



Neutral Citation Number: [2026] EWHC 373 (KB)

Case No: KB-2026-BHM-000043

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

Birmingham Civil & Family Justice Centre
33 Bull Street, Birmingham B4 6DS

Date: 20 February 2026

Before :

THE HONOURABLE MR JUSTICE PEPPERALL

Between :

BIRMINGHAM CITY COUNCIL

Claimant

- and -

**PERSONS UNKNOWN WHO, IN SUPPORT
OF THE STRIKES ORGANISED BY
UNITE THE UNION AND WITHOUT THE
CLAIMANT'S CONSENT**

**(1) ENTER, OCCUPY OR REMAIN ON, OR
BLOCK OR OBSTRUCT THE ENTERING OR
EXITING OF ANY OTHER INDIVIDUAL OR
VEHICLE TO OR FROM THE FOLLOWING
LOCATIONS:**

- (A) ATLAS DEPOT, 70/72 KINGS ROAD,
TYSELEY, BIRMINGHAM**
- (B) LIFFORD LANE DEPOT, EBURY ROAD,
KINGS NORTON, BIRMINGHAM**
- (C) PERRY BARR DEPOT, HOLFORD DRIVE,
BIRMINGHAM**
- (D) SMITHFIELD DEPOT, SHERLOCK
STREET, BIRMINGHAM**

AND/OR

**(2) BLOCK OR OBSTRUCT ANY OF THE
CLAIMANT'S STREET MANAGEMENT
VEHICLES INCLUDING BUT NOT LIMITED
TO WASTE COLLECTION VEHICLES, STREET
SCENE, TRADE WASTE AND CLINICAL
WASTE VEHICLES WITHIN THE CITY OF
BIRMINGHAM**

Defendants

Bruce Carr KC and **Anna Greenley** (instructed by **DLA Piper UK LLP**) for the **Claimant**
Stuart Richardson, a protester, appearing in person
Alistair Wingate also appearing in person

Hearing date: 13 February 2026

Approved judgment

This judgment was handed down remotely on 20 February 2026
by circulation to the parties and by release to the National Archives.

THE HONOURABLE MR JUSTICE PEPPERALL:

1. The bin workers of Birmingham have been taking industrial action through Unite the Union since 2 January 2025. The action was escalated to continuous strike action on 11 March 2025 and, eleven months later, shows no sign of resolution. The evidence before me indicates that the union has a mandate for strike action until May 2026 although I take judicial notice of the fact that the mandate has now been extended until September 2026.
2. Following earlier litigation between Birmingham City Council and Unite, the union is no longer obstructing bin lorries while they are on their collection rounds or preventing the lorries from entering or exiting the council's waste depots. Since at least September 2025, the striking bin workers have, however, been supported by other protesters who are sympathetic to their cause. These protesters have adopted many of the same tactics as were previously used by the union such that bin collections are again disrupted. While initially sporadic, this direct action has stepped up significantly in recent weeks. The council now seeks an injunction to restrain unknown protesters from trespassing upon four council waste depots, blocking or obstructing the entrances and exits to those depots, and from blocking the roads in Birmingham so as to obstruct the council's street management vehicles.

THE HEARING

3. At the hearing of the council's application, I was addressed by Bruce Carr KC, who appears with Anna Greenley, for the council. The hearing was attended by a number of interested parties. Although no one had filed evidence or submissions in opposition to the application,

I asked those in court whether anyone present identified themselves as a defendant and would wish to address the court. Two people came forward:

- 3.1 A retired teacher, Stuart Richardson, identified himself as a defendant and addressed the court.
 - 3.2 Alistair Wingate did not accept that he was a defendant but identified himself as a member of the public who was strongly supportive of the direct action. It seemed to me that even if he had not himself trespassed on or blocked any of the depots or obstructed any of the council's street management vehicles, he was potentially someone who might have already, or might intend, to cause or encourage someone else to take direct action. Accordingly, it was also appropriate to allow him to make submissions in opposition to the application.
4. At the end of the hearing, one other member of the public sought to address me. He had not made himself known at the start of the hearing. He did not accept that he was a defendant but wished to make a further submission. Had he identified himself as a defendant then I would have heard him notwithstanding that the hearing was about to conclude. In the event, I instead allowed him to consult with Mr Wingate. I then heard Mr Wingate briefly on the further point that this man had wished to make.
 5. At the conclusion of the hearing, I reserved judgment. I did so not because I was in any doubt as to the underlying merits of the application but because I did not receive the assistance that I needed on the question of service.

SERVICE & NOTIFICATION

6. By its second application dated 11 February 2026, the council seeks orders dispensing with service of the claim form and other documents pursuant to rr.6.16 and 6.28 of the Civil Procedure Rules 1998, and with the need to confirm personal service in any contempt proceedings pursuant to r.81.4(2)(c).
7. Unfortunately the council did not seek to develop its submissions on this application in its skeleton argument. In oral argument, I drew Mr Carr's attention to Canada Goose v. Persons Unknown [2020] EWCA Civ 303, [2020] 1 W.L.R. 2802, in which the Court of Appeal upheld Nicklin J's refusal to dispense with service in a protest case under r.6.16. Mr Carr sought to distinguish Canada Goose on the basis that some of the protesters in that case had been identified. He acknowledged that the court should only dispense with service as a last resort and invited me, should I consider it more appropriate, to rely on the same evidence to make an order for service by alternative means pursuant to r.6.15. As to that route, he expressed concern as to practicality of giving the required further directions pursuant to r.6.15(4).

