

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

BETWEEN:

BIRMINGHAM CITY COUNCIL

Claimant

-and-

PERSONS UNKNOWN (AS DEFINED IN THE CLAIM FORM)

Defendants

CLAIMANT'S OUTLINE SUBMISSIONS

REVIEW APPLICATION – 18 MAY 2026

ESSENTIAL READING:

- Order dated 20 February 2026 – DCH3/15
- Judgment dated 20 February 2025 – DCH3/14
- Application Notice
- Draft Order
- Third - Sixth Witness Statements of Deborah Carter-Hughes and Exhibits
- First and Second Witness Statements of Anthony Cox and Exhibits
- Application Notice re. Part 8 proceedings

READING TIME: Approximately 2-2.5 hours

REFERENCES:

- To witness statements are in the form of initials and paragraph numbers eg. DCH3§25;
- To exhibits are in the form of initials and exhibit numbers eg. DCH3/30
- To page numbers in the hearing bundle are in the form eg. [31]

A. INTRODUCTION

1. This matter was last before the Court on 13 February 2026 when the Claimant made an application to restrain protesting activity by the Defendants conducted at its Depot premises in Birmingham and elsewhere along routes taken by the Claimant's vehicles in carrying out waste collections across the city. Judgment on the application was given on 20 February 2026¹ ("the February 2026 Judgment") and an interim injunction granted on the same day ("the February 2026 Order").²
2. Under the terms of the February 2025 Order, the injunction was granted until 20 May 2026³. Under the present application, the Claimant seeks an extension of the February 2026 Order. Unfortunately, the underlying industrial dispute involving the Claimant's waste collection employees has not been resolved and it is the Claimant's case that unless restrained by this Court, the Defendants will simply resume their protesting activities which were the subject of the February 2026 Order.
3. This Review Application was originally listed to be heard on 30 April 2026 but

¹ DCH3/14/ [48]

² DCH3/15 / [69]

³ With the reasoning set out at paragraph 79 of the February Judgment – [67]

was postponed due to the allocated Judge being taken unwell.

4. In its letter dated 1 May 2026, the Claimant was asked to consider whether the claim should continue under Part 7 of the CPR or be transfer to Part 8. On 12 May 2026, the Claimant submitted an application and draft Order to transfer the proceedings to the Part 8 process. HHJ Kelly subsequently confirmed the application will be considered at this hearing and submissions addressing this will be made orally.

5. As far as the trade dispute is concerned, the current position is that:
 - Unite the Union (“Unite”) has balloted its members again which will allow strike action to continue without any further ballot until August 2025;
 - As the Court will be aware, the Claimant obtained an injunction in May 2025 (“the May 2025 Injunction”) to restrain Unite from organising protest activity of the sort that was then undertaken by the Defendants in this claim after that injunction was granted. The May 2025 Injunction remains in force and the Claimant’s claim against Unite continues. That matter was last before the Court on 23 April 2026 when a Costs and Case Management Conference was conducted by Mrs Justice Eady and a trial window fixed for January 2027. Unite has made no attempt to seek to discharge the May 2025 Injunction and it is therefore overwhelmingly likely that its terms (or similar) will remain in place at least until judgment is given following the trial early next year.⁴

⁴ Unless of course that action is resolved between the parties, either in the context of a resolution to the industrial dispute as a whole or on its own particular terms

6. As set out in the First Witness Statement of Anthony Cox, prior to the City Council elections on 7 May, there was talk of a deal being reached between the Claimant and Unite to end the trade dispute. This reflected a statement made by Cllr John Cotton in his capacity as Leader of the Labour Group and not on behalf of the Council as a whole. No agreement was reached and the Council elections resulted in no overall majority for any political grouping (or even for two). Cllr Cotton was unsuccessful in seeking re-election.
7. As described by Mr Cox in his Second Witness Statement, whichever coalition of parties does form the next administration, it will necessarily take time (likely up to six months) for the Council to be able to resolve the dispute. It is also foreseeable that the newly formed Council will not support the Labour Party Group's proposal which would set matters back further.
8. In the February 2026 Judgment, it was accepted that the Claimant has established that it was "more likely than not" that in conducting the proportionality assessment required in relation to the actions of the Defendants, it would show that injunctive relief should be granted to restrain such direct action. It was also accepted that the Claimant 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".⁵
9. The Claimant now seeks an extension of the February 2026 Order, on similar

⁵ Judgment, paragraph 76 – [66]

terms. Since the making of the February 2026 Order, the Claimant has been allowed to amend its Claim Form so as to seek an injunction until 1 January 2028 and has issued the present extension application by reference to that date. The Claimant accepts that the date is in some respects an arbitrary one and that in those circumstances, the Court may feel that, in the absence of a final determination of its claim in these proceedings, it is more appropriate that an order allowing for further review is more appropriate. The Claimant will address this issue further below.

