

Neutral Citation Number: [2026] EWCC 33

Case No: KB-2026-BHM-000043

BIRMINGHAM CIVIL AND FAMILY JUSTICE CENTRE
CIVIL LIST (KBD)

Priory Courts
33 Bull Street
Birmingham
B4 6DS

Date: 18 May 2026

Before:

Mr Justice Choudhury

Between:

Birmingham City Council
- and -
Persons Unknown

Claimant

Defendant

Bruce Carr KC and Anna Greenley (instructed by DLA Piper) for the Claimant

Hearing dates: **18th May 2026**

JUDGMENT

Monday, 18 May 2026

MR JUSTICE CHOUDHURY

1. This is the claimant's application to extend the injunction granted by Mr Justice Pepperall on 20 February 2026 (“the February 2026 injunction”) restraining the scope of protest activity by the defendants to prevent disruption to city-wide waste collection services.
2. The February 2026 injunction was granted until 20 May 2026. 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 the court beyond 20 May 2026, the defendants will simply resume their protesting activities.
3. The review application was due to be heard on 30 April 2026 but was postponed to today's date.
4. There is also an application before me to convert these Part 7 proceedings to Part 8.
5. I begin with the issue of service of these proceedings and notice of the hearing. There is evidence before me from Ms Deborah Carter-Hughes, Assistant Director of Legal Services - Corporate Law & Deputy Monitoring Officer at Birmingham City Council. In her fourth statement Ms Carter-Hughes sets out the detailed steps taken by the council to notify parties of the application to extend.
6. These steps essentially mirror the steps taken to notify the parties of the February 2026 injunction and subsequent developments. These steps included sending emails to Thompsons Solicitors, notifying Unite of the application and including relevant documentation; sending emails to Strike Map, Socialist Workers Party, Reel News and the Birmingham Socialist Party, again containing relevant documentation. Documentation was also uploaded to the council's website, to a page dedicated to the waste collection dispute,

and a supporting video was uploaded to YouTube. In addition, notices were placed at each of the four depots servicing the council's waste collection area: Lifford Lane, Smithfield, Perry Barr and Atlas. Monitoring has continued at each of these sites to ensure the notices remained in place, as they have.

7. Leaflets were also handed out at each of the depots, with notices being put up in the presence of some defendants. Messages were also posted by the council on various social media sites that an application to extend had been made.
8. I am satisfied that all reasonable and practical steps have been taken to bring these proceedings to the attention of the defendants who are the subject of these proceedings, referred to here as Persons Unknown.
9. Although at the last hearing before Pepperall J at least one person identifying themselves as a defendant and two members of the public attended, there has been no attendance this morning or this afternoon by any defendant or by any party other than the claimant and its legal team. However, given the steps taken to effect notice, I am satisfied that it is appropriate to continue with the hearing of this matter, despite such non-attendance.

Update on the underlying industrial dispute

10. The dispute continues. Unite the Union (Unite) balloted its members and has obtained a mandate for strike action to continue without any further ballot until August 2026. Unite is subject to an injunction granted in May 2025 (“the May 2025 injunction”), limiting the scope of its protesting activity. The May 2025 injunction against Unite continues.
11. The trial window in respect of those proceedings has been fixed for early 2027 with, I am told, February 2027 being the likely trial window. The likelihood, therefore, is that the

terms of the May 2025 injunction will continue to operate until after the judgment at trial, currently early next year.

The February 2026 injunction was obtained to prevent the defendants from undertaking the sort of protest activity the May 2025 injunction against Unite sought to prevent. As Pepperall J found at the last hearing, the evidence established that other protesters had picked up where the union had left off. He held, at paragraph 75, that:

"... (a) there is strong evidence that the protesters have breached domestic law, 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."

12. At paragraph 76, the judge continued:

"... 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 peaceable 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."

13. As Ms Carter-Hughes in her third statement, on the day of the previous hearing there was disruption at the Perry Barr and Smithfield depots involving some 30 to 40 protesters at the former site, 70 to 80 protesters at the latter. I have been shown video footage of the activities

on that day, which clearly show blockading activity preventing waste collection vehicles from departing depots in a timely manner.

14. There is one particular incident of note, described by Ms Carter-Hughes as follows:

"One of the Defendants in the video (a gentleman wearing a grey buff and an orange Veolia hi-vis jacket, who I recognise from previous videos of the Defendants and I will refer to here as 'Mr Greybuff') is shown speaking with the driver of a vehicle which is being prevented from departing the depot. In his discussion with the driver he states: 'this may very well be the last time that you see us as there is a High Court hearing today and we expect the court will probably take a dim view of what we have been doing and tell us to stop'. In my view, this demonstrates the Defendant's knowledge that their actions throughout their blockades of the Council's vehicles have been unlawful and were likely to result in an injunction being granted at the hearing on 13 February 2026. The actions of the protesters appear to be a 'last hurrah' before the injunction was granted by Mr Justice Pepperall."