THE LEGAL PRINCIPLES

8. Service of the claim form is obviously important. It is the act by which a defendant is subjected to the court's jurisdiction: Barton v. Wright Hassall LLP [2018] UKSC 12, [2018] 1 W.L.R. 1119, at [8]. Further, save where there is good reason not to do so, the rules require the applicant seeking an interim order to serve their application notice not less than three

clear days before the hearing of the application: r.25.6(2). Equally, notification, even if falling short of service, is important in this case. Although not alluded to in his submissions on this issue, Mr Carr accepted that s.12 of the Human Rights Act 1998 is engaged because the council seeks relief which, if granted, might affect the exercise of the convention right to freedom of expression. That concession means that the application is subject to s.12(2) of the Act which provides:

“If the person against whom the application for relief is made (‘the respondent’) is neither present nor represented, no such relief is to be granted unless the court is satisfied—

- (a) that the applicant has taken all practicable steps to notify the respondent; or
- (b) that there are compelling reasons why the respondent should not be notified.”

9. It is necessary to consider both the court’s jurisdiction to authorise alternative means of service pursuant to rr.6.15 and 6.27, and its jurisdiction to dispense with service altogether pursuant to rr.6.16 and 6.28. First, the rules on alternative service:

9.1 Rules 6.15(1)-(2) provide:

“(1) Where it appears to the court that there is a good reason to authorise service by a method or at a place not otherwise permitted by this Part, the court may make an order permitting service by an alternative method or at an alternative place.

(2) On an application under this rule, the court may order that the steps already taken to bring the claim form to the attention of the defendant by an alternative method or at an alternative place is good service.”

9.2 If the court makes such an order, r.6.15(4) requires that the order must specify:

- “(a) the method or place of service;
- (b) the date on which the claim form is deemed served; and
- (c) the period for—
 - (i) filing an acknowledgement of service;
 - (ii) filing an admission; or
 - (iii) filing a defence.”

9.3 While r.6.15 only concerns alternative means for serving the claim form, r.6.27 provides that the rule equally applies to service of any other document in a case.

10. Secondly, the rules on dispensing with service:

10.1 Rule 6.16(1) provides:

“The court may dispense with service of a claim form in exceptional circumstances.”

10.2 Rule 6.28 provides that the court may dispense with service of other documents but does not impose a condition of exceptionality.

11. The Supreme Court considered the question of service of proceedings against unknown defendants in Cameron v. Liverpool Victoria Insurance Co. Ltd [2019] UKSC 6, [2019] 1 W.L.R. 1471. Lord Sumption identified at [21] that it is an “essential requirement for any form of alternative service that the mode of service should be such as can reasonably be expected to bring the proceedings to the attention of the defendant.”
12. Canada Goose was itself a protest case against persons unknown. At [82], the Court of Appeal observed:
 - “(1) The ‘persons unknown’ defendants in the claim form are, by definition, people who have not been identified at the time of the commencement of the proceedings. If they are known and have been identified, they must be joined as individual defendants to the proceedings. The ‘persons unknown’ defendants must be people who have not been identified but are capable of being identified and served with the proceedings, if necessary by alternative service such as can reasonably be expected to bring the proceedings to their attention. In principle, such persons include both anonymous defendants who are identifiable at the time the proceedings commence but whose names are unknown and also newcomers, that is to say people who in the future will join the protest and fall within the description of the ‘persons unknown’.
 - (2) The ‘persons unknown’ must be defined in the originating process by reference to their conduct which is alleged to be unlawful.
 - (3) Interim injunctive relief may only be granted if there is a sufficiently real and imminent risk of a tort being committed to justify [precautionary] relief.
 - (4) As in the case of the originating process itself, the defendants subject to the interim injunction must be individually named if known and identified or, if not and described as ‘persons unknown’, must be capable of being identified and served with the order, if necessary by alternative service, the method of which must be set out in the order.”
13. In London Borough of Barking & Dagenham v. Persons Unknown [2021] EWHC 1201 (QB), Nicklin J rightly stressed the need for a more rigorous approach to applications under r.6.15. He particularly drew attention to a failure by the courts in a number of traveller injunction cases to give the required directions pursuant to r.6.15(4). While his decision in Barking & Dagenham was overturned on appeal, there is nothing in the Court of Appeal’s decision (reported at [2022] EWCA Civ 13, [2023] Q.B. 295) or the Supreme Court’s decision (reported as Wolverhampton City Council v. London Gypsies & Travellers [2023] UKSC 47, [2024] A.C. 983) that casts doubt on this part of the judge’s analysis.
14. In Anderton v. Clwyd County Council (No. 2) [2002] 1 W.L.R. 3174, Mummery LJ observed, at [58], that the power to dispense with service of a claim form had been exercised in cases where there was “no point in requiring [the claimant] to go through the motions of a second attempt to complete in law what he had already achieved in fact”. In Cameron, Lord Sumption added, at [25], that it might also be appropriate to dispense with service where a defendant deliberately evaded service and could not be reached by way of alternative service under r.6.15. He added:

“This would include cases where the defendant is unidentifiable but has concealed his identity in order to evade service. A court would have to be satisfied of that before it could dispense with service on that basis ... No submission was made to us that we should treat this as a case of evasion of service, and there are no findings which would enable us to do so. I would not wish arbitrarily to limit the discretion which r.6.16 confers on the court, but I find it hard to envisage any circumstances in which it could be right to dispense with service of the claim form in circumstances where there was no reason to believe that the defendant was aware that proceedings had been or were likely to be brought. That would expose him to a default judgment without having had the opportunity to be heard or otherwise to defend his interests.”

15. Citing Cameron, Nicklin J observed in Barking & Dagenham, at [48]:

“Save in respect of the exceptional category of claims brought [against the world], it is difficult to conceive of circumstances in which a court would be prepared to grant an order dispensing with the requirement to serve the claim form upon persons unknown under r.6.16 ...”