B. NOTICE OF THIS HEARING

10. Section 221(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (“TULR(C)A”) provides:

“221 Restrictions on grant of injunctions and interdicts.

(1) Where—

(a) an application for an injunction or interdict is made to a court in the absence of the party against whom it is sought or any representative of his, and

(b) he claims, or in the opinion of the court would be likely to claim, that he acted in contemplation or furtherance of a trade dispute,

the court shall not grant the injunction or interdict unless satisfied that all steps which in the circumstances were reasonable have been taken with a view to securing that notice of the application and an opportunity of being heard with respect to the application have been given to him.”

11. This is reflected in section 12(2) of the Human Rights Act 1992 which provides that where a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right freedom of expression:

“(2) 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”

12. As required, and as set out in the second witness statement of Ms Carter Hughes **[DCH4§11-24]**, the Claimant has taken all “reasonable” and “practicable” steps to notify the Defendants of this application and the hearing by:

- a. On 20 April 2026, emails sent to following parties attaching copies of application documents
 - i. Unite (email to Sharon Graham, Annmarie Kilcline, and Onay Kasab at Unite, copying Neil Todd and William Webb of Thompsons Solicitors)
 - ii. Strike Map
 - iii. Reel News
 - iv. Socialist Worker Party
 - v. Birmingham Socialist Party.

13. On 21 April 2026
 - b. Application documentation uploaded to Webpage - [Waste Injunction Against Persons Unknown | Birmingham City Council](#)
 - c. Webpage wording updated to reflect Application having been made
 - d. Notices affixed at the Depots with QR code link to webpage
 - e. Hard copy letter and application documentation provided to Unite.
14. On 22 April 2026, social media posts were made on Twitter/X, LinkedIn, Facebook and BlueSky.
15. Further, on 23 April 2026 the Claimant received the Notice of Hearing and Order (“the Listing Order”) [87] - [88] from the Birmingham District Registry setting out the steps the Claimant should take by 4pm on 24 April 2026 to serve the extension application, evidence draft order sought and this order (together “the Extension Application Documents” on the Defendants.
16. As confirmed by Ms Carter-Hughes at [DCH4§19-24], all steps at paragraph 2 of the Listing Order were complied with and a witness statement confirming the same, filed as directed at paragraph 3. Following the re-listing of this hearing, these steps have been repeated as set out at [DCH6§23-32].

C. BACKGROUND

17. The Court will be familiar with the background to this claim. However, by way of brief reminder, the direct action taken by the Defendants was in support of industrial action taken by Unite the Union for which there remains a mandate until

9 August 2026.

18. The nature of the Claimant's waste service operations, and the significant impact of both Unite and then the Defendant's activities on it, are described by Christopher Smiles, Head of Waste, Logistics and Collection in his witness statement for the original injunction application to which the court is referred.
19. The self-described, direct action taken by the Defendants to blockade the Claimant's waste depots started as early as May 2025 but intensified from early December 2025. This resulted in around 67,000 of the 340,000 households in the city (nearly 19%) having not received their waste collection to the week ending 30 January 2026, As described by Mr Smiles the frequency and impact of the blockades on the waste service increased significantly in January 20206 and affected the ability of the Council to provide a key service for the residents of the city. The disruption culminated on the 30 January 2026 and resulted in the complete closure of waste services across all depots. **[CS§10-11]**.
20. This led the Claimant to make an application for an injunction against Persons Unknown on 13 February 2026 and the granting of the February 2026 Order.
21. As set out below, whilst the injunction has been effective at the Council's waste depots, the Defendants have sought to circumvent its terms by instead causing disruption at Tom Whites (the waste collection provider for Coventry providing assistance to Birmingham).

D. THE BASIS FOR THE FEBRUARY 2026 ORDER

22. As set out above, this action – and the original application for an interim injunction – has its roots in the long-running trade dispute involving workers employed by the Claimant in its waste collection service. Members of Unite employed by the Claimant were lawfully balloted to take industrial action however from around March 2025, they began to block the Claimant’s waste collection vehicles, either at the entrance to the Depots covered by the current order or otherwise on the streets of Birmingham. This 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 ("the May Order")⁶, the terms of which (subject to limited variation in order to cover an additional Depot – Smithfield) remain in force.
23. The terms of the May 2025 Order were breached by Unite which in due course led to the Claimant making a contempt application which has now been determined by Mrs Justice Jefford who, in a Judgment handed down on 17 March 2026, imposed a fine of £265,000 plus costs. The period covered by the contempt application covered events which took place in July 2025 and in which Unite had been responsible for organising the blockading of vehicles, primarily away from Depot entrances. The explanation for this, which was rejected by Mrs Justice Jefford, was that they believed that the terms of the May 2025 Order allowed them to protest – and block the free passage of the Claimant’s vehicles – as long as this was done away from Depot entrances.

