

Claim Nos: see attached schedule

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

**The Honourable Mr Justice Nicklin
1 December 2020**



BETWEEN: -

**Various Claimants
(see attached Schedule 1)**

Claimants

-and-

**(1) Persons Unknown
(2) Various other Defendants
(see attached Schedule 1)**

Defendants

ORDER

FURTHER TO THE ORDER of 16 October 2020

AND UPON the Claimants whose names are shown struck out in Schedule 1 having discontinued their claims or the claims having otherwise been dismissed and/or the Court having discharged the injunctions that had been granted in those cases or those cases otherwise not having subsisting injunctions and having therefore been removed from the cohort of managed cases, leaving 16 claims ("the Cohort Claims")

AND UPON various Claimants in the Cohort Claims having issued the Application Notices in Schedule 2 to this Order at the date hereof ("the Pending Applications")

AND UPON CONSIDERING (1) Questionnaires filed by the Claimants pursuant to the Order of 16 October 2020; (2) further documents uploaded by the Claimants to the CE-File; and (3) the Pending Applications

AND UPON the Case Management Hearing for the Cohort Claims having been fixed for 17 December 2020 ("the CMH")

AND UPON IDENTIFYING the following issues that are common to several of the Cohort Claims:

The issues

- (A) Whether the Court has the power – either generally, under CPR 3.1(7) or otherwise, or specifically having regard to the particular terms of the relevant order – to case manage the proceedings and/or to vary or discharge injunctions that have previously been granted by final order.
- (B) Whether the principle that final injunctions bind only the parties to the claim at the date the order is granted – and not newcomers (**Canada Goose** [89]) - applies to the type of injunctions granted to the Claimant(s).
- (C) If it does,
 - a. is it possible to identify the Defendants in the category of persons unknown who were parties to the proceedings at the date the final order was granted and are bound by it; and
 - b. insofar as the final injunction binds newcomers, should it be discharged.
- (D) Whether the description or definition of “Persons Unknown” in the Claim Form complies with the requirement that they are defined by reference to conduct which is alleged to be unlawful: **Canada Goose** [82(2)].
- (E) Whether the order that is relied upon by the Claimant(s) as granting permission for alternative service of the Claim Form on persons unknown under CPR 6.15, but which fails to comply with CPR 6.15(4):
 - a. is an error of procedure which invalidates the purported service of the Claim Form on persons unknown and, if so, whether the Court should make an order remedying that error; or
 - b. should be corrected under the CPR 40.12 (the slip rule); and in either case
 - c. if not, whether the Court should make an order under CPR 6.15(1) and (2) that steps taken by the relevant Claimant(s) to bring the Claim Form to the attention of persons unknown is good service.
- (F) In claims where an interim injunction has been granted whether any delay in progressing the claim to a final hearing is an abuse of process justifying the dismissal of the claim.
- (G) Whether the Court should grant a final injunction in the claim and, if so, on what terms.
- (H) Whether the Court can grant a *contra mundum* civil injunction to restrain unauthorised encampments so as to prevent future trespass.

- (l) Whether the Court should set-aside the Order dated 2 October 2020 granting permission to serve the Claim Form by alternative means.

WITHOUT A HEARING AND OF THE COURT'S OWN MOTION IT IS ORDERED:

1. Unless the Court otherwise directs, the Pending Applications will not be determined at the CMH but directions may be given as to their disposal at a future hearing.
2. By 4.30pm on 9 December 2020, each Claimant is to notify the Court (and each other Claimant – via the Email address shown in Schedule 1 – and the Community Legal Partnership (chrisjohnson@communitylawpartnership.co.uk) (“CLP”):
 - a. whether it agrees that the issues raised in its case are properly reflected in the “Issues” column in Schedule 1 and insofar as it contends that there are any further issues for determination, identify them; and
 - b. the name of the advocate who will be representing them at the CMH
3. By 4.30pm on 9 December 2020, each Claimant is to file and serve on each other Claimant and on CLP an electronic bundle for the CMH which must contain the following documents from its claim:
 - a. the Claim Form (and any Particulars of Claim if applicable)
 - b. all Orders made by the Court in the Claim (excluding the Order of 16 October 2020)
 - c. the Questionnaire filed in response to the Order of 16 October 2020;
 - d. any outstanding Application Notice (including those identified in Schedule 2); and
 - e. any other documents which are **essential** for the CMH.

Where there is more than one Claimant in any Claim, a joint bundle should be filed. Each bundle should be paginated as follows: NN:xxx, where “NN” is the number of the Claim in Schedule 1 and “xxx” are sequential page numbers of the bundle.