16. In Wolverhampton, the Supreme Court stressed the importance of service at [55]-[56]:

“55. Service is significant for many reasons. One of the most important is that it is a general requirement of justice that proceedings should be brought to the notice of parties whose interests are affected before any order is made against them (other than in an emergency), so that they have an opportunity to be heard. Service of the claim form on the defendant is the means by which such notice is normally given. It is also normally by means of service of the order that an injunction is brought to the notice of the defendant, so that he or she is bound to comply with it. But it is generally sufficient that the defendant is aware of the injunction at the time of the alleged breach of it.

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

THE STEPS TAKEN TO GIVE NOTICE OF THESE PROCEEDINGS

17. While the depot managers recognise the union members who have been picketing the depots, none of them have been able to identify the protesters who have been taking part in direct action since last autumn. Identification has been made more difficult by the fact that some – but by no means all - of the protesters have worn face coverings. The council’s solicitor, Deborah Carter-Hughes, therefore set out the steps taken to give notice of these proceedings in her two witness statements:

17.1 At the heart of the council’s strategy, it set up a dedicated webpage on the www.birmingham.gov.uk site that contains all relevant information about the council’s claim and this injunction application. On 3 February, the council uploaded the application notice, the claim form, the council’s certificate of urgency, the draft order, the witness statements and all but one exhibits to that site so that anyone accessing the webpage would be able to download and read such documents. On 4 February,

the final exhibit was also uploaded once it was realised that it had been omitted in error. Further, the webpage was updated on 5 February once the hearing date was known and the council uploaded the directions order made earlier that day by Her Honour Judge Kelly.

- 17.2 The second part of the strategy was to give notice to the various organisations who were identified in the evidence as having potential contact with the protesters. Accordingly, emails were sent on 3 February to Strike Map, the Socialist Workers' Party, Reel News and the Birmingham Socialist Party. Further, emails were sent to Unite officials and to the solicitor who had represented the union in the proceedings between the council and Unite. In each case, the emails explained that the council had issued an application and the relief sought against persons unknown who were protesting in support of the industrial action taken by Unite. The emails gave notice that the documents relating to the application had been placed online and contained two separate links to the webpage; one being a clickable URL and the other being an embedded QR code, both of which would take the reader directly to the webpage.
- 17.3 On 4 February, the council delivered hard copies of the application paperwork to Unite's London head office.
- 17.4 Again on 4 February, the council prominently fixed A4 notices to the railings at each of the depots. The notices explained the fact that the council had applied for an injunction and the relief sought. The notices contained the QR code so that anyone with a smartphone would easily be able to find the webpage.
- 17.5 That same day, the council also published details of the injunction application on X, LinkedIn, Bluesky, Facebook and the council's news page. Links were given to the webpage.
- 17.6 On 5 February, the court listed the application for hearing on 13 February. Upon being made aware of the listing details, the council emailed the various organisations giving notice of the hearing date.
- 17.7 Again on 5 February, the hearing details were added to the webpage.
- 17.8 That same day, further social media posts were made publishing the details of the hearing and again providing a link to the webpage.
- 17.9 On 6 February, replacement notices were fixed at prominent positions near the entrances and exits to the depots. The new notices published the date, time and location of the hearing and again provided readers with a QR code linking them directly to the webpage. In addition, copies of Judge Kelly's order were displayed at the same locations although, in error, the order was not fixed to the railings at two of the depots until 9 February.
- 17.10 A process server attended each of the depots on 6 February with the intention of handing out information leaflets but there were no protesters at any of the depots that morning. The same exercise was repeated on 10 February when leaflets were offered to, but declined by, protesters at the Smithfield depot. Further leafleting was undertaken on 12 February and was planned for the morning of 13 February. On 12 February, protesters were encountered at all of the depots. Some took leaflets while others refused to take them.
- 17.11 The notices erected at the depots were checked regularly between 4 and 13 February in order to ensure that they remained in place.

17.12 Further hearing documents, including Ms Carter-Hughes' first statement and exhibits, counsel's skeleton argument, the hearing bundles and the service application, were also uploaded to the webpage.

17.13 On 12 February, the council again published details of the hearing on social media.

18. The council's application generated media coverage from as early as 4 February. Articles appeared on the Express & Star, Birmingham Live, Institute of Employment Rights, Morning Star, and Rayo websites. The Institute of Employment Rights and Morning Star stories included quotes from Henry Fowler of Strike Map and the general secretaries of the Fire Brigades Union and ASLEF about the application. Rayo also quoted Mr Fowler. Further, the application generated social media posts by Unite for a Workers' Economy and Strike Map.
19. Further, on 11 February, Reel News posted details on Facebook of a planned demonstration to take place outside the court building at 10.00 am on 13 February. The post included a link to the webpage.

CONCLUSIONS ON SERVICE & NOTIFICATION

20. I accept that it has not been possible to identify the amorphous group of protesters in this case and that conventional means of service have not been possible. I am therefore satisfied that there is a good reason for making an order authorising service by alternative means pursuant to r.6.15. While service is challenging in this protest case, just as much as in many other cases where the claimant does not know the identities of the defendants, the court's power to dispense with service of the claim form pursuant to r.6.16 is to be reserved for exceptional cases where it is not possible to notify the defendants effectively by alternative means. Here, I consider that there were alternative means of service that could effectively notify the protesters of this claim. Accordingly, I reject Mr Carr's submission that the court should dispense with service of the claim form pursuant to r.6.16.
21. While the court's power to dispense with service of documents other than claim forms is not constrained by an exceptionality requirement, the principal use of r.6.28 is to dispense with the formality of service in cases where both parties already have a document. Having concluded that alternative steps could be effective, I reject Mr Carr's submission that the court should dispense with service of this injunction application.
22. Having reached these conclusions, I treat the council's application for orders dispensing with service as also encompassing the lesser relief of authorising service by alternative means pursuant to rr.6.15 and 6.27. It is then necessary to consider the steps actually taken in this case in order to determine whether they were sufficient such that the court should make retrospective orders pursuant to rr.6.15(2) and 6.27, or whether it should give directions for further steps now to be taken.
23. I am satisfied on the evidence that the council has done everything that it reasonably could do to notify the protesters involved in this direct action about the council's claim, the injunction application and the hearing on 13 February. Furthermore, I consider that the

council's strategy was successful in generating conventional and social media coverage that helped to get the word out. While the planned demonstration outside the court did not come to much (or at least, if it did, it was not audible from within the building), the steps taken by the council were in fact successful in bringing the hearing to the attention of Mr Richardson, Mr Wingate and the other interested parties who attended court.

