

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

BETWEEN:

BIRMINGHAM CITY COUNCIL

Claimant

-and-

PERSONS UNKNOWN (AS DEFINED IN THE CLAIM FORM)

Defendants

CLAIMANT'S OUTLINE SUBMISSIONS

INJUNCTION APPLICATION – 13 FEBRUARY 2026

ESSENTIAL READING:

- Claim Form – Bundle – Volume I - Part 1/2
- Draft Order – Bundle – Volume I - Part 1/4
- Witness Statements of:
 - o Chris Smiles – Bundle – Volume I - Part 2/5
 - o Dean Smith – Bundle – Volume I - Part 2/6
 - o Richard Smith – Bundle – Volume I - Part 2/7
 - o David Miller – Bundle – Volume I - Part 2/8
- Exhibits to Witness Statements are contained in Bundle – Volume II

- Video evidence exhibited to witness statements is to be provided electronically to the Court.

READING TIME ESTIMATE: 2.5 hours approximately

REFERENCES:

- To witness statements are in the form of initials and paragraph numbers eg. CS§25;
- To exhibits are in the form of initials and exhibit numbers eg. CS/30

A. INTRODUCTION

1. This is the Claimant's application for an interim injunction to restrain the Defendants from interfering with the Claimant's waste collection services. The injunction sought seeks to restrain further acts of trespass and nuisance by the Defendants at 4 depots ("the Depots") operated by the Claimant but also seeks to restrain further nuisance committed and threatened by the Defendants on routes taken by the Claimant's waste collection vehicles and other vehicles involved in waste management across the city of Birmingham.
2. The action taken by the Defendants is self-described 'direct action' taken in support of Unite members employed by the Claimant who have been engaged in long-running strike action but who have been restrained by the High Court from doing precisely that which the Defendants are now seeking to carry out in their place. This direct action has been conducted since as early as May 2025 but the levels of this activity have intensified substantially in recent weeks and have now reached a point at which it is becoming increasingly difficult – and increasingly expensive – for the Claimant to serve the residents of Birmingham by collecting their household waste.
3. The Claimant does not know the identities of the Defendants – not least because they frequently seek to disguise their appearance by wearing masks or scarves

in order to hide their faces – as a result, the Claimant has followed the principles set out in *Wolverhampton City Council v London Gypsies & Travellers* [2024] AC 983 and related case law.

4. The Claimant seeks an interim order for an initial period of 6 months. As set out above, the Order sought extends to a number of specific locations from which the Claimant operates waste collection services but also to the streets of Birmingham from which its vehicles collect waste. The Claimant fully accepts that the consequence of this is that the Order if granted, will cover a significant area. However, as the evidence before the Court demonstrates, the direct action taken by the Defendants is not limited to blocking vehicles as they leave – or attempt to leave – the depot gates from which they operate – but also extends to blocking vehicles once they have left their depots in order to prevent the carrying out of collection services.
5. In this regard, the direct action mirrors the actions previously taken by Unite members and which actions have been the subject of first, an injunction to restrain unlawful picketing and protest and secondly, a contempt application in which Unite admitted breaches of the terms of the injunction by seeking to block vehicles on the streets of Birmingham and away from the depot entrances.

B. NOTIFICATION

6. Based on the *Wolverhampton* judgment, when dealing with persons unknown, the Claimant accepts that it is under an obligation to:

“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.”¹
7. In the fulfilment of that obligation, the Claimant has taken the following steps as set out in the witness statement of Deborah Carter-Huges²:

¹ At paragraph 167(ii)

² Witness statement is at Volume I – Part 3 – Tab 10, with Exhibits at Tab 11

- a. The Claimant prepared a webpage onto which documentation relating to the application has been uploaded. All of the court documentation (Claim Form, Draft Order, Witness statements etc) as well as all but one of the exhibits were uploaded on 3 February 2026. The remaining exhibit, attached to the witness statement of Carol Culley dealing with the cross-undertaking in damages, was uploaded on 4 February 2026;³
- b. On 3 February 2026, emails were sent to a number of organisations who appear to be connected with the actions of the Defendants as well as to Unite officials and the union's solicitors. Emails, which contained a link to the webpage referred to above, were sent to⁴:
 - i. Strike Map;
 - ii. Socialist Workers Party;
 - iii. Reel News;
 - iv. Birmingham Socialist Party
 - v. The following officials at Unite:
 1. Sharon Graham (General Secretary)
 2. Onay Kasab (National Lead Officer)
 3. Annemarie Kilcline (Regional Secretary)
 - vi. Unite's solicitors, Thompsons;
- c. On 4 February 2026, the Claimant's solicitors delivered hard copies of the documents filed with the Court to Unite's Head Office;⁵
- d. On 4 February 2026, notices were placed at various Depot locations at which the Defendants had been present referring to the injunction application and containing a QR code which could be used to access the relevant webpage;⁶
- e. Details of the application were published on the Claimant's website and posts were made on the following social media platforms: X, LinkedIn, Bluesky, Facebook. The posts included a link to the relevant webpage;⁷

