

IN THE COUNTY COURT AT KINGSTON-UPON-HULL

Lowgate
Kingston-upon-Hull
HU1 2EZ

Monday, 9 December 2024

BEFORE:

HER HONOUR JUDGE RICHARDSON

BETWEEN:

ICB

Applicant

- and -

Sophia Hindley

Respondent

MS N PERRETT appeared on behalf of the Applicant
The Respondent did not appear and was not represented

JUDGMENT
(Draft for Approval)

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1. JUDGE RICHARDSON: The first application I need to consider today is an application made by Sophia Hindley who is the respondent to these contempt proceedings and against whom 16 findings of breach have already been made, to adjourn today's hearing. Today is 9 December, that application was emailed to the court on the afternoon of Friday 6 December. In section 2 of the application, Sophia Hindley says this in that part of the form that asks "what order or direction are you seeking from the court?":

"For the court hearing to be adjourned as there was a problem with the solicitors I instructed, and the barrister cannot now attend on 9 December but can attend at a later date."

2. In section 2.2 which says, "Please set out the grounds in which you are seeking the order or directions." She says (amongst other things) that she is very much dreading next week (i.e. this week now) and, "This has not been helped by solicitors messing me around and preventing me being legally represented at the court hearing."
3. In considering this application, in my view it is necessary to consider the long and somewhat turgid procedural history of this case. On 4 December 2023, the court made final orders in section 21A proceedings brought in relation to the patient, JH. The court made a best interest decision that JH should reside at Placement 1, a residential nursing home that she was already resident in prior to 4 December, and the court made an order that it was in JH's best interests to receive care and treatment there in accordance with her assessed needs.
4. A safeguard was built into that order, that in the event that JH was readmitted to hospital, and she was to be discharged to Placement 1, but if any party sought for her to be discharged elsewhere, they were to make an application supported by evidence on notice to all other parties.

5. On the same date (4 December 2023), the court made an injunction order against Sophia Hindley. That order was made following findings made by the court at an earlier hearing on 8 November 2023 which included the following:
- (a) that Sophia Hindley has called Yorkshire Ambulance Service in relation to JH on 28 July, 29 July, 8 August, 12 September, 16 September, 25 October and 30 October 2023 and on every occasion, there was no medical reason for doing so;
 - (b) that Sophia Hindley's behaviour has at times amounted to chronic attention seeking including regular unacceptable behaviour;
 - (c) Sophia Hindley had made numerous referrals to the Care Quality Commission since July 2023; and
 - (d) Sophia Hindley's behaviour towards staff at Placement 1 had been intimidating and threatening.
6. That injunction order was made in order to protect JH and her placement at Placement 1, which on the evidence the court heard was at risk due to behaviours of Sophia Hindley, and it has to be said at that time, Sophia Hindley's mother, EH. It was clear on the evidence before the court that Placement 1 was the only placement in or around Hull and East Yorkshire that was able to meet JH's needs and was prepared to accept her as a resident.
7. This was despite the ICB contacting a number of other care providers over a substantial period of time and despite doing that, not one single other care provider was prepared to accept JH. The reason for that was the difficult family dynamics, put bluntly the behaviour of Sophia Hindley and at that time, EH. A placement out of area was not in JH's best interests. It would remove her from the city she has lived in for many years, where she has established many roots and many friendships and it would deny her dedicated husband, A, and her many local friends the opportunity to visit her regularly which they currently do.
8. The injunction at that stage was not in wholly prohibitive terms. It prevented Sophia Hindley from accessing Placement 1 premises without the prior written permission of Placement 1 in advance. A mirror order in those terms was made in relation to EH at

the same time. The order also prohibited Sophia Hindley from knowingly providing inaccurate information to professionals in relation to JH, and it prohibited her from contacting the ambulance service for JH and/or JH's GP and/or any other medical professionals JH is under the care of.

9. The injunction order was designed to prevent Sophia Hindley from engaging in the types of behaviour that had been evidenced to the court prior to the findings that form the basis of the orders being made. The injunction order was also an opportunity for Sophia Hindley and EH to build bridges with Placement 1. I am told that EH has taken advantage of that opportunity. She now has a constructive working relationship with Placement 1 and is able to visit her mother regularly and without any restrictions.
10. Sadly, Sophia Hindley chose not to take advantage of that opportunity. Instead of building bridges with Placement 1, she chose to burn them. Her behaviour -- as is evidenced by the findings which were made beyond reasonable doubt within these committal proceedings -- shows that since the injunction order was made, Sophia Hindley has embarked on a sustained campaign which is not and cannot be in the best interest of JH.
11. 16 findings of breach of the injunction order were found by this court. The evidence at the committal proceeding hearing where the court considered if the breaches were proved to the criminal standard, was that JH's placement at Placement 1 is again under threat. Whilst Placement 1 find JH a pleasure and a joy to look after, the behaviour of Sophia Hindley has been of such a scale and magnitude and has had such an impact on the staff and management at Placement 1, that they have had to seriously weight up whether they could continue to provide a placement and care for JH.
12. I have already referred to the evidence prior to December 2023, that there were no other care providers in the area who would consider accepting JH due to the family dynamics of specifically the then behaviour of Sophia Hindley and it has to be said, EH. The continued and sustained behaviour of Sophia Hindley has made the prospect of finding an alternative placement for JH even lower. One only has to ask the rhetorical question, what care home would willingly agree to take on the challenges

and issues that Placement 1 has faced as a result of the wanton and destructive actions of Sophia Hindley?