24. I therefore order pursuant to rr.6.15(2) and r.6.27 that the steps already taken constitute good service of the claim form and the application on those defendants who have previously protested in the vicinity of the depot gates on or between 17 September 2025 and 12 February 2026. On handing down this judgment, I shall give further directions pursuant to r.6.15(4).
25. Of course, that order cannot deal with the question of service upon so-called newcomers. The injunction is necessarily sought without notice to such persons. However, as the Supreme Court made clear in Wolverhampton, the order sought will, if granted, bind the world such that anyone who knowingly breaches the order will be liable to be held in contempt regardless of whether they have been served with the proceedings.

THE EVIDENCE

26. The council relies on witness statements from Christopher Smiles, its Head of Waste, Logistics and Collection; Dean Smith, Richard Smith and David Miller, its Service Managers for individual depots; Carol Culley CBE, its Director of Finance; and Deborah Carter-Hughes, its Assistant Director of Legal Services.
27. Mr Smiles explains that the council operates its waste collection and management service from four depots:
 - 27.1 Atlas Depot on King's Road, Tyseley in the east of the city;
 - 27.2 Lifford Lane Depot on Ebury Road, Kings Norton in the south of the city;
 - 27.3 Perry Barr Depot on Holford Drive, Perry Barr in the north-west of the city; and
 - 27.4 Smithfield Depot on Sherlock Street in the city centre.

INDUSTRIAL ACTION

28. Since 2 January 2025, bin workers who are members of Unite have been taking industrial action in respect of pay and conditions. Strike action has been continuous since 11 March 2025. In order to maintain a service during the strike, the council has operated a contingency waste service. Mr Smiles says that its contingency plan has been effective in providing a weekly waste service for Birmingham residents when it has not been disrupted by protesters.
29. In 2025, the council's contingency waste collection service was disrupted by Unite members who blocked the depots thereby preventing the bin lorries from being deployed. By 31 March 2025, the volume of uncollected waste across Birmingham was 22,000 tonnes. The council declared the waste situation to be a major incident.

30. Matters then improved with assistance from West Midlands Police until mid-May. From 15 May 2025, union members again started blockading the depots. The resumption of such tactics led the council to sue Unite in claim KB-2025-001839. The council recognised Unite's right to conduct peaceful picketing at the depots in accordance with ss.219 and 220 of the Trade Union & Labour Relations (Consolidation) Act 1992, but challenged the lawfulness of the union's actions in forming blockades to disrupt the collection of waste. Interim relief was granted by Dias J on 23 and 29 May 2025, and extended by Calver J on 24 June 2025. Such orders restrained Unite from picketing other than with six pickets at each depot within defined assembly areas.
31. From 8 July 2025, the union's tactics changed and blockades were formed on access roads away from the depot gates thereby funnelling the bin lorries down certain roads which were then blocked. On 24 July 2025, the council initiated contempt proceedings. At a hearing before Jefford J on 14 October 2025, Unite admitted ten allegations of contempt of court.
32. Mr Smiles confirms that the combination of the injunctions obtained and the contempt application in Birmingham City Council v. Unite the Union succeeded in preventing further disruption to the contingency waste collection service by Unite.

DIRECT ACTION BY OTHER PROTESTERS

33. As litigation succeeded in restraining Unite from disrupting waste collections, Mr Smiles says that other protesters picked up where the union had left off. As he put it in evidence, it is as if the very activities that led to the injunction and committal against Unite have simply been "outsourced" to defendants. Specifically, the protesters have walked slowly in front of bin lorries; they have blockaded depots preventing vehicles from getting on to the road in order to start their collection rounds; and they have blocked bin lorries on the access roads that lead to the depots.
34. This new disruption started on 17 September 2025. Direct action continued sporadically through the autumn and early winter but became more regular during December 2025 before increasing significantly throughout January 2026.

17 September 2025

35. On 17 September 2025, protesters stopped bin lorries at the junction of Redfern and Wharfdale Roads near to the Atlas depot. They were blocked both at the front and back and held for about 90 minutes before they were released. The disruption meant that 5,223 households did not have their scheduled waste collection that day.
36. The Birmingham Socialist Party claimed joint responsibility for the incident in a Facebook post later that day, claiming:

“This morning, our comrades joined other independent activists to block bin wagons in support of the striking bin workers. 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.

Join us in supporting the bin workers this Saturday at 9.30 outside the Unite building on Jennings Road, B7 4EH. We'll be marching to the council house to show John Cotton and the Labour council that Birmingham residents back the bin workers!"

October and November 2025

37. On 17 October and 25 November 2025, protesters variously stood across the exit of Atlas depot and walked in circles. Either way, they blocked the depot so that bin lorries could not get out affecting 2,778 households on the first date and a 6,541 households on the second.
38. On 26 November, the Birmingham Socialist Party posted a story on Facebook claiming that the party, together with Socialist Students and other community activists, had "conducted independent direct action to block bin wagons in support of the striking workers". Again, the complaint was made that the council had used "Tory anti-trade union laws to prevent the striking workers from effectively picketing themselves" adding "that's why activists have taken action into their own hands".