³ DCH§11-13

⁴ DCH§14 and DCH/1-5

⁵ DCH§14.3 and DCH/6-7

⁶ DCH§15 and DCH/9-35

⁷ DCH§16 and DCH/36

- f. Once the date of the hearing was fixed on the morning of 5 February 2026, emails were sent on the same day to the same parties identified above;⁸
 - g. Updates providing the date of the hearing were published on the Claimant's webpage and posted on the same social media platforms as identified above;⁹
 - h. On 6 February 2026, notices containing details of the hearing were posted in the same locations as had been used on 4 February 2026;¹⁰
 - i. On 6 February 2026, an attempt was made to distribute leaflets referring to the application to any protestors present at any of the Depots however no such persons were present when this attempt was made;¹¹
 - j. Checks were made on a daily basis in order to ensure that the notices that had been placed at the Depots remained in position.¹²
 - k. Leafleting at the Depots is being attempted over the period from 10-13 February 2026 as well as further posts on the Claimant's social media channels. Checks on notices that have been put up at the Depots is also to be carried out.¹³
8. In addition, the fact of the application has been reported on in local and national media and has been the subject of reaction by at least one of those organisations whose attention was drawn to it.¹⁴

C. LEGAL ACTION AGAINST UNITE

9. As already stated, the direct action taken and threatened by the Defendants is being done in support of Unite members who are taking strike action in relation to a long-running trade dispute with the Claimant. Unite – and consequently its members – have been subject to the terms of a court order, first granted by Mrs Justice Dias on 23 May 2025, to restrain them from blocking the Claimant's waste collection vehicles from entering or exiting its depots and also seeking to

⁸ DCH§18-19 and DCH/37-41

⁹ DCH§20 and DCH/42-44

¹⁰ DCH§21 and DCH/45-67

¹¹ DCH§22 and DCH/55-68

¹² DCH§24-28 and DCH/69-87

¹³ DCH§30-32

¹⁴ DCH§29 and DCH/89-96

blockade those vehicles at locations further afield. The background to the legal action against Unite is set out in the witness statement of Chris Smiles.¹⁵ A summary of the position is as follows:

- a. Continuous strike action began on 11 March 2025. In the period between March-May 2025, Unite members and officials engaged in unlawful picketing and protests by blockading the entrances to the Claimant's depot and thereby preventing deployment of waste service vehicles;
- b. On 31 March 2025, this led to the declaration of a "Major Incident" under the terms of the Civil Contingencies Act 2004 due to the build-up of waste in the city to the point where there were 17,000 tonnes of uncollected rubbish;¹⁶
- c. The problems faced by the Claimant were mitigated for a period during which West Midlands Police ("WMP") indicated that they were prepared to issue a notice under section 14 Public Order Act 1986 which would enable WMP to exercise control over picketing and protest activities. As part of that process – and with the agreement of Unite – specific "Assembly Areas" were identified as locations within which protest activity would take place¹⁷. Unite members were permitted to carry out picketing activities at Depot gates;
- d. The terms of the (informal) section 14 Order remained in place until 14 May 2025, at which point WMP decided that the threshold for such an order was no longer met. This resulted in an immediate return to the blockading activities which had been carried out prior to 4 April 2025;
- e. In response, the Claimant sought to make an application for injunctive relief in order that waste vehicles could carry out collection services. However, shortly before the making of any such application, Unite (through its solicitors) made a proposal intended to avoid legal action but under terms that would mean that "both (i) picketing and (ii) protesting can take place going forward."¹⁸ Unite's proposal was put forward with specific reference to Articles 10 and 11 of the European Convention on Human Rights

¹⁵ CS1§13-35

¹⁶ CS/5

¹⁷ The Assembly Areas are shown on the plans at CS/6

¹⁸ CS/7

- (“EHCR”). The proposal was that protesting should take place within the defined Assembly Areas and that picketing would be limited to 6 people;¹⁹
- f. Whilst the terms offered by Unite were acceptable to the Claimant, the timing ultimately was not and so an application for an injunction was made to the High Court in London on 23 May 2025 (“the May Order”) which led to an Order being granted by Mrs Justice Dias with protests being confined to the Assembly Areas and picketing being limited to 6 at each Depot;²⁰
 - g. The terms of the May Order were not complied with by Unite or its members. Instead of blocking vehicles at the Depot exits, Unite protestors simply relocated this activity to locations a few hundred metres or so away from those exits. The claim was made that Unite genuinely believed that they were entitled to do this, despite being subject to the terms of the May Order;
 - h. This in turn led the Council to make a contempt application to High Court. In its affidavit evidence submitted in response to that application, Unite admitted repeated breaches of the May Order as having occurred between 8 and 28 July 2025. The contempt application – which effectively became a plea of guilty and arguments in mitigation – was heard on 14 October 2025 before Jefford J. Judgment is awaited but it is inevitable that Unite will face a financial penalty for having breached the Court’s May Order.

