

Neutral citation: [2025] EWCC 16  
Ref. K01PO009

**IN THE COUNTY COURT AT PORTSMOUTH**

Winston Churchill Avenue  
Portsmouth

**Before DISTRICT JUDGE EMERSON**

**IN THE MATTER OF**

**MARTLET HOMES LIMITED (Claimant)**

**-v-**

**STAPLES (Defendant)**

**MR SANGHERA appeared on behalf of the Claimant**  
**MISS ELFORD appeared on behalf of the Defendant**

**APPROVED JUDGMENT**  
**4 APRIL 2025**

---

*WARNING: Reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.*

*This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.*

JUDGE EMERSON:

1. This is a sentencing hearing of Miss Michelle Staples who appears in court today represented by counsel, Miss Elford. Mr Sanghera appears on behalf of the Claimant.

2. This is an adjourned sentencing hearing. This matter was before me on 31 July 2024 for a trial in which the Defendant admitted three breaches of an anti-social behaviour injunction made pursuant to the Crime and Policing Act 2014. The date that injunction order was made was the 20<sup>th</sup> November 2023. The admitted breaches were that the Defendant played loud music and caused a noise nuisance on the 3rd May 2024, 14<sup>th</sup> June 2024 and the 17<sup>th</sup> June 2024.

The reason for the adjournment of sentencing was that we were awaiting a psychiatric report that would provide further medical information as to the state of the Defendant's mental health.

3. The background to this case

The Defendant entered into a tenancy of a property known as 14 Hammond Court, South Street, Gosport, Hampshire, in or around 3rd November 2014. Miss Wade, who is the main complainant in this case, moved in to her flat that was situated underneath that of the Defendant in 2022. From November 2022, a number of reports were received by the Claimant from Ms Wade that the Defendant was causing a noise nuisance at her flat.

4. An application was made for an anti-social behaviour injunction on the 6th November 2023. The application was considered by Judge Miles on the 20<sup>th</sup> November 2023. Judge Miles made an anti-social behaviour injunction order preventing the Defendant from playing amplified music that could be heard outside of the property and engaging in conduct that caused or was likely to cause a nuisance or annoyance or harassment, alarm or distress to any person residing at the block of flats whether it be by shouting or singing loudly or banging which could be heard outside of the Defendant's property.

5. The Claimant alleged that since the date of the injunction the Defendant it has been persistently breached.

6. On the 16th January 2024, the Claimant made a committal application alleging that the Defendant had breached the injunction order. At a hearing held on the 15<sup>th</sup> February 2024 the Defendant denied that she was in breach of the injunction order and directions were given for trial.

7. There was also an application made on 24 January 2024 by the Claimant for a power of arrest to be attached to the injunction. I adjourned that application to the trial that was listed on 31 July 2024.

8. At the outset of the trial, there was admissions made by the Defendant that she had broken the terms of the injunctions three times. As a result of those admissions that were made by the Defendant, the Claimant decided not to pursue the remaining seven allegations.

9. Subsequently, Mr Sanghera, Counsel for the Claimant, informed the court that there was a visit on 6<sup>th</sup> August 2024 made by the claimant's employees to the defendant's property to conduct a sound test and the Defendant was told not to use her sound bar because it was audible in a neighbour's property. However, notwithstanding this visit, that there were further allegations of noise nuisance received by the Claimant.

### The Complaints

10. It might be helpful just to summarise the complaints about the Defendant's behaviour. It related mainly to the playing of loud music, shouting and banging noises made by the Defendant. This noise nuisance was alleged to have been on an almost constant basis by Ms Wade.

11. However, the complaints did not solely come from Ms Wade. A Noise Abatement Notice was issued by the local council on 21<sup>st</sup> March 2023 against the Defendant as a result of observations made by the Environmental Health Officer. For example,

i. 11 August 2023, 23.37 hours,

“The music was incredibly loud, so loud that when I left I drove to the bus station to see how far the noise was travelling and I could hear it from there. When I was in the property there was also a loud bang like something was dropped from a great height.”.

ii. On 2 August 2023, 12.15 pm music could be heard within Ms Wade's living room -

“The had her windows open. The road noise took some of the impact away. When windows are closed the noise is very intrusive, above conversation volume, and the complaint had been made by the customer that the music had been playing since 6.30 last night. There is also reference to a further visit whereby the customer did not call out of hours, she took sleeping pills and was desperate for sleep.”.