December 2025

39. From 5 December 2025, these sporadic incidents became more regular and started to cause a more substantial impact on the council's waste collection service. Protesters deployed the same tactics to disrupt the service on 5 December at Atlas depot leading to 30,554 households not having their scheduled waste collection service; on 12 December at Perry Barr and Smithfield depots affecting 10,416 households; and on 19 December at Smithfield depot affecting a further 694 households.

January 2026

40. After a break over the Christmas and New Year period, direct action resumed on 8 January 2026 when protesters deployed the same tactics to disrupt waste collections at Perry Barr and Atlas depots. 13,491 households did not receive their scheduled waste collection that day being 18% of the day's rounds. A social media post made by a group called Justice for Refuse Workers & Cleansers claimed that protests had led to a couple of depots being prevented from operating by a group of "plucky activists".
41. Further action followed on 12 January at Perry Barr and Atlas depots delaying deployment by about 4 hours. 78% of scheduled collections were not made that day affecting 56,973 households. One of the protesters told David Miller, the depot manager for Atlas depot, that they intended to blockade three times a week going forward. Mr Smiles undertook some rough calculations and estimated that such level of action across two depots would lead to the uncollected waste on the streets of Birmingham increasing by 2,500 tonnes each week.
42. A group called Reel News posted a video of the action taken at Perry Barr on both YouTube and Facebook. The commentary complained that the council was not taking any action to resolve the strike and that it had obtained an injunction to stop the bin workers and Unite from picketing their workplaces. It then explained:

“So supporters of the bin workers 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.

The 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?”

43. Further direct action was taken on 15 January at Smithfield and Atlas depots causing 17,238 households not to have a collection. There was a further blockade on 19 January at Perry Barr depot delaying deployment by almost 4 hours and affecting 18,261 households, and on 21 January at Perry Barr and Atlas depots delaying full deployment by over three hours at both depots and affecting 35,816 households.
44. Mr Smiles explains that the council deployed additional resources in an effort to counteract the disruption caused by the direct action. Doing so enabled the council to rectify missed collections ahead of the week that commenced 26 January. There were, however, blockades on four days out of five affecting all of the depots in the following week:
 - 44.1 First, there were blockades on 27 and 28 January at Perry Barr and Atlas depots affecting 5,088 and 11,939 households respectively.
 - 44.2 On 29 January, action was stepped up also to include Smithfield depot. 47% of scheduled collections were missed affecting 35,226 households. On that day, Richard Smith, the depot manager at Perry Barr, says that the protesters trespassed on to the depot itself by forming the blockade some 15-20 metres inside the gates. The action at Perry Barr meant that all vehicles were not fully deployed for over 5 hours.
 - 44.3 The direct action culminated on 30 January with a self-proclaimed “megapicket” that blockaded all of the council's waste depots and also its depot on Brewery Street which houses the council's Street Scene team responsible for road sweeping even though that team was not involved in the industrial action. This action led to the complete closure of the council's waste collection service that day.
45. A promotional flyer for the megapicket bore the name of Strike Map and claimed that the event was supported by a number of unions and other sympathetic workers' organisations and political parties. An article in the Morning Star on the day of the megapicket declared that “mass picketing and the rise of the megapicket have been defining features of 2025 for Strike Map and the wider labour movement”. It added that two earlier megapickets on 9 May and 25 July 2025 “successfully shut sites when Unite's injunction prevented workers from doing so themselves”. Extolling the value of direct action, Henry Fowler and Rob Poole, the co-founders of Strike Map, explained:

“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 ...

We must disrupt production. We must build effective picket lines. We must hit profits.”

46. The Morning Star article also asserted that Unite had become a national affiliate of Strike Map.
47. The combined effect of the direct action that week was that 67,000 households, being 19% of the 340,000 households across the city, did not receive a waste collection service. Mr Smiles said that ongoing disruption at anything like the same level would mean that the council would not be able to catch up the missed collections and that the waste lying uncollected on the streets would continue to climb.
48. The cost of the additional resources required to redress the missed collections just in the week of 26 January to 1 February was £113,798. That spend brought the total cost of overtime and additional resources required because of the direct action during January 2026 to £411,523, more than four times higher than the equivalent cost of £97,612 in December 2025. Mr Smiles says that this level of cost is not sustainable.

February 2026

49. This claim was issued early in the following week. By her statements, Ms Carter-Hughes updated the court to explain that there were further blockades at Smithfield depot on 10 and 11 February and at Smithfield and Atlas depots on 12 February. Accordingly, after some apparent inactivity at the start of February, direct action resumed in the week of 9-13 February. One detail of the action taken on 12 February is particularly important to the public nuisance claim. On this occasion, a bin lorry was allowed out of Atlas depot but impeded as two protesters then walked slowly down Redfern Road all the way to the junction with Wharfdale Road. This delayed the lorry by some 15 minutes and was then repeated for the next bin lorry.
50. Mr Smiles identified one unpleasant incident when a protester repeatedly called an employee at the Atlas depot a “scab” in an intimidating manner. Otherwise, the video evidence indicates that the vast majority of these protests have been good natured.
51. The blockades have not been total. Protesters have often allowed bin lorries out at intervals of around 15 minutes. Nevertheless, such strategy inevitably meant that lorries have been backed up and that some are waiting for hours.
52. The council has sought to engage the police. These protests have not, however, been violent and in preventing any offence of obstructing the highway contrary to s.137 of the Highways Act 1980, the police have been conscious of the need to allow reasonable time for protest in accordance with the Supreme Court’s decision in DPP v. Ziegler [2021] UKSC 23, [2022] A.C. 406. The police have interpreted Ziegler as meaning that they should not intervene in a peaceful protest which persists no longer than a few hours or which allows the bin lorries out, albeit one at a time and with some delay between each release.

53. The extent of the direct action taken during January 2026 was the tipping point that caused the council to decide to bring these proceedings.