D. REPLACEMENT OF UNITE AND IT’S MEMBERS BY PERSONS UNKNOWN

10. The protesting to which the Claimant – and the residents of Birmingham – are now subject, has been declared by at least some of those who appear to be involved as being a straightforward attempt to take the place of Unite and its members and do exactly what those members have been injuncted not to do – Unite’s unlawful picketing and protesting has, to use Mr Smiles’ words “outsourced” to the Defendants.²¹ As much is evident from:
 - CS/11 – Facebook post from Birmingham Socialist Party (“BSP”) dated 17 September 2025 which includes the following words:

¹⁹ This number is taken from the then Code of Practice on Picketing 2017, paragraph 56

²⁰ CS/8

²¹ CS836

“Due to Labour’s use of Tory anti-trade union laws, the Unite members are unable to picket effectively themselves. That’s why independent activists have taken matters into their own hands”;

- CS/31 – Facebook post from BSP dated 26 November 2025 which reads:
“Yesterday, Birmingham Socialist Party, Socialist Students and other community activists conducted independent action to block bin wagons in support of striking workers. Our Labour council under a Labour government are using Tory anti-trade union laws to prevent the striking workers from effectively picketing themselves – that’s why activists have taken action into their own hands.

.....

Help send a message to Birmingham City Council that Birmingham residents support the striking bin workers. Join striking workers, Socialist Party members and other activists at the Smithfield depot...THIS Monday (Dec 1st) from 8.30 am”

- CS/32 – Facebook post from BSP dated 27 November 2025 which reads:
“More pictures from the direct action on Tuesday in which community activists protested in front of the bin wagons in support of striking bin workers
- CS/33 – Facebook post from BSP dated 10 December 2025 which reads:
“Direct action at Tysley (sic) [Atlas] Depot. We joined independent community activists to block wagons to subvert Labour’s attempts to prevent effective picketing.”
- CS/27 – Facebook post from “Justice for Refuse Workers & Cleansers” dated 8 January 2026 which reads:
“A good morning and happy new year for all the gang in Birmingham; this week marked a year on from the strike for the Brum dust and today a couple of depots were apparently prevented from operating by the plucky group of activists who are unhappy with the actions of the Labour Council there. Get stuck right in folks.”
- CS/29 – Video posted by Reel News on 21 January 2026 relating to direct action on 12 January 2026 in which the following words appear:

“[Birmingham bin workers] can’t picket their own depots because of an injunction from the council...so supporters decide independently to shut down the job.”

- CS/30 – Reel News posting dated 21 January 2025 which includes the following:

“[Birmingham City Council] have not even bothered to turn up for negotiations for six months while disgracefully stopping the bin workers and their union, UNITE from picketing their workplaces with an injunction.

So supporters of the binworkers have taken it upon themselves to take direct action and shut down depots instead – and these actions are increasing week by week, leaving the service in complete chaos and the council increasingly desperate as their popularity nosedives.

This video shows how you can shut down a depot, with footage from one of the solidarity pickets on January 12. So now it’s over to you. UNITE is barred from organising these actions, but the rest of us can; so why not turn up at a depot with your mates one morning and do a slow walk yourself?”

- CS/26 – Morning Star article entitled “Megapicket: the third dimension is union power” dated 30 January 2026, which includes the following:

“Birmingham has become the focal point for this support [of major disputes]. Two Megapickets, on May 9 and July 25 escalated action and successfully shut sites when Unite’s injunction prevents workers from doing so themselves.....

As Arthur Scargill famously said: ‘What you need is not marches, demonstrations, rallies or wide associations – all of them are important. What you need is direct action. The sooner people understand that, the sooner we’ll begin to change things’.

That means going beyond Megapickets and publicly organised events. It means embracing the kind of direct action we have seen developing in

Birmingham over recent weeks, led by activists supporting striking workers and causing daily disruption at key sites.”²²

11. It is of course right to point out that the suggestion in many of these posts, to the effect that Unite and its members are prevented from picketing (or protesting) at or near their place of work is entirely incorrect. The terms of the May Order, which were taken substantially from Unite’s own offer to avoid litigation, **do** allow for both picketing and protesting to take place within the limits allowed under section 220 Trade Union and Labour Relations (Consolidation) Act 1992 (“TULRCA”) and with Unite having addressed in correspondence, the right to protest within the scope of Articles 10 and 11 ECHR.²³ The correct analysis is that Unite and its members have been restrained from the act of simply blocking the Claimant’s collection vehicles as this is not permitted as part of lawful picketing or protest but the Defendants have then decided that they will carry out the same activity instead.

12. As well as blocking Depot entrances in order to prevent the deployment of vehicles in precisely the same manner as had previously been done by Unite and its members, the direct action has also replicated some of the instances of blocking vehicles further away from Depot entrances. So for example, on 28 July 2025, Unite members were responsible for blocking vehicles which had left Atlas Depot and were then forced off route further away at the junction of Wharfdale Road and Redfern Road and diverted into Rushey Lane.²⁴ On 17 September 2025, the same activity was then carried out by the Defendants.²⁵

²² The article appears to have been written by Henry Fowler and Rob Poole who are said to be “co-founders of Strike Map.”