15. On 13 March 2026 there was further disruption, this time at the Ryton Depot of Tom White Contractors of Coventry. Tom White is the waste collection provider for Coventry and has been providing cover for Birmingham since last year using their own staff and vehicles. This protest activity again involved preventing or slowing waste collection vehicles from leaving the depot in a timely manner. Ms Carter-Hughes describes a particular incident which can be seen in the video, at paragraph 21 of her statement:

"The video also suggests that the action being taken against Tom Whites as they are 'scabbing on the bin strike'. In a discussion with a driver, a protester (who I believe is Mr Greybuff from the Reel News video on 13 February 2025) makes it clear that the protest is due to the Birmingham bin strike and wording on the video then states 'the council got an injunction on Persons Unknown to stop all protests in Birmingham, but Coventry wasn't included'."

16. At paragraph 22, Ms Carter-Hughes goes on to say:

"These comments make it clear that it is the same group of Defendants who are responsible for the blockade at the Ryton depot. Their actions here demonstrate that, if the Order against them were to be lifted, they would immediately return to similar blockading of the Council's waste vehicles and depots in Birmingham,

purportedly in order to exert leverage over the Council to reach a resolution in the industrial dispute with Unite."

17. It's important to note that the activity in Coventry was not in breach of the terms of the February 2026 injunction, which only extended to the Birmingham area.
18. There was also protest activity outside Coventry City Council's offices on 24 March 2026 which appears to have been led by the union, and on 1 April 2026, further disruption at the Tom White site.
19. As for the Birmingham area itself, which is covered by the February 2026 injunction, there is no evidence before me of any protest activity in breach of its terms, which tends to suggest that it has been effective in achieving the aim of preventing the disruption of waste collection services in the area.
20. The relief granted by Mr Justice Pepperall on 20 February 2026 was for a period of three months. That was because the claim form issued at the time had sought relief for a period of six months and the judge was conscious that relief ought not to be granted at the interim stage that effectively amounted to satisfaction of the entirety of the claim.
21. The claimant has since amended its claim form to seek injunctive relief until January 2028. On that basis the application before me is to extend relief not for the full duration until January 2028 but for a period of six months from the expiry of the February 2026 injunction, ie until 20 November 2026.

The Legal Principles on review

22. The legal principles to be applied upon review of injunctive relief against Persons Unknown, was fully considered by the court in the course of its February 2026 judgment.

On this application to renew, it is not the task of the court to review the earlier decision unless there has been a material change of circumstances warranting such a course. As stated by Mr Justice Ritchie in *HS2 v Persons Unknown* [2024] EWHC 1277, 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."

23. The correct approach to be taken on a renewal hearing was summarised by Mr Justice Garnham in *Rochdale Metropolitan Borough Council v Persons Unknown* [2025] EWHC 1314. Having reviewed the relevant authorities, at paragraphs 42 to 50, Garnham J said as follows, at paragraph 51:

"In my judgment the correct approach is dictated by the Supreme Court's judgment in *Wolverhampton* [*Wolverhampton City Council v London Gypsies and Travellers & Ors* [2023] UKSC 47] and in particular [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."

24. I should note that one of the authorities considered by Mr Justice Garnham was the decision in *Basingstoke v Loveridge* [2024] EWHC 1828 (KB) in which it was suggested that a different approach be taken, effectively amounting to a *de novo* hearing. However, as stated by Garnham J, that approach is more likely to be appropriate where an issue has emerged

which needs to be addressed expressly at the renewal hearing, and whether that necessitates an expanded renewal hearing or a *de novo* hearing will depend on the facts.

25. In other words, a *de novo* hearing is not a matter of course. In my judgment, the correct approach in this case is a normal renewal hearing approach, not a *de novo* hearing, there being nothing material in the background since the February 2026 injunction hearing to warrant a *de novo* approach.

Submissions

26. Mr Carr KC appears with Ms Greenley for the council and submits that there has been no change in circumstances here that would justify lifting the injunction. There remains the same compelling need for relief, and the actions of the defendants, both on the date of the hearing and since, demonstrate, he says, the need for relief to continue. The underlying dispute remains resolved and no grounds for discharge have emerged.

Analysis

27. I agree with Mr Carr's submissions. Dealing with the questions identified by Mr Justice Garnham at [51] of the *Rochdale* case, my views are as follows:

- a. Has there been a change in circumstances that would warrant a different approach being taken at this renewal hearing? Based on the evidence before me, the answer to that is 'no'. The dispute continues, with no imminent prospect of resolution. The defendants have continued to disrupt activity where they can without breaching the order, suggesting that if the order were to be lifted, they would resume their protest activity on a larger scale within the council's area with a view to disrupting or stopping waste collection activity altogether.