4. By midday on 11 December 2020, each Claimant is to file and serve a skeleton argument for the CMH. The skeleton should (a) identify any issues that the relevant Claimant(s) contend should be resolved at the CMH; (b) propose directions for the resolution of the issues at the hearing fixed for 27-28 January 2020.

5. The Community Law Partnership (“CLP”), representing various interested parties, may file and serve a skeleton argument for the CMH by 4.30pm on 14 December 2020.
6. The CMH will be conducted remotely via MS Teams. By midday on 15 December 2020, each Claimant and CLP are to notify QBJudgesListingOffice@justice.gov.uk (cc daniel.mendonca@Justice.gov.uk), the name, email address and contact telephone number of each person who it is intended will attend the CMH and in what capacity.
7. Pursuant to CPR 3.3(5), any person affected by this Order may apply to the Court for it to be varied. Any such application:
 - a. must be made by Application Notice;
 - b. issued, served and filed by 4.30pm on 7 December 2020; and
 - c. will be determined by Mr Justice Nicklin.

Reasons

- (A) This order attempts to identify the issues that arise for determination and to provide directions for the CMH. The parties are expected to assist the Court in identification of the issues that arise for determination (CPR 1.3). Broadly, the intention of the directions is to provide for hearing bundles and skeleton arguments to be available in good time for the CMH and to be available to all parties. The Court may give further directions as to the conduct of the CMH, in particular timetabling the submissions in order fairly to allocate the time. If the parties are able to agree that one advocate will deal with an issue (common to several Claimants) then that will assist in making best use of the available time.
- (B) Issue (I) raises an issue by the Court’s own motion pursuant to CPR 3.3(2) in respect of LB Enfield’s claim. The Order of 2 October 2020 was made without notice to the Persons Unknown Defendants and without Persons Unknown attending the hearing. Pursuant to CPR 23.11(2), the Court intends to relist the application for further consideration. In particular, having regard to ***Cameron - v- Liverpool Victoria Insurance Co Ltd [2019] 1 WLR 1471*** [21], whether the proposed method of service is one that can reasonably be expected to bring the proceedings to the attention of the person unknown defendants.

1 December 2020

SCHEDULE 1

	Claimant(s)	Defendants	CASE No:	Issues
1.	LB Barking and Dagenham adam.rulewski@lbbd.gov.uk	Tommy Stokes & 63 others and Persons Unknown	QB-2017-006899 (HQ17X00849)	(A), (B), (C), (D)
2.	LB Bromley	Persons Unknown	QB-2018-003485 (HQ18X02920)	
3.	LB Croydon	Persons Unknown	QB-2018-003395 (HQ18X03041)	
4.	LB Ealing RobinsonK@ealing.gov.uk	Persons Unknown	QB-2019-001696	(D), (E), (F), (G)
5.	LB Greenwich	Persons Unknown	QB-2018-003037 (HQ18X04086)	
6.	LB Havering adam.rulewski@lbbd.gov.uk	William Stokes & 104 others and Persons Unknown	QB-2019-002737	(D), (E), (F), (G)
7.	LB Hillingdon Byron.Britton@merton.gov.uk	Persons Unknown	QB-2019-001138	(D), (E), (F), (G)
8.	LB Hounslow Jabou.Kinteh@harrow.gov.uk	Persons Unknown	QB-2019-002113	(D), (E), (F), (G)
9.	LB Kingston-upon-Thames	Persons Unknown	QB-2019-000150	
10.	LB Merton	Persons Unknown	QB-2018-000452	
11.	LB Redbridge adam.rulewski@lbbd.gov.uk	Martin Stokes & 99 others and Persons Unknown	QB-2018-003983 (HQ18X01522)	(A), (B), (C), (D)
12.	LB Richmond-upon-Thames Byron.Britton@merton.gov.uk	Persons Unknown	QB-2019-000777	(D), (E), (F), (G)
13.	LB Sutton	Persons Unknown	QB-2018-003487 (HQ18X02913)	
14.	LB Waltham Forest	Persons Unknown	QB-2017-005691 (HQ17X03769)	
15.	LB Wandsworth	Persons Unknown	QB-2019-000778	
16.	(1) Basingstoke and Deane Borough Council (2) Hampshire County Council	Henry Loveridge & 115 others and Persons Unknown	QB-2018-003748 (HQ18X02304)	(A), (B), (C), (D)