²³ As set out in Thompsons’ letter of 21 May 2025 at CS/7

²⁴ See DM§15 & DM/2-5

²⁵ DM§18-22 and DM/6-11

E. VEOLIA INJUNCTION APPLICATION

13. A similar situation arose recently involving striking bin workers employed in Sheffield²⁶. Again, in that case, Unite members limited themselves to picketing in accordance with the law – albeit they did so without the need for a prior injunction or contempt application. An application for an injunction was made to prevent persons unknown from blocking the free passage of waste collection vehicles entering or leaving a number of sites within Sheffield. In a judgment handed down on 13 August 2025, Stacey J granted the injunction (albeit for a shorter period than that which the Claimants had sought in their application).
14. The evidence produced to the court again showed that “masked individuals engaged in what they have termed as direct action.....began walking slowly in continuous circles in front of the gate at Lumley Street Depot as soon as the gates opened preventing the [refuse collection vehicles] from leaving the depot.”²⁷ The Judge then set out the applicable law at paragraphs 41-42, relying on the guidance taken from *Wolverhampton*. Then, at paragraph 53, the Judge set out her conclusions with particular reference to Articles 10 and 11 ECHR as follows:

“Subject to some necessary amendments to the wording discussed with counsel during the course of the hearing, the injunction sought is proportionate as its aims are sufficiently important to justify any interference; there is a rational connection between the means chosen and the aims; and, there is a fair balance between the various rights at issue given. There has been no disruption to the Unite pickets who, in exercise of their Art 10 and 11 rights, continue to seek to persuade their colleagues. But by blocking the entrance the defendants are not seeking to persuade the bin men to support the cause of their striking Unite colleagues, but to compel them not to work by preventing them from leaving the Lumley Street Depot and other sites where the circular walking protest is preventing the RCVs from leaving or entering. It is

²⁶ *Sheffield Environmental Services & Others v Persons Unknown* [2025] EWHC 2141 KB - referred to below as “*Veolia*”

²⁷ See paragraph 22 Judgment of Mrs Justice Stacey. Further direct action and its consequences are set out in paragraphs 23-27 of the Judgment

causing harm to Veolia's delivery of the Sheffield City Council contract and considerable disruption to its working employees working longer than would be normal under the "task and finish" arrangement and then do overtime. The cost to Veolia has been over £60,000 and the direct action protest has gone on, albeit intermittently for eight weeks now."

15. And then, at paragraph 59:

"In summary, Veolia has demonstrated a compelling need for the protection of its civil rights which is not adequately met by any other available remedies; procedural protection for the rights (including Convention rights) of those persons unknown who might be affected by it have been built into the order; Veolia has complied in full with the disclosure duty in its evidence served with the application and showed that, on the particular facts, it was just and convenient in all the circumstances that the injunction sought should be made."

16. It is of course, not suggested by the Claimant in the present application, that the Stacey J judgment is binding on this Court. However, given the overlap, both factually and legally, between the *Veolia* case and this one, it is respectfully suggested that the former may provide a useful template which this Court may wish to follow.

F. THE DIRECT ACTION TAKEN BY THE DEFENDANTS

17. The action taken by the Defendants goes back as far as 9 May 2025. Whilst it might be said that the Claimant has therefore delayed in bring the present action, it has sought to be proportionate in its responses and, as explained by Mr Smiles, it has only taken this step at a point at which significant irrecoverable costs are being incurred and there is a real and substantial impact on service delivery. The evidence of unlawful action by the Defendants can be summarised as follows:

- a. 9 May 2025 – Megapicket at Lifford Lane Depot; ²⁸

²⁸ DS\$47

- b. 25 July 2025 – Megapicket at all Depots;
- c. 17 September 2025 – Vehicles blocked at the junction of Wharfdale Road and Redfern Road, preventing deployment from Atlas Depot²⁹. The action was described by BSP as having been carried out by “independent activists”.³⁰ 7% of collections missed (5,223 properties). Unite, via their solicitors, Thompsons have disclaimed any responsibility for this.³¹
- d. 17 October 2025 – Atlas Depot – Vehicles prevented from deploying due to 6 Defendants wearing masks and face coverings and standing across the depot exit for a period of 3 hours. 4% of collections missed (2,778 properties);³²
- e. 25 November – Atlas Depot – Depot exit blocked preventing timely deployment of 16 vehicles which were delay for over 3 hours. 9% of collections missed (6,541 properties);³³
- f. 5 December 2025 – Atlas Depot – Masked Defendants again block the Depot gate delaying deployment of 15 vehicles until 10.40 am. 44% of collections missed (30,554 properties);³⁴
- g. 12 December 2025 – Perry Barr Depot – police allow protest to continue for three hours with the consequence that 15% of collections missed (10,416 properties) across Perry Barr & Smithfield Depots;³⁵
- h. 12 December 2025 – Smithfield Depot – Around 40 people attend and whilst some block the gates, prompt police intervention prevents any significant delays in deployment;³⁶
- i. 19 December 2025 – Smithfield Depot – Around 80 people attend and a group of them walk in front of the depot exit preventing deployment. Limited delays and only 1% of collections missed (694 properties);³⁷

²⁹ This was the identical behaviour at the identical location that had previously been carried out by Unite members and which had led to the contempt application for breaches of the May Order

³⁰ CS§40, CS/11.