⁶ CS/8

24. As was put before the Court at the hearing in February 2026, where Unite was enjoined from blockading the Claimant's vehicles "other protestors picked up where the union had left off".⁷ As already stated, all of this led the Court to conclude that the Claimant had established a need for injunctive relief had properly been established and that there was a compelling need for an order to be made.⁸
25. The Claimant's position is that nothing has changed – either legally or factually – which undermines the reasoning that led to the February 2026 Order or that would justify not continuing with a further order in similar terms.

E. NOTICE OF THE INJUNCTION ORDER AND THE AMENDED CLAIM FORM

26. At [DCH3§34-42], Ms Carter-Hughes describes the steps taken to serve the Injunction Order upon the Defendants as directed at paragraph 10 of the same.
27. Ms Carter-Hughes also explains the steps take to monitor the notices of the Injunction Order at each of the depots at [DCH3§47]. This will continue to be repeated on a monthly basis.
28. On 25 February 2026, the Claimant applied to amend the claim form to insert the words "until 1 January 2028" in respect of the time limit on the injunction that is sought, in previously having been silent on duration ("the Amendment

⁷ Judgment – paragraph 33 – [57]. The Judgment then goes on to record the Claimant's evidence of multiple occasions on which Depot entrances have been blocked and vehicle prevented from using the highway

⁸ Judgment – paragraph 76 – [66]

Application”) [287].

29. Ms Carter-Hughes describes at [DCH3§51-54] the steps that were taken to notify the Defendants of the application.
30. The Court granted the Amendment Application by order dated 18 March 2026 [83] and at [DCH3§55-61], Ms Carter-Hughes describes the steps taken to notify the Defendants of this.

F. EVENTS ON THE DAY OF THE FEBRUARY 2026 HEARING AND THEREAFTER

31. A description of the relevant events since the injunction hearing is set out by Ms Carter-Hughes at [DCH3§11-29§]. In summary:
32. On the day of the injunction application hearing, there was further disruption by the Defendants at the Perry Barr (30-40 protestors) and Smithfield depots (70 – 80 protestors), delaying deployment of waste vehicles. Notably one of the protestors spoke to a driver and acknowledged the injunction hearing and that the court would “probably take a dim view of what we have been done and tell us to stop” [DCH3§16].
33. After the injunction was granted, the disruption spread to Coventry:
 - a. On 13 March 2025 a group of protestors blockaded the Ryton depot of Tom Whites and prevented 25 vehicles and their crews deploying. A video posted by Reel News shows the individuals arriving with a label “Persons Unknown”

- on the screen, [DCH3§20] and wording on the video makes clear that there is an injunction in Birmingham but that it didn't include Coventry [DCH3§21];
- b. On 24 March 2026, protests led by Unite took place at Coventry City Council's offices, with key individuals involved in breaching the order granted by Dias J against Unite, identified [DCH3§25];
- c. On 1 April 2026, there was further disruption at the Tom White's site with vehicles blockaded by protestors walking in front of the depot gates [DCH3§26].

G. LEGAL FRAMEWORK

34. The law as it applies to injunctions against persons unknown has been fully and properly considered by the Court in the course of the February 2026 Judgment. The relevant principles which were set out at paragraphs 54-57 of that Judgment⁹ and then applied at in accordance with the reasoning set out at 67-77.¹⁰
35. As to the approach to be taken where an application is made for the renewal of an existing order, it is submitted that it is not necessary for the Court to revisit on a *de novo* basis, the merits of the Claimant's case – that has been done as a consequence of the February 2026 Judgment and Order. It is however, important for the court to understand the rationale for the earlier Order so that it can properly consider those matters relevant to the issue of renewal or extension.

⁹ [61]

¹⁰ [63 – 67]

36. The correct approach has been considered in some detail by Mr Justice Garnham in *Rochdale MBC v Persons Unknown* [2025] EWHC 1314. Having reviewed the relevant authorities at paragraphs 42-50, the Judge then said this (at paragraph 51):

“In my judgment the correct approach is dictated by the Supreme Court’s judgment in *Wolverhampton* and in particular in [225]. This is not a “tick box” exercise, but the matters on which evidence should be adduced and argument focused are (i) how effective the order has been; (ii) whether any reasons or grounds for its discharge have emerged; (iii) whether there is any proper justification for its continuance; and (iv) whether and on what basis a further order ought to be made. The parties should give full disclosure, supported by appropriate evidence, directed towards those questions.”

