drivers are unable to access or leave the premises.
- (iii) Staff have also suffered intimidation and threats.
- (iv) Businesses have also suffered damage to and interference with their property, and trespass to their sites.

34. The Claimant and West Midlands Police have attempted to prevent or curtail the activities described above and their effect on other people. The following principal steps have been taken, but have not been effective to prevent or curtail the conduct complained of, nor to reduce the number of participants in street-cruises attending this area.

PARTICULARS

- (i) Police teams from a number of different policing units have conducted two separate operations – Operation Shield and Operation Hercules – spanning a number of dates to disrupt the activities of street-cruisers, asked them to desist, and warned them as to their conduct.
- (ii) Individuals have been prosecuted for offences relating to street-cruising.
- (iii) Police have issued fixed penalty notices and powers under the Police Reform Act 2002 and the Anti-social Behaviour, Crime and Policing Act 2014 (“2014 Act”)
- (iv) The Claimant has considered the use of Public Spaces Protection Orders pursuant to the 2014 Act but these are not

considered to provide any real deterrent and could not be introduced immediately.

- (v) The various operations and attendance of Police officers has had an impact on police resources, caused adverse effects for the legitimate users of the roads in the area, strained police resources preventing those officers from attending more pressing Police matters and search operations which have, on occasions, involved multiple Police units including the Police helicopter.

Relief

- 35. The Claimant has identified as Defendants those who
 - (i) were and/or are still involved in organising, promoting and publicising street-cruising events;
 - (ii) were previously committed for breach of the injunction granted in October 2016;
 - (iii) are currently awaiting their committal trial.
- 36. However, in order for the injunction to serve its purpose, it is necessary for it to be granted against Persons Unknown as defined above.
- 37. The participants in the activities referred to above are transient and mobile. The highly transient nature of the boy-racer community renders it difficult for the Claimant or the Police to identify participants. Different participants and spectators attend different cruises in different locations and in very large numbers. If one group were to be prohibited from attending street-cruises, this would make little practical difference to the problem as other people could attend instead.
- 38. Further, when confronted, participants become aggressive and their conduct more dangerous to themselves, other road users and the Police by, for example, throwing fireworks or turning off their headlights so as to avoid detection.
- 39. Further, while there are currently several main locations at which street-cruises are commonly held, these are not the only affected parts of the area. Almost all of the major roads which run through the borough are

used by participants and spectators making their way to and from events, or could be used by participants for events if injunctive relief were limited to certain locations.

40. Moreover, the Claimant believes that an order covering the whole of its area is necessary and proportionate in that:

- (i) the Order contains only such measures as are necessary to control the problem of street-cruising, and do not seek to impose any broader prohibitions;
- (ii) the conduct sought to be prohibited is unlawful and dangerous, and has a severe effect on the human rights of law-abiding members of the community, businesses and the ability of law enforcement authorities including the Claimant to achieve a safe and law-abiding area; and
- (iii) without an Order covering the local authority area, the Claimant fears that the problems will simply be displaced to other parts of the area, and that it will not be possible to provide effective protection to cover those engaging in lawful activities in areas through which participants and spectators travel on the way to and from their events; the Claimant has already experienced the effect of such displacement as a result of the Order made in favour of the 5 local authorities referred to above, in December 2015.

41. The Claimant considers it appropriate and expedient for the promotion and protection of the interests of the inhabitants of their area that the defendants be restrained, by way of injunction, from committing tortious and criminal acts and, in particular (though without prejudice to the generality of the foregoing), acts amounting to a public nuisance and to deliberate and flagrant breaches of the criminal law (and which cannot be prevented by use of the criminal law). Specifically, but without prejudice to the generality of the foregoing, the Claimant considers that it is in the interests of the inhabitants of the Birmingham area:

- (i) that the Claimant endeavours to establish and maintain a law abiding community;
- (ii) that local businesses, residents and workers in the Birmingham area are protected from the serious and specific threats to their

safety, property, Convention rights and peaceful existence presented by the street-cruisers.

42. Further, or alternatively, the Claimant considers that the injunctive relief sought in these proceedings is necessary to protect the rights of the public to the use and enjoyment of highways within its district, for the reasons set out above.
43. Further, by these proceedings, the Claimant seeks to comply with its statutory responsibilities, as pleaded above at paragraphs 5-7.
44. The Defendants' said conduct will continue unless and until effectively restrained by the law, and nothing short of an injunction will be effective to restrain them. In particular, and without prejudice to the generality of the foregoing, it is the Claimant's case that:
 - (i) the criminal law is not an effective remedy in the circumstances of this case;
 - (ii) there is no other effective means of restraining the public nuisance constituted by the conduct complained of; and,
 - (iii) the Claimant is entitled to the relief sought in the furtherance of its own statutory responsibilities.
45. Further, for the reasons set out above, the Claimant believes that the conduct complained of includes a significant risk of harm to local businesses, residents, workers and road users together with the defendants themselves, so that it is necessary for a power of arrest pursuant to s.27, Police and Justice Act 2006 to attach to paragraph 1 of the draft injunction attached to these Particulars of Claim in relation to defendants who are drivers/riders of – or passengers in – vehicles.

AND the Claimant claims:

1. Final injunctive relief in the terms of the attached draft.
2. A power of arrest in the terms of the attached draft.

Jonathan Manning

STATEMENT OF TRUTH

[I believe] [The Claimant believes] that the facts stated in these Particulars of Claim are true. [I understand] [The Claimant understands] 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	Michelle Lowbridge.....
Name	MICHELLE LOWBRIDGE.....
Position or Office heldASB Partnership Manager.....
Dated this 18 October 2022

Reamended this 5 day of December 2022

Further Re amended 25/5/23,
8/9/23,5/10/23,17/10/23,
14/02/24

Jonathan Manning
Charlotte Crocombe

Claim No:

IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY

**In the matter of an application for an
injunction pursuant to s.222, Local
Government Act 1972 and a power
of arrest pursuant to s.27, Police
and Justice Act 2006**

BIRMINGHAM CITY COUNCIL

Claimant

and

VARIOUS DEFENDANTS

Defendants

PARTICULARS OF CLAIM

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