³¹ CS/13. The incident is described at DM§18-22 and shown in DM/6-7 & DM/8-10

³² DM§28-31 and DM/15-18

³³ DM§32-38 and DM/19-26

³⁴ DM§39-42 and DM/27-32

³⁵ DS§25 and DS/7 & RS§17-21 and RS/5-8

³⁶ DS§20-24 and DS/2-6

³⁷ DS§26-30 and DS/2

- j. 8 January 2026 – Perry Barr Depot – Blockade causes delay in deployment until 9.10 am;³⁸
- k. 8 January 2026 – Atlas Depot – 8 Defendants block exit with vehicles not deployed until 10.10 am after police intervention. 18% of collections missed (13,491 properties);³⁹
- l. 12 January 2026 – Perry Barr Depot – 4 hour delay in deployment until 10.15 am due to slow walking at Depot exit;⁴⁰
- m. 12 January 2026 – Atlas Depot – Blockading of depot exit leading to 4 hour delay in deployment and 78% of collections missed across Perry Barr and Atlas (56,973 properties);⁴¹
- n. 15 January 2026 – Smithfield Depot – 21 vehicles prevented from deployment until after 9.00 am;⁴²
- o. 15 January 2026 – Atlas Depot – Blockading of depot exit with deployment delayed until 10.05 and 23% of collections missed across Atlas and Smithfield Depots (17,238 properties);⁴³
- p. 19 January 2026 – Perry Barr Depot – Slow walking at Depot exit leads to only 3 vehicles being initially deployed (out of around 27). All vehicles eventually deployed by 10.20 am;⁴⁴
- q. 21 January 2026 – Perry Barr Depot – Vehicles delayed by over 3 hours until around 9.40 am;⁴⁵
- r. 21 January 2026 – Atlas Depot – Blockading of depot exit leading to 48% of collections being missed across Perry Barr and Atlas (35,816 properties);⁴⁶
- s. 27 January 2026 – Perry Barr Depot. Blockade in place from 5.35 am and deployment delayed until 9.30 am. Across Perry Barr and Atlas, 7% of collections missed (5,088 properties);⁴⁷

³⁸ RS§22-26 and RS/9-18

³⁹ DM§43-49 and DM/33-41

⁴⁰ RS§27-28 and RS/23-25

⁴¹ DM§50-56 and DM/42-47 and RS§26 and RS/18

⁴² DS§31-41 and DS/23-31

⁴³ DM§57-61 and DM/48-55

⁴⁴ RS§32-34 and RS/29

⁴⁵ RS§35-38 and RS/31-38

⁴⁶ DM§62-65 and DM/57-66

⁴⁷ RS§40-45 and RS/40-45

- t. 27 January 2026 – Atlas Depot – vehicles released at intervals but deployment still delayed by several hours until 9.00 am;⁴⁸
- u. 28 January 2026 – Perry Barr Depot. Slow walking across Depot exit delays deployment until 10.45 am. Across Perry Barr and Atlas 16% of collections missed (11,939 properties);⁴⁹
- v. 28 January 2026 – Atlas Depot – slow walking in front of vehicles delays deployment until 10.00 am;⁵⁰
- w. 29 January 2026 – Perry Barr Depot – Blockade at Depot entrance causes delays in deployment. Defendants encroach onto Depot land. Deployment delayed until 10.50 am – over 5 hours late;⁵¹
- x. 29 January 2026 – Atlas Depot – slow walking delays deployment until 10.10 leading to 47% of collections being missed across all depots (35,226 properties);⁵²
- y. 29 January 2026 – Smithfield Depot – Defendants say that they will allow vehicles to leave at 15 minute intervals but in fact there are longer delays. Alternative arrangements are made for deployment in order to avoid blockade – alternative exit route then blockaded by Defendants and deployment delayed until 10.05 am;⁵³
- z. 30 January 2026 – Megapicket affects 77% of collections⁵⁴:
 - i. Brewery Depot⁵⁵ - Entrance to depot blockaded from 04.30 am – 8.00 am, delaying deployment of street clearing vehicles;⁵⁶
 - ii. Perry Barr Depot – Approximately 50-70 Defendants in attendance – Defendants disperse at around 10.00 am apparently as a consequence of Claimant’s decision not to deploy vehicles;⁵⁷

⁴⁸ DM\$66-70 and DM/67-72

⁴⁹ RS\$46-53 and RS/46-61

⁵⁰ DM\$71-75 and DM/72-75

⁵¹ RS\$54-61 and RS/62-68

⁵² DM\$76-79 and DM/75-78

⁵³ DS\$35-45 and DS/32-39

⁵⁴ DS\$46-53 and DS/39-51 and RS\$67 and RS/76

⁵⁵ CS/14-22 – The action extended to Street Scene vehicles, which are not even part of the underlying industrial dispute

⁵⁶ DS\$48 and DS/39

⁵⁷ RS\$62-67 and RS/69-76

- iii. Atlas Depot – Approximately 150 Defendants blockade the Depot until approximately 10.00 am;⁵⁸
- iv. Smithfield Depot – Approximately 100-120 Defendants blockading the Depot entrance from around 6.05 am – Defendants disperse at around 10.00 am apparently as a consequence of Claimant’s decision not to deploy vehicles.⁵⁹