12. In Miss Jeannette Wade's most recent statement dated 27 March 2025, she explained that her experience of living in her flat has been a terrible time for her due to the noise nuisance that has been caused by the Defendant. It has led to her having to move out of the property. She did so in February of 2025. She has also been on medication for sleeping pills and anxiety. Mentally, she says that she could not stand it anymore. There is medical evidence in the bundle at 375 of a visit to the GP that she made which supports the impact that the noise nuisance was having on her well being.

13. In fairness to the Defendant, one has to look carefully at Ms Wade's statement with some caution, because of the obvious stated loathing that she feels towards the Defendant. Notwithstanding, that particular caution due to the risk of exaggeration, it is clear from the evidence taken as a whole that Miss Wade has been seriously impacted both mentally and physically with regards to the noise nuisance that she has suffered.

14. I move on to the psychiatric evidence of Dr Morton, who provided a report dated 10<sup>th</sup> October 2024 on the Defendant's mental health. Dr Morton made a diagnosis that the Defendant suffers from PTSD, anxiety, and mild features of obsessive compulsive disorder. Dr Morton was of the view that the Defendant uses music as a coping strategy. However, Dr Morton did not conclude that the defendant is disabled for the purposes of the Equality Act because of her alcohol dependency. Dr Morton could not find a clear link between any of her mental health diagnoses and the alleged behaviours which was more likely attributable to her alcohol usage.

15. It is clear from Dr Morton's report that the real issue with regards to the defendant that needs to be addressed with some urgency is her alcohol dependency. It is right to say that in the past that the defendant has a history of multiple drug dependencies which she has managed to get herself out of, but at the time of his assessment Dr Morton was of the view

that the defendant's alcohol dependency was the significant factor with regards to her behaviours.

16. Standing back from this, one of the observations I would have with regards to this is that the alcohol usage of the Defendant may have led to situations where Miss Staples was unaware perhaps of the impact that her behaviours might have had upon others and that at times she may not have even remembered what she was doing due to the amount of alcohol she was drinking. Notwithstanding the antipathy that the Defendant feels towards Miss Jeannette Wade - I do not find that the noise nuisance was a deliberate targeting of Ms Wade by the Defendant. I find that this was more a situation of just a complete lack of awareness of the Defendant's own behaviours due to her alcohol dependency. This has also led to the Defendant wrongly blaming Ms Wade for making complaints rather than accepting she is at fault. I am afraid that even at today's hearing I observed in the Defendant that there is an element still of non-acceptance by her of the impact of her behaviours has had on Ms Wade and her neighbours.

17. The aggravating features are as follows:

- i. there has been a flagrant disregard for the injunction order;
- ii. the admitted breaches were committed shortly before the trial date.
- iii. complaints of noise nuisance have continued since the previous hearings and the run up to the sentencing hearing today.
- iv. no remorse has been shown by the defendant
- v. no direct causal link between mental health conditions of the Defendant and her behaviour.

The mitigating features

On behalf of Miss Staples, Miss Elford of counsel has made the following points:

- i. that we are dealing with a Defendant who is in remission from cancer after having a lump removed last September 2024. There is obviously going to be a need for follow-up assessments and possibly further treatment;
- ii. the music was being used as a coping mechanism as part of her diagnosed mental health conditions and was not done maliciously;
- iii. The Defendant's mother is unwell having been diagnosed with cancer, and the Defendant is part of her mother's support network;

- iv. there is no ongoing allegations of noise nuisance since Miss Wade left in 2025. I approach that issue with some caution as I am told by Mr Sanghera that the property is not being let out. In other words, there is nobody living directly below Miss Staples at the moment who would be most impacted by her use of her property;
- v. the defendant did make admissions so that a trial was not required and some credit should be given for her admission even though the admissions were made at a late stage.