- b. How effective has the order been? As the evidence considered above demonstrates, the order has been very effective. Indeed, the only protest activity that has emerged has been that carried out in other areas outside the scope of the February 2026 injunction. That is a factor in favour of the order continuing.
- c. Have any reasons or grounds for discharge emerged? In my judgment, none have emerged. The threat of disruptive activity remains acute. This is not a case where the council is relying on an assumption that such activity would resume. It is self-evident from the activities at sites outside the area, and things said on those occasions, that the resumption of wide-scale protest activity would be almost inevitable should the injunction not be continued. If that were to transpire, then the council would once again be in the position where there would be a compelling need for relief in order that it can protect the enjoyment of its land and, more importantly, maintain its ability to deliver an effective waste collection service in its area.
- d. Is there a proper justification for the continuance of the order? In my judgment, the answer to that is 'yes'. Not only is there the threat of protest activity designed to disrupt services, with Persons Unknown filling the shoes of those prevented by the May 2025 injunction from taking direct actions themselves, there is little prospect of a resolution in the immediate short term. I note that on 27 April 2026 the then Labour leader of the council, Councillor John Cotton, made a public statement in his capacity as leader of the Labour Group, not as leader of the council, that a deal was in sight. Whatever the position might have been at that stage, the local government elections have since taken place, and these have changed the face of the council such that no party has overall control. In these circumstances, it would take some time for the council to be in a position to move forward with a deal, even

assuming that the positions reached before the elections will be supported or maintained by the new leadership. Given that there is a strike mandate until August 2026 and given the limited prospects of a resolution in the short term, there is, in my judgment, ample justification for continuing the relief granted in February.

28. As to the terms of the continuing relief, I am satisfied in the circumstances of the present case that the order ought to continue in the same terms. Mr Carr does not seek any variation in its scope, save for one small matter to which I will return. Given its effectiveness to date, it must be right that there should be no expansion of its terms, which are the minimum, in my view, necessary to achieve the protection that the council requires.

29. As to its duration, I note that the claim form as it is now drafted seeks relief until January 2028. I also note that any court-based resolution after trial will not emerge until February or March 2027 at the earliest. In these circumstances, a period of six months from the expiry of the previous order seems reasonable. That also allows for a reasonable period within which a resolution between the union and the council might be reached. Of course, if the matter is resolved before the expiry of the six-month period, the council will return to the court to seek a discharge of the injunction.

30. Mr Carr has offered an undertaking that the council will take those steps in that eventuality. It seems appropriate to me to incorporate that undertaking as part of the order so that there is no delay between resolution and the discharge of the injunction.

Part 7 / Part 8

31. The final matter to be dealt with is the council's application to convert these proceedings to Part 8.

32. Concerns were raised at the last hearing about the commencement of proceedings under Part 7, which were considered not entirely appropriate for various reasons, including the fact that default judgment could be obtained in the absence of a defence being lodged.
33. Mr Carr has helpfully taken me through provisions in the CPR, and in particular CPR 8.1(4), which confers on the Court a power to convert Part 8 proceedings to Part 7. However, there is no similar provision going the other way from Part 7 to Part 8.
34. Applying usual principles of statutory interpretation, inclusion of an express provision for conversion in one direction might suggest that the absence of a provision going the other way means that there is no power, at least on the face of the CPR, to convert Part 7 proceedings to Part 8 in this way. However, notwithstanding the absence of such express provision, the likelihood is that the Court has the power pursuant to its inherent jurisdiction in respect of such procedural matters to convert the proceedings if it were considered appropriate and expedient to do so.
35. I have been referred to one authority, a judgment of Kelyn Bacon KC, sitting as a deputy judge of the High Court, as she then was, in [2019] EWHC 2471 (Ch), in which a Part 7 claim was ordered to commence as if it had been commenced under Part 8. However, there appears in that case to have been a statutory provision under the Solicitors Act 1974 that is to be construed in such a way that contested fees under a conditional fee agreement could not be sought under Part 7. The transfer to part 8 would appear to be an instance of the exercise of the Court's powers under its inherent jurisdiction.
36. Of course, the present case is quite different from that: there is no underlying statutory provision which rendered commencement under Part 7 inappropriate. Furthermore, it seems to me that some of the concerns that caused the previous court to raise the issue as to

the suitability of Part 7 have somewhat fallen away or appear to be without substance. For example, any attempt to enter default judgment in these circumstances would, as Mr Carr accepted, be given short shrift.

37. In these circumstances and given Mr Carr's position that the council was somewhat agnostic about whether or not proceedings continue as Part 7 or Part 8, there appears to be no real need to transfer the proceedings. Accordingly, I shall leave the proceedings as they are, namely under Part 7.