G. THE IMPACT OF THE DEFENDANTS’ ACTIONS

18. The impact – both actual and predicted – of the Defendants’ actions is set out in some detail at paragraphs 49-73 of Mr Smiles’ witness statement. In summary:
- a. Residents in Birmingham have faced disruption to waste collection for a period of over 12 months. Whilst the period prior to July 2025 (with the exception of the Megapicket of Lifford Lane on 9 May 2025) does not relate to the Defendants, since the latter part of July 2025, and given Unite’s compliance with the terms of the May Order, **all** of the disruption is due to their actions;
 - b. The stated intentions of those supporting organisations supporting the Defendants appears to be to “shut down” the Depots from which the Claimant operates;⁶⁰
 - c. The frequency of the disruption caused by the Defendants has increased substantially since early December 2025 with unsurprising consequences in terms of missed collections and accumulated waste on the city streets;⁶¹
 - d. The week commencing 26 January 2026 has seen the highest levels of disruption to date leading to 19% of collections (67,000 properties) not being made at all in that week;⁶²
 - e. Even without the disruption caused by the Megapicket on 30 January 2026, it is likely that the Claimant will simply not be able to catch up on the number of missed collections;⁶³

⁵⁸ DM80-86 and DM/79-81

⁵⁹ DS846-53 and DS/39-51

⁶⁰ CS853

⁶¹ CS856 and CS/34

⁶² CS860

⁶³ CS861 and CS/34

- f. The total cost of additional resources to address the consequences of the Defendants' actions have reached £411,522.58 for January 2026 alone, compared with a monthly total for December 2025 of £97,612.40. The projections for February and March 2026 are even higher;⁶⁴
- g. There has been an impact on services unconnected with the current dispute, in particular relating to fly-tipping;⁶⁵
- h. There are additional pressures on those attempting to do their work;⁶⁶
- i. There are obvious consequences for the residents of Birmingham.⁶⁷

H. ENGAGEMENT WITH WEST MIDLANDS POLICE

19. The Claimant has attempted to address the effects of the Defendants' conduct by seeking the intervention of the local police force, WMP. Those attempts are set out in some detail in Mr Smiles' witness statement⁶⁸ but can be summarised as follows:

- a. The general approach of WMP has been to treat the Defendants' conduct from the perspective of the criminal law as being permitted for a period of three hours, apparently based on their interpretation of the right to protest as set out by the Supreme Court in *DPP v Zeigler [2021] UKSC 23*;⁶⁹
- b. As the levels of disruption began to grow in January 2026, the Claimant attempted to escalate matters with WMP which led to a meeting on 13 January 2026 at which Mr Smiles and Rob Edmondson, the Claimant's Director of Waste and Street Scene, sought to challenge the three hour approach that was being adopted;⁷⁰
- c. Given WMP's resistance to any changes to the three hour protest period, Mr Smiles and Mr Edmondson felt obliged to agree a memorandum of understanding within which that limit would be operated by WMP;⁷¹

⁶⁴ CS§64-66 and CS/35

⁶⁵ CS§68-70 and CS/37-39

⁶⁶ CS§71-72

⁶⁷ CS§73

⁶⁸ At CS§74-100

⁶⁹ CS§75

⁷⁰ CS§80-81

⁷¹ CS§83-87

- d. The issue has also been taken up with WMP by the Claimant's Cabinet member for Environment and Transport, Councillor Majid Mahmood but this did not lead to any change of approach.⁷² Councillor Mahmood also wrote to the Home Secretary on the issue;⁷³
- e. Further correspondence ensued with Chief Inspector Chris Grandison, who had been identified by WMP as the designated lead in the matter. CI Grandison stood by the three hour period although it appeared that WMP had not fully appreciated the fact that the existing injunction was applicable only to Unite and its members and did not cover the conduct of the Defendants;⁷⁴
- f. WMP maintained the three hour stance up to 29 January 2026, at which point it was suggested that they did not have sufficient officers to deal with the problem and would not be enforcing even the three hour period;⁷⁵
- g. This was then taken up in correspondence from Mr Edmondson to Assistant Chief Constable Parnell on 29 January 2026 which produced the response that WMP were considering the position.⁷⁶

20. The outcome of all of this is that attempts to address the conduct of the Defendants by engaging with WMP have not proved successful, with the results set out above under the heading "IMPACT OF THE DEFENDANTS' ACTIONS".

I. LEGAL FRAMEWORK

21. Starting first with TULRCA, section 219 provides a form of immunity for a trade union for tortious acts done "in contemplation or furtherance of a trade dispute". Under section 219(3) the same immunity applies to picketing as long as:

“(a) it is done in the course of attendance declared lawful by section 220 (peaceful picketing), and

⁷² CS888-91 and CS/49&52

⁷³ CS888 and CS/50

⁷⁴ CS895-96 and CS/60-61

⁷⁵ CS899-100

⁷⁶ CS8102 and CS/62

(b) in the case of picketing to which section 220A applies, the requirements of that section (union supervision of picketing) are complied with.”⁷⁷

22. Section 220 then provides as follows:

“(1) It is lawful for a person in contemplation or furtherance of a trade dispute to attend—

(a) at or near his own place of work, or

(b) if he is an official of a trade union, at or near the place of work of a member of the union whom he is accompanying and whom he represents,

for the purpose only of peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working.”

23. So, there is no right under TULRCA to picket anywhere other than one’s own workplace (unless you are a trade union official supporting a member who pickets their own workplace) and there is no right to do anything other than communicate information or persuade others to (in the current context) refrain from working. There is no right to picket in order to *prevent* others from working.