#### Approach to Sentencing

18. I am grateful to counsel for their assistance on this issue. The approach to sentencing for civil contempt was considered by the Court of Appeal in the decision of *Lovett v Smith and Hopkins* [2022] EWCA Civ 1631 in which helpful guidance was given.

19. The first issue to consider is the harm that has been caused by the breaches of the injunction and which category of the sentencing guidelines does it fall. At paragraph 48 of the judgment in *Lovett* it is stated:

“The level of harm is determined by weighing up all the factors of the case to determine the harm that was caused or was at risk of being caused by the breach or breaches. In assessing any risk of harm posed by the breach(es), consideration should be given to the facts or activity which led to the order being made. The three levels of harm are:

Category 1 - Breach causing very serious harm or distress

Category 2 - Cases falling between categories 1 and 3

Category 3 - Breach causing little or no harm or distress.”.

20. Mr Sanghera, on behalf of the Claimant, indicated that he believed that this was a category 2, possibly moving into a category 1 case, due to the level of harm that has been caused to Miss Wade. Miss Elford, on behalf of the Defendant, says this is a category 3 case as she suggested that the breaches have caused “little or no harm”.

21. When one looks at the evidence that has been provided by Miss Jeannette Wade, I do not think that category 3 is the appropriate category. Ms Wade has suffered considerably over a couple of years from the noise disturbance that has been caused by the Defendant and this continued despite the Injunction Order being made. It has led her to seek medical treatment and ultimately did lead her to making a decision to move from her secure housing association accommodation to private rented sector accommodation. Ms Wade by moving has given

up more secure accommodation and is having to pay increased rent. As a result, I agree with Mr Sanghera in respect of this that this is a category 2 case but very much on the borderline going into category 1 due to the impact upon both Ms Wade's mental and physical health.

22. In terms of culpability, what is said by Mr Sanghera is that the Defendant falls within the high culpability bracket. In the case of *Lovett* at paragraph 46 and 47, the following guidance is given:

“The approach in crime of giving distinct consideration to the degree of harm and the degree of culpability also has application here, again bearing in mind the civil context. The CJC Report proposes a scheme based on the three levels each of culpability and harm, closely modelled on the Sentencing Council's scheme for breaches of Criminal Behaviour Orders, with suitable adjustments. The CJC's proposed scheme is a valuable tool for Judges to use, always bearing in mind that sentencing is highly fact sensitive, and the facts will vary widely. It also bears emphasis that the proposed scheme does not have the authority of guidelines produced by a statutory body like the Sentencing Council.

The three levels of culpability are:

A - High culpability; very serious breach or persistent serious breaches

B - Deliberate breach falling between A and C

C - Lower culpability; Minor breach or breaches.”.

23. Miss Elford on behalf of the Defendant suggests that the appropriate bracket is C, “minor breach or breaches”.

24. I am afraid I do not accept Ms Elford is correct. There have been persistent and serious breaches of an injunction order that has occurred in the run up to the trial. I agree with Mr Sanghera that the appropriate bracket for culpability is category A.

25. The starting point with regards to this consideration is three months' sentence or adjourned consideration to six months. We have already had an adjournment in respect of this. In my view, in terms of this particular breach, it is so serious that a custodial sentence is justified. I consider that the appropriate length of sentence after considering all of the circumstances after taking into account the aggravating and mitigating factors is 3 months imprisonment.

26. However, I have also to go on to consider is whether the 3 month imprisonment should be suspended or immediate in effect. I have concluded that a suspended sentence is appropriate sentence for the following reasons:

- i. I am dealing with a defendant who has recently gone through an operation to remove a cancerous lump. And although she is in remission from cancer, she will require follow up assessment and treatments that is best dealt with in the community.
- ii. her particular family circumstances with regard to the health of her mother.
- iii. There are no ongoing current complaints about noise nuisance at that block of flats from other neighbours and the Order appears to being complied with by the Defendant.

Accordingly due to the particular personal circumstances of the Defendant, I have decided that it would be appropriate to suspend the 3 month prison sentence for the remaining duration of the Injunction Order.

DJ Emerson

-----