THE PROPER APPROACH TO THIS APPLICATION

54. In his skeleton argument, Mr Carr analysed this application on conventional American Cyanamid principles. That approach would only require the council to demonstrate at this interim stage a serious issue to be tried. Since, however, the council concedes that article 10 is engaged, this case is subject to s.12 of the Human Rights Act 1998. I have already considered its requirement for notification of any application for relief that might affect the exercise of article 10 rights. In this context, it is necessary also to consider s.12(3) which provides that in such a claim “no such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.”
55. Although the orders that I propose to make mean that certain protesters are deemed to have been served, an important purpose of this application is to obtain an injunction that also binds newcomers. To that extent, this is an application against the whole world and is therefore necessarily made without notice. Thus, Mr Carr rightly accepts that, in accordance with Wolverhampton, the council has to establish a “compelling” need for the protection of its civil rights that would not adequately be met by any other measures available to the local authority: Wolverhampton, at [167](i).
56. Accordingly, to obtain the relief sought, the council must not just prove a serious issue to be tried but that it is more likely than not to succeed in its claim at trial and that there is a compelling need for relief that would not adequately be met by other measures. Further, as with any application for an injunction, the court must be satisfied that it is just and convenient to grant relief.
57. Further, in accordance with the guidance in Wolverhampton at [167], a number of other matters are necessary:
- 57.1 First, any order should include adequate procedural protection for the rights of affected newcomers to overcome the fact that the order is being made without notice otherwise than as an emergency measure to hold the ring. Such protection should include directions to take all reasonable steps to draw the application and order made to the attention of all those likely to be affected by it, and “the most generous” provision for liberty to apply to have any order varied or set aside.
- 57.2 Secondly, the council should be required to comply with the most stringent form of disclosure duty on making the application, so as both to research for and present to the court everything that might have been said by newcomers against the grant of relief.
- 57.3 Thirdly, injunctions should be subject to territorial and temporal limits so that they “neither outflank nor outlast the compelling circumstances relied upon”.

ARGUMENT

58. In argument, Mr Carr made plain that the council did not suggest that the activities of the protesters had been anything other than peaceful. He argued that it would, however, be ironic if the protesters had greater rights to protest than the Unite members who are employed as bin workers and directly affected by this dispute.
59. Mr Carr submitted that the council has established good causes of action in trespass, private nuisance and public nuisance. Mr Carr accepted that the application engaged the protesters' convention rights under articles 10 and 11, but drew a distinction between the right to seek to persuade others not to work (which he acknowledged is protected by article 11) and compelling those people not to work by blocking their lorries (which he submitted is not a core right within the article). While he accepted that the law protects the right to peaceful protest, he argued that there was no realistic defence to the council's claim and that any convention claim was bound to fail. He submitted that the protesters can protest anywhere they like but what they must not do is block the free movement of the bin lorries as they collect waste throughout the city.
60. Mr Carr acknowledged that it might be argued that no injunction is necessary beyond the immediate depot premises given that the vast majority of the direct action took place outside the depot gates. Against that, he submitted that bin lorries had been blocked away from the depots on two occasions and direct action had also targeted the Brewery depot even though the street cleansing team are not involved in the industrial action. Further he argued that protesters had thus far focused their action on the depot gates because that has been effective in obstructing the waste collection service but that the court needed to appreciate that the protest would simply move down the road if any order only restrained conduct at the gates.
61. Further Mr Carr acknowledged that it might be argued that any injunction should be limited to waste collection vehicles, but responded that the megapicket showed a willingness to block any vehicles, even those engaged in combatting fly tipping.
62. Mr Carr also submitted that it might be argued that the council should have named Henry Fowler and Rob Poole as defendants but responded that there was no evidence of their attendance at any of the protests or of their involvement in any direct action.
63. Mr Carr accepted that there is limited evidence of trespass and that there is only evidence of two incidents – one on 17 September 2025 and one on 12 February 2026 – of the council's waste management vehicles being obstructed on the roads away from the depots. Nevertheless, he pointed to the strength of feeling and the obvious intention that protesters should take effective direct action with the express purpose of disrupting the waste collection service.
64. Mr Wingate asked that the court consider what the dispute was really about. He complained as a longtime resident about the ongoing erosion of council services, the proposed reduction to fortnightly collections and the accumulation of rubbish on the streets as a result of years

of neglect. He argued that the public interest was in investing properly in services and ensuring that the city has properly paid bin workers. He said that bin workers were facing a pay cut and that it was a huge attack on workers. He queried in any event whether anyone could trespass on public land. The defence to this claim was, he asserted, one of social justice and public decency. Mr Wingate asserted that the court should uphold the right to protest on council land that was funded by the public.

65. Mr Richardson cautioned that an injunction would have serious implications for the democratic right to peaceful protest. He was particularly concerned at the application to restrain protest activity away from the depot gates. He said that while there were a small group of protesters circulating around the entrance to Atlas depot there were a larger number making their views known and not interrupting or threatening any individual or stopping any lorry from emerging. Further, he said that the protesters who were blocking the exits were protesting peacefully and that the court should uphold the long tradition of peaceful direct action. He said that the protesters withdrew every 15 minutes to let a lorry out. He also relied on the fact that the police did not intervene and obviously did not consider that a crime had been committed. Mr Richardson criticised the council's application as a repressive move to limit people's democratic rights.
66. In reply, Mr Carr accepted that on a number of occasions the protesters had allowed a lorry out every 15 minutes or so. He made the point that such strategy meant, for example, that lorry 12 from a particular depot would be deployed three hours behind schedule.