24. The limitation on picketing at a place other than one’s own place of work is reinforced by the restrictions on “secondary action” contained in section 224 which will apply to commission of torts in circumstances which are not lawful picketing. Secondary action will not attract the immunity contained in section 219.

25. It is therefore beyond argument – based on both the content of Part V TURLCA as well as the fact of the May Order and the Contempt Application, that Unite members and officials and employees of the Claimant cannot lawfully carry out the behaviours now being done by the Defendants who of course have no direct interest in the underlying industrial dispute or its outcome.

⁷⁷ Section 219(3)(b) is soon to be removed from the legislation as a result of section 75 Employment Rights Act 2025 under which the obligations on a trade union under section 220A to supervise picketing activity will be removed. These changes will take effect from 18 February 2026

26. Turning to the principles to be applied in relation to applications against Persons Unknown, reference has already been made to the *Wolverhampton* decision of the Supreme Court. That case has now been considered in a number of authorities in relation to protest activities. In *Valero Energy Ltd v Persons Unknown* [2024] EWHC 134, Ritchie J set out a number of factors to be considered (albeit in the context of an application for summary judgment and a final injunction). Having considered the guidance set out in *Wolverhampton* and the earlier rulings in *Canada Goose v Persons Unknown* [2020] WLR 2802. Ritchie J identified “13 guidelines and rules [which] must be met” for a permanent injunction to be granted against persons unknown or newcomers “who are protesters of some sort”.⁷⁸
27. In a case in which ECHR rights are engaged, the Court must take account of the balancing exercise required by the Supreme Court in *DPP v Ziegler* [2022] AC 408 and any injunction must be necessary and proportionate to the need to protect the Defendants’ rights even in cases in which – at least in the context of the criminal law – action is taken with the specific intention of disrupting activities of others.⁷⁹
28. However, as was made clear by the Court of Appeal in *Cuadrilla Bowland Ltd v Persons Unknown* [2020] 4 WLR 29, the exercise of rights under Article 11 ECHR, is treated differently in a case of direct action – where the intention is to cause disruption – as opposed to disruption caused as a consequence of exercise the core convention right of seeking to persuade – “persuasion is very different from attempting (though physical obstruction or similar conduct) to *compel* others to act in a way you desire.”⁸⁰ This may therefore impact on the question of proportionality as direct action is not a “core right” within Article 11.⁸¹

⁷⁸ See paragraph 57. The relevant guidelines and rules are then set out at paragraph 58 and are addressed below to the extent that they are relevant to an application for an interim injunction under the heading “Submissions”

⁷⁹ Per Lords Hamblen and Stephen at paragraph 64-67

⁸⁰ Per Leggatt LJ at paragraph 94 – and referred to, for example, by Hill J in *Shell UK Limited v Persons Unknown* [2023] 1 WLR 4358 at paragraphs 176-7

⁸¹ As to which see *Ziegler* at paragraph 70

J. SUBMISSIONS

29. Following the factors set out by Ritchie J in *Valero*, the Claimant makes the following submissions:

- a. Cause of action – the following causes of action are evident from the actions of the Defendants:
 - i. Private nuisance in the form of obstructing the Depot Entrances thereby preventing the Claimant from the free use of its land by allowing the free passage of vehicles;
 - ii. Public nuisance in the form of obstruction of the highway;
 - iii. Trespass to land, in so far as Defendants have come on to the Claimant's land to prevent vehicles from leaving the Depots;
- b. Duty of full and frank disclosure – in their witness statements, the Claimant's witnesses have acknowledged the duty to which they are subject and have confirmed compliant with that duty. Other issues on full and frank disclosure are addressed below;
- c. Evidence to prove the claim – the Claimant does not at this stage seek a quasi-final injunction and so it is submitted that it is subject only to the threshold test based on *American Cyanamid*. It has provided substantial evidence of unlawful action to date and a real and imminent risk of further direct action. The extent of that action has increased markedly since the turn of the year and there is no basis for believing that this level will decrease. The Claimant has, it is submitted, satisfied even a higher threshold test than that set out in *American Cyanamid*;
- d. There is no realistic defence – the Defendants are clearly committing the tort of private nuisance by preventing the Claimant from enjoying the use of its land. In so far as they have done so by entering onto the Claimant's land, they have done so as trespassers. In addition, in so far as vehicles have been blocked at locations away from the Depots, the Defendants have clearly prevented the free passage on the highway of the Claimant's waste collection vehicles. All of the Defendants' actions have been with the deliberate purpose of preventing the deployment or free passage of those vehicles;