	wrose@sharpepritchard.co.uk			
17.	(1) Basildon Borough Council (2) Essex County Council	Dennis Ainey & 44 others and Persons Unknown	QB-2017-005724 (HQ17X03732)	
18.	Birmingham City Council	Persons Unknown	QB-2020-003833 (formerly Birmingham District Registry D90BM148-149)	
19.	(1) Boston Borough Council (2) Lincolnshire County Council	Persons Unknown	Birmingham District Registry E90BM073	
20.	Canterbury City Council	Persons Unknown	QB-2019-001304	
21.	Central Bedfordshire	Levi Parker & 21 others and Persons Unknown	Bedford District Registry E01LU344	
22.	Elmbridge Borough Council	Persons Unknown	QB-2018-003423 (HQ18X02948)	
23.	Epsom and Ewell Borough Council	Persons Unknown	QB-2018-000383	
24.	(1) Harlow District Council (2) Essex County Council	Michael Stokes & 71 others	QB-2015-002380	
25.	Hertsmere Borough Council	Persons Unknown	QB-2018-000333	
26.	(1) Nuneaton and Bedworth Borough Council (2) Warwickshire County Council wrose@sharpepritchard.co.uk	Thomas Corcoran & 52 others and Persons Unknown	QB-2019-000616	(D), (F), (G)
27.	Reigate and Banstead Borough Council Rosie.Sykes@reigate-banstead.gov.uk	Persons Unknown	QB-2019-002297	(D), (E), (F), (G)
28.	Rochdale Metropolitan Borough Council wrose@sharpepritchard.co.uk	Shane Heron & 89 others and Persons Unknown	QB-2017-005202 (HQ17X04668)	(D), (F), (G)
29.	Rugby Borough Council	McDonough & 5 others and Persons Unknown	Nuneaton County Court E00NU379	
30.	Runnymede Borough Council wrose@sharpepritchard.co.uk	Callum Wooding & 22 others and Persons Unknown	QB-2017-006165 HQ17X02485	(A), (B), (C), (D), (E)

31.	Sandwell Metropolitan Borough Council	John Cassidy & 13 others and Persons Unknown	QB-2020-003841 (formerly Birmingham District Registry D90BM116)	
32.	Solihull Metropolitan Borough Council	John Cassidy & 13 others and Persons Unknown	QB-2020-003848 (formerly Birmingham District Registry E90BM026)	
33.	Test Valley Borough Council KDunn@testvalley.gov.uk	Albert Bowers & 88 others and Persons Unknown	QB-2020-002112	(G)
34.	Thurrock Council adam.rulewski@lbbd.gov.uk	Martin Stokes & 106 others and Persons Unknown	QB-2019-002738	(D), (F), (G)
35.	Walsall Metropolitan Borough Council Javed.iqbal@walsall.gov.uk	Brenda Bridges & 17 others and Persons Unknown	QB-2020-003850 (formerly Walsall County Court C00WJ967)	(A), (B), (C), (D), (E)
36.	Wolverhampton City Council Chris.Simmonds@wolverhampton.gov.uk	Persons Unknown	QB-2020-003838 (formerly Birmingham District Registry E90BM139)	(A), (B), (C), (D), (H)
37.	Buckinghamshire Council (formerly) Wycombe District Council	Persons Unknown	QB-2019-002783	
38.	LB Enfield balbinder.kaur-geddes@enfield.gov.uk	Persons Unknown	QB-2020-003471	(G), (I)

Schedule 2 – Application Notices issued by the Claimants

1. LB Barking & Dagenham

None

4. LB Ealing

Application Notice dated 13 November 2020 seeking orders under CPR 3.10 and 6.15(2)

6. LB Havering

Application Notice dated 20 November 2020 seeking permission to amend the description of the 106th defendant in the Claim Form to “persons unknown forming unauthorised encampments within the London Borough of Havering”.

7. LB Hillingdon

None

8. LB Hounslow

Application Notice dated 13 November seeking to (1) amend the Part 8 claim pursuant to CPR r.17(2)(b); (2) add additional defendants to the claim under CPR Part 19 and (3) vary the current interim injunction dated 12 June 2019.

11. LB Redbridge

None

12. LB Richmond-upon-Thames

None

16. (1) Basingstoke and Deane Borough Council (2) Hampshire County Council

None

26. Nuneaton & Bedworth Borough Council (2) Warwickshire County Council

None

33. Test Valley

None

34. Thurrock Council

None

35. Walsall Metropolitan Borough Council

Application Notice dated 25 November 2020 seeking to insert a review provision into the Injunction Order dated 21 October 2016

36. Wolverhampton City Council

None