DISCUSSION

THE PLEADED CLAIMS

67. The council brings this action in trespass, private nuisance and public nuisance:
- 67.1 Trespass:
- a) The claim in trespass is straightforward in that it is alleged that the protesters have entered onto the council's land without its permission. There is no merit in Mr Wingate's point that the depots are publicly owned since they were acquired with monies raised from taxes. That is as may be, but local authorities can nevertheless own land and maintain an action in trespass.
 - b) Here, protests have for the most part been conducted outside the depot gates. There is, however, evidence of trespass on one depot on one occasion in that on 29 January 2026 protesters encroached beyond the gates and trespassed on to the Perry Barr depot by some 15-20 metres.
 - c) While that is only evidence of one incident of trespass, it has happened and I accept that a landowner whose title is not disputed is, in principle, entitled to an injunction to restrain a threatened or apprehended further trespass: HS2 v. Persons Unknown [2022] EWHC 3360 (KB), at [74].
- 67.2 Private nuisance:
- a) The tort of private nuisance is committed when a defendant substantially and unreasonably interferes with a landowner's enjoyment of his land. Interference with a landowner's right of access to his land from the public highway can

amount to private nuisance: Caudrilla Bowland Ltd v. Persons Unknown [2020] EWCA Civ 9, [2020] 4 W.L.R. 29, at [13].

- b) There is, in my judgment, clear evidence that the protesters have interfered with the council's peaceful enjoyment of its land in that their direct action has prevented the council from having free access to and egress from its depots.

67.3 Public nuisance:

- a) While private nuisance is concerned with the enjoyment of land, public nuisance is a crime committed against the public at large. Where, however, a claimant suffers "special damage" beyond that suffered by the general public, the public nuisance is also actionable in tort: R v. Rimmington [2006] A.C. 459, at [44].
- b) Unlawful obstruction of the highway is an offence contrary to s.137 of the Highways Act 1980 and may also amount to the crime of public nuisance. Where the obstruction causes the claimant "special damage" beyond that suffered by the general public, it can also amount to the tort of public nuisance. Here, I consider that the targeted obstruction of the council's waste management vehicles on the highway is capable of amounting to the tort of public nuisance.

THE RIGHT TO PROTEST

68. It is, however, necessary then to consider the protesters' convention rights. The law protects the right of peaceful protest in a democratic society. Two articles of the convention are engaged:

68.1 First, article 10 protects the freedom of expression, and provides so far as is material:

- "(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers ...
- (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

68.2 Secondly, article 11 which protects the freedom of assembly and association, and provides, again so far as is material:

- "(1) Everyone has the right to freedom of peaceful assembly ...
- (2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or 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 ..."

69. Large-scale peaceful protest can inevitably cause inconvenience to others but some level of inconvenience must be tolerated in a democratic society in order to protect such rights. Both article 10 and article 11 are qualified rights and recognise that the right to protest may be

restricted where that is “necessary” for, among other matters, the protection of the rights and freedoms of others. That calls for a fact-specific enquiry into the proportionality of the relief sought that requires evaluation of the circumstances of the individual case: Ziegler, at [59].

70. Analysing this case consistently with the approach taken by the Supreme Court in Ziegler, at [58], involves the following steps:
- 70.1 First, the protesters’ actions have been undertaken in exercise of their own convention rights under articles 10 and 11. Such rights are, however, qualified.
 - 70.2 Secondly, the injunction sought from the court would amount to an interference with such rights.
 - 70.3 Thirdly, such interference would be prescribed by law.
 - 70.4 Fourthly, such interference would – if granted – be in pursuit of a legitimate aim as set out in articles 10 and 11, namely the protection of the rights of others; specifically the property rights of the council protected by article 1 of the First Protocol to the convention and the common law of trespass and private nuisance to enjoy the use of its own land by preventing trespass and ensuring the unrestricted access to and egress from its depots, and the law of public nuisance that prevents the deliberate and targeted obstruction of its vehicles on the public highway.
 - 70.5 The question for resolution in this claim will ultimately be whether such interference with the protesters’ convention rights would be necessary in a democratic society so that a fair balance was struck between the requirements of freedom of expression and assembly and, on the other hand, the protection of the rights and freedoms of others.
71. The right to protest is, in my judgment, no answer to the claim in trespass. Effective protest neither requires nor can justify the trespass on to the council’s land: Cuciurean v. Secretary of State for Transport [2021] EWCA Civ 357, DPP v. Cuciurean [2022] EWHC 736 (Admin), at [45]-[46].
72. In Kudrevicius v. Lithuania 62 EHRR 1107, the European Court of Human Rights held, at [97], that the deliberate obstruction of major roads engaged article 11 but that such “physical conduct purposely obstructing traffic and the ordinary course of life in order to seriously disrupt the activities carried out by others is not at the core of that freedom as protected by article 11”. The court added that such conclusion “might have implications for any assessment of necessity to be carried out under the second paragraph of article 11”. Accordingly, as the Supreme Court made clear in Ziegler, deliberate obstructive conduct that had a more than de minimis impact on others is not of itself sufficient to answer the article 11 claim and the court must still conduct a careful evaluation in order to determine proportionality. Lords Hamblen and Stephens summarised the position at [70]:
- “It is clear ... that intentional action by protesters to disrupt by obstructing others enjoys the guarantees of articles 10 and 11, but both disruption and whether it is intentional are relevant factors in relation to an evaluation of proportionality. Accordingly, intentional action even with an effect that is more than de minimis does not automatically lead to the conclusion that any interference with the protesters’ articles 10 and 11 rights is proportionate. Rather, there must be an assessment of the

facts in each individual case to determine whether the interference with article 10 or article 11 rights was 'necessary in a democratic society'."