37. The relevant extract from the decision of the Supreme Court in *Wolverhampton City Council v London Gypsies and Travellers & Ors* [2023] UKSC 47 is set out at paragraph 41 of Mr Justice Garnham’s Judgment but for convenience is set out here:

“Similarly, injunctions of this kind must be reviewed periodically (as Sir Geoffrey Vos MR explained in these appeals at paras 89 and 108) and in our view ought to come to an end (subject to any order of the judge), by effluxion of time in all cases after no more than a year unless an application is made for their renewal. This will give all parties an opportunity to make full and complete disclosure to the court, supported by appropriate evidence, as to how effective the order has been; whether any reasons or grounds for its discharge have emerged; whether there

is any proper justification for its continuance; and whether and on what basis a further order ought to be made.”

38. In conducting the review process, as noted by Mr Justice Ritchie in *High Speed 2 v Persons Unknown [2024] EWHC 1277*, the approach of the court is as follows (at paragraph 32):

“...on a review of an interim injunction against PUs and named Defendants, this Court is not starting *de novo*. The Judges who have previously made the interim injunctions have made findings justifying the interim injunctions. It is not the task of the Court on review to query or undermine those. However, it is vital to understand why they were made, to read and assimilate the findings, to understand the sub-strata of the *quia timet*, the reasons for the fear of unlawful direct action. Then it is necessary to determine, on the evidence, whether anything material has changed. If nothing material has changed, if the risk still exists as before and the claimant remains rightly and justifiably fearful of unlawful attacks, the extension may be granted so long as procedural and legal rigour has been observed and fulfilled.”

H. SUBMISSIONS

39. The Claimant’s position is straightforward – there has been no change in circumstances such as might justify no longer continuing with the terms of the February 2026 Order. In short:

- a. The basis for the February 2026 Order remains unchanged. The Claimant still has the same “compelling need for relied in order to protect its

enjoyment of its land and its ability to deliver an effective waste collection service”.¹¹ Furthermore, the actions of the Defendants on the day of the application in February serve to demonstrate further why it is appropriate to continue with an Order is similar terms.

- b. The relevant circumstances since the making of the February 2026 Order are first, that the underlying industrial dispute has still not been resolved; secondly, that Unite has secured a mandate for industrial action until August 2026 and thirdly, the Defendants have, by blocking Tom White’s vehicles in Coventry, shown that where they are not restrained by an Order of this Court, they will continue to take action in support of those employees of the Claimant who are taking strike action;
- c. The February 2026 Order has, notwithstanding the actions taken in relation to Tom White’s vehicles, proved to be an effective deterrent as (apart from the disruption that took place on the day of the February 2026 hearing);
- d. The continuance of the February 2026 Order is justified on the basis that, as long as the underlying dispute continues and the May 2025 Order remains in place, Unite and its members will be prevented from blocking the Claimant’s vehicles either as they attempt to leave their Depots or on the streets of Birmingham. Unite will also have learned a salutary lesson as a consequence of the fine of £265,000 imposed on it by Mrs Justice Jefford. Whilst the May 2025 Order will prevent unlawful disruption being caused by Unite or its members, in the absence of a continuation of the February 2026 Order, the overwhelming likelihood is that the Defendants will repeat what they did in late 2025/early 2026;

¹¹ As set out in the February 2026 Judgment at paragraph 76 [66]

- e. No grounds for discharge have emerged – the dispute and associated strike action continue with no immediate sign of being resolved. The Claimant continues with its action against Unite in respect of which the May 2025 Order was first granted. Absent terms being agreed between the parties, that action will come to trial in January 2027;
- f. The basis of any further order is essentially the same as that which applied to the February 2026 and is sought in like terms. Whilst it may not be appropriate for the court to make a quasi-final order to run to January 2028, a period of 12 months would mean that, by the time of any further review, judgment is likely to have been handed down in the Claimant's action against Unite.
- g. No defence has been filed by any persons unknown, including by Mr Richardson who identified himself as a protestor and Defendant during the previous hearing.

I. FULL AND FRANK DISCLOSURE

- 40. The Claimant is of course, fully aware of the duty of full and frank disclosure which applies in the circumstances of this application just as it did in February 2026. Equally, it is not aware of any factual matters over and above those set out in Ms Carter-Hughes' latest statement and those of Mr Cox which might impact on this application. The Claimant has flagged that the Defendants may wish to argue that an order to January 2028 is arbitrary and disproportionate and has indicated that a 12-month order may be more appropriate.
- 41. The Defendants may also say that such an order is in any event potentially disproportionate in that it would no longer be required in the event that the

industrial dispute is resolved. As to that, the Claimant would be prepared to offer an undertaking to the effect that if such resolution is achieved prior to the expiry of any extension order, it will take steps to bring this to the attention of the Court with a view to such order being discharged.

BRUCE CARR KC

ANNA GREENLEY

15 May 2026