- e. There is a compelling justification for the injunction. The Claimant is seeking to provide the residents of Birmingham with a functioning waste collection service. The Defendants are seeking to prevent them from doing so and do not have any lawful basis for their actions. The financial and environmental consequences of the Defendants actions are substantial;
- f. Any argument based on Convention rights is bound to fail:
 - i. In so far as the Defendants have entered onto the Claimant's land, they have no right of entry – see *HS2 Ltd v Persons Unknown* [2022] EWHC 2360 per Knowles J at paragraphs 81 and 196;
 - ii. As far as obstruction of the highway is concerned, the injunction sought is proportionate given that its aims are sufficiently important to justify any interference and there is a rational connection between the means chosen and the aims. There is also a fair balance between the various rights in issue given that:
 - 1. The Defendants are not seeking to exercise a core Article 10 or 11 right – less protection is accorded to direct action as opposed to simple protest;
 - 2. Significant harm is being caused to the Claimant, its staff and the residents of Birmingham. There are also health and safety/environmental risks;
 - 3. The direct action has been continuing for approximately 9 months (going back to May 2025) and has taken place on multiple occasions in January 2026 alone;
 - 4. The Defendants actions amount to a breach of the criminal law, section 137(1) Highways Act making it an offence to wilfully obstruct free passage on the highway without lawful excuse;
 - 5. There are no less restrictive or intrusive alternative means that are open to the Claimant. In particular, WMP do not appear to be prepared to act to prevent the disruption that is being caused by the Defendants. When WMP have attended, they have allowed the direct action to continue for 3 hours or more which itself causes significant delays

and disruption to deployment of vehicles. Even the limited intervention to date seems uncertain going forward given the latest interaction with Mr Smiles;

6. The Defendants have no direct interest in the underlying industrial dispute and are taking direct action for the single reason that for Unite members and officials to do the same would be unlawful – it would be odd, to say the least, if the Defendants had wider rights under the ECHR than those who are directly involved in the dispute and who are taking strike action;
 7. Linked to that point, it would of course entirely frustrate the May Order (which was based on terms which Unite itself had offered in order to conduct lawful picketing and protest activity) for this Court to permit the Defendants to do exactly that which Unite members and officials have been ordered not to do;
- g. Damages are clearly not an adequate remedy and would not in any event be recoverable from the Defendants. Damages could not compensate the residents of Birmingham who have had to live with the consequences of the direct action taken by the Defendants.
 - h. It has not been possible to identify the individuals who have taken part in the direct action as they have worn masks or face coverings or if not doing so, are not known to the Claimant. The draft Order therefore seeks to define the Defendants by reference to their unlawful activity;
 - i. The relevant prohibition is set out in clear terms in the Draft Order. It does not prohibit any conduct which would otherwise be lawful and contains an express recognition of the right of the Defendants to protest within the Assembly Areas which apply to Unite members and officials under the terms of the May Order;
 - j. The prohibition mirrors the torts claimed;
 - k. The prohibition is defined by clear geographical boundaries;
 - l. At this stage the Claimant does not seek a quasi-final injunction but one only for a period of 6 months, which was the same period granted by Stacey J in *Veolia*;

- m. The Claimant has taken reasonable steps to draw the application to the attention of persons likely to be affected by it or with some other genuine and proper interest in the application. Steps to be taken in terms of notification of the terms of any order are also included in the Draft Order itself;
- n. The Draft Order contains provision for any application to vary or set aside the injunction on short notice;
- o. The Draft Order does not contain any express provision for review but it will be necessary for any continuation to be considered in due course at or near the expiry of the initial six month period.

K. CROSS UNDERTAKING IN DAMAGES

30. This has been dealt with in the witness statement of Carol Culley.

L. FULL AND FRANK DISCLOSURE

31. The Claimant's position is that it has complied with the duty of full and frank disclosure with regard to its evidence. In terms of points that might be taken against it in relation to this application:
- a. It could be argued that no injunction is necessary beyond the 4 Depot premises rather than extending it to all of Birmingham, given that that is where the vast majority of the direct action has taken place. The answer to that is three-fold. First, as set out in the evidence relating to the Atlas Depot on 17 September 2025, the blockading of vehicles has taken place away from the Depot entrance and in that respect has mirrored the action taken by Unite which led to the Claimant's contempt application. If the Order were expressly limited to the Depot entrances, it is highly likely that the direct action would simply be switched to locations some distance away from those entrances. Secondly, direct action has also taken place at other locations operated by the Claimant, for example, the Brewery Depot on 30 January 2026. Thirdly, and connected to the first point, to the extent that blockading has not taken place away from the Depots, this is because the

action has not been needed by the Defendants as they have achieved their objectives by blockading Depot entrances;

- b. It could also be argued that the Order ought to be limited to waste collection vehicles (which operate from the 4 Depots). However, the evidence relating to the Megapicket shows that the Defendants are prepared to block any vehicles, even those engaged in dealing with fly-tipping.
- c. It might be said that the Claimant should have named the apparent organisers of Strike Map, Henry Fowler and Rob Poole whose names appear in an article in the Morning Star in support of direct action. However, the Claimant does not have evidence of their attendance at any of its Depots or any evidence of actual direct action by them. In addition, the article referred to was only published on 30 January 2026, although there is some evidence of Strike Map as an organisation, being involved in publicising earlier 'Megapickets'.

M. DISPENSING WITH SERVICE

- 32. Given the difficulties in identifying and serving the Defendants, the Claimant seeks orders pursuant to CPR 6.16, CPR 6.28 and CPR 81.4(2)(c) for service of relevant documents to be dispensed with.

N. CONCLUSION

- 33. The Claimant invites the Court to make an order in the terms sought given the strength of its case against the Defendants.

BRUCE CARR KC

ANNA GREENLEY

Devereux Chambers

11 February 2026