73. In carrying out that assessment, the Supreme Court approved the guidance given by Lord Neuberger MR in City of London Corporation v. Samede [2012] EWCA Civ 160, [2012] 2 All E.R. 1039, at [39]-[41], that the lawfulness of protest on the highway will depend on a number of factors including (a) the extent to which the protest breaches domestic law, (b) the importance of the precise location to the protesters, (c) the duration of the protest, (d) the degree to which the protesters occupy land, (e) the extent of the actual interference the protest causes to the rights of others, including property rights of landowners, and the rights of members of the public, (f) the general character of the views whose expression the convention is being invoked to protect, and (g) whether the protesters believed in the views they were expressing.
74. In this case, I distinguish between inconvenience incidentally caused by the exercise of the right of peaceful protest and that caused deliberately by taking direct action, albeit peacefully, to obstruct the waste collection service. There is nothing incidental about the inconvenience in this case; rather it is a matter of deliberate design intended to bring pressure to bear on the council in support of the ongoing industrial action. In accordance with Kudrevicius and Ziegler, the fact that the inconvenience in this case was deliberate does not of itself mean that injunctive relief is proportionate. It is, however, a factor that I take into account since direct action of this sort is not at the core of the right protected by article 11.
75. In addition, I take into account the factors identified by Lord Neuberger in Samede. Doing so, I conclude that (a) there is strong evidence that the protesters have breached the domestic law of both private and public nuisance; (b) the right to protest outside the depots may be important to the protesters, but not the right to block the gates or obstruct the bin lorries on their rounds; (c) the duration of the protest should not simply be measured in hours on a single date, rather this direct action should be assessed in its proper context of an escalating pattern of direct action that has been conducted across no fewer than nine different working days across multiple depots just in the month of January; (d) the protesters have on each occasion occupied land immediately outside the depot gates, and on 29 January occupied part of the highway to prevent bin lorries from either proceeding on their way or turning around; (e) these protests have by design caused enormous disruption to the council's ability to provide a waste collection service to the residents of Birmingham with the consequence that uncollected rubbish has built up on the streets leading to an obvious loss of amenity, increased fly tipping and environmental risk; (f) these protests are in support of the legitimate political view that the council has not treated the bin workers fairly; and (g) there is no reason to think that such view is anything other than sincerely held.
76. Balancing all of those factors, I consider that the city council has established that it is more likely than not that the court at trial would find that the proportionality assessment clearly favours injunctive relief to restrain the excesses of direct action and to limit the protesters to peaceful protest that does not obstruct the delivery of its waste management service. Further, I conclude that the council has established a compelling need for relief in order to protect its enjoyment of its land and its ability to deliver an effective waste collection service, and that such need cannot be adequately met by any other measures including either negotiation with the protesters or further engagement with the police.

77. Further, I accept that robust procedural protection for the rights of newcomers can be built into the order; that the council has properly drawn to my attention the potential defences to its claim and the arguments that might have been presented to me; and that it is just and convenient to grant interim relief in this case.

CONCLUSION

78. For these reasons:

78.1 I order pursuant to rr.6.15(2) and 6.27 that the steps already taken to bring the claim form and these applications to the attention of the protesters at the council's waste depots is good service on such protesters, and I give further directions as required by r.6.15(4). Further, I direct that my order be served on these protesters by the same means.

78.2 I grant Birmingham City Council interim relief restraining acts of trespass upon the depot sites, obstruction of the depot entrances and exits, and the obstruction of the council's street management vehicles throughout Birmingham.

78.3 My order will, however, make clear that nothing within my order prevents:

- a) lawful picketing by union members and officials in accordance with the orders made in Birmingham City Council v. Unite by Dias and Calver JJ; or
- b) peaceful protests whether at the depots or elsewhere that does not trespass on council land and which does not obstruct the free passage of vehicles or people.

78.4 I will provide all parties affected by such order generous permission to apply to vary or discharge my order.

78.5 I decline to make any order dispensing with service of any future committal application.

79. Mr Carr's draft sought what he described as interim relief for an initial period of six months. While the Court of Appeal in Barking & Dagenham and the Supreme Court in the case on further appeal (Wolverhampton) stressed that that the usual boundaries between interim and so-called final orders – which in such cases always remain subject to further review and discharge – are not rigid, a claim for the entire relief sought in a claim form cannot properly be described as interim. Upon this application, I therefore grant relief until trial or further order but in any event for not more than an initial period of three months.

THE FURTHER CONDUCT OF THIS CASE

80. The council has chosen to use the Part 7 claim procedure. This is unorthodox in protester claims in which the facts are unlikely to be in dispute and there is no real expectation of a final trial. While I did not hear argument on this issue, the Part 7 procedure has a number of features that would appear to make it inappropriate in this case:

80.1 First, default judgment is available under Part 12 upon a defendant's failure to acknowledge service or file a defence. That said, default judgment could not be entered administratively in this case in view of the remedy sought: r.12.4(3); and the council would be well advised not to make such an application. Against that, default judgment cannot be entered in a Part 8 claim: rr.8.1(5) and 12.2(b); and the only consequence of

a failure to acknowledge service of a Part 8 claim is that such defendant may not take part in the hearing of the claim unless the court gives him or her permission to do so: r.8.4.

80.2 Secondly, Part 7 requires the parties to plead out their cases. Indeed, the council is now required to serve its Particulars of Claim within 14 days after service of the claim form. Since the court is making an order pursuant to r.6.15, time is already ticking.

80.3 Thirdly, should – which seems unlikely – defences be filed, directions questionnaires will be sent out and the case would be listed for a costs and case management hearing. Under Part 8, there is no provision for formal defences or directions questionnaires and no automatic costs management, case management hearings or disclosure.

81. There is, however, no application before the court for an order that the claim proceeds under Part 8 and I have not heard argument on the point. Further, any such application is not urgent and would have to be made on notice. Accordingly, the matter must proceed under Part 7 and Particulars of Claim will have to be served. Given the fact that the claim is itself limited to a claim for injunctive relief for a period of six months, the council should then give urgent consideration to whether it seeks an order for a speedy trial.