13. Sophia Hindley was aware from the evidence made available last year of the problems in identifying alternative placements for JH. She was also aware that prior to the placement at Placement 1 being identified, she had been made subject to a suspended term of imprisonment handed down by HHJ Miller in relation to a breach by Sophia Hindley of an injunction order made by HHJ Miller to prevent Sophia Hindley from interfering with the attempts of ICB at that time to find any placement for JH.
14. Let me say this as well, I have had the benefit of seeing and hearing from Sophia Hindley on more than one occasion. She is not unintelligent, far from it. She clearly has the cognitive ability to understand that her actions prior to and after December 2024 are such as to put JH's placement at Placement 1 at risk. Sadly, as the event subsequent to December 2023 have shown -- and they will be set out in some further detail in this judgment -- I am now forced to the conclusion that Sophia Hindley has lost all objectivity or ability to consider whether her actions are in the best interest of JH. Indeed, my clear view now is that her actions amount to a determined campaign to undermine the stability of JH's placement at Placement 1.
15. I return to the chronology. On 14 February 2024, Sophia Hindley issued an application seeking an order that, "The judge to consider the comments in my application and act upon them." That application resulted in the court making a long and detailed order, pointing out to Sophia Hindley that she has to tell the court what order she is seeking and why, and in relation to evidence, evidence has to be attached to a witness statement, and it includes photographic evidence information should be provided about when the photograph was taken and what it is said the photograph is evidence of. That is because Sophia Hindley had attached a number of photographs to the application on 14 February.
16. The court required Sophia Hindley to submit a witness statement setting out all of the information that the court required. That order made it clear to Sophia Hindley that the court works on evidence, and that she cannot and should not simply send unsolicited

documents to the court (which she has done in the past), and that when she makes applications, she has to tell the court what she is asking for. Sophia Hindley did not submit the witness statement as required by the court and no further order was made. On 3 June 2024, the ICB issued committal proceedings against Sophia Hindley alleging numerous breaches of the injunction order made on 4 December 2023.

17. A number of orders were made prior to the committal proceedings ultimately being heard on 27 and 30 September 2024 and on 30 September, the court handed down a judgment in which it made 16 findings of breach to the criminal standard. Every order that Sophia Hindley has received since June 2024 (and she has received numerous orders) has set out her right to be legally represented in the contempt proceedings and her right to apply for legal aid which may be available without means testing.
18. On 24 September 2024, Sophia Hindley issued a COP 9 application seeking an adjournment of the hearing on 27 and 30 September. The application was made on the basis, and I quote, "My doctor feels my health is not in a good way " and " Attending the court hearing would put my health in further danger." That application was considered as a preliminary issue on 27 September. For the reasons set out in a judgment of the court was handed down in relation to that application (and which has been subsequently transcribed and made available to Sophia Hindley) that application was refused.
19. That judgment, and the order that ensued, made it clear to Sophia Hindley that if she is to make or seek applications for adjournments on the basis of medical evidence, there must be cogent medical evidence from a treating clinician or someone with knowledge of her and her condition, which sets out clearly the reason why she is unfit to attend court on a particular date.
20. On 30 September, having made 16 findings of breach within the committal proceedings, the court adjourned the sentencing. The reasons for doing so are set out in the recitals to the order made that day. I expressed the preliminary view (which is set out in the recital to the order of 30 September), that the custody threshold was clearly crossed in this case, and considerations at the sentencing hearing were likely to revolve

around the length of sentence, whether in relation to each breach the sentence should be concurrent or consecutive and whether any sentence should be suspended and if so, on what terms.

21. On 30 September, the court made a further injunction order against Sophia Hindley. It made an order that she should not access to enter Placement 1's premises and that she was not to contact, including in person, by email or by telephone the following organisations and/or individuals or professionals who work at those organisations:

Placement 1, Hull City Council Safeguarding Team, Hull City Council, CQC, Healthwatch, Hull University Teaching Hospitals NHS Trust, Leeds Teaching Hospitals NHS Trust, Yorkshire Ambulance Service, City Health Care Partnership, Humberside Police. NHS England and any GP practice, nurse provider, medical provider, dental provider, hospital, trust or local authorities which JH is or has been under the care of.

22. The purpose of that order was to protect JH and her placement at Placement 1.
23. The sentencing hearing was originally adjourned to 25 October. It was unfortunately adjourned the day before due to a lack of judicial availability. It was adjourned to 4 November 2024. On 1 November 2024, Sophia Hindley issued an application notice seeking an adjournment of the hearing on 4 November. The court made an order on 4 November adjourning matters to 25 November 2024, and the order required Sophia Hindley, in light of the contents of her application notice, to file and send by 4.00 pm on 12 November the following information: the name of the solicitors firm that she had instructed to represent her, the name of the individual solicitor she had instructed to represent her, the date she instructed the solicitor and the name of the barrister that she had said in her application form was happy to represent her.
24. The order also specifically directed, that should Sophia Hindley not comply with the terms of paragraph 3 of the order (which I have just read out), the court may draw adverse inferences that she had not instructed legal representation.

25. The order made on 4 November 2024 also required Sophia Hindley to file and serve by 4.00 pm on 12 November 2024, medical evidence that she was unfit to attend court on 4 November 2024, due to an acute respiratory infection and fever. That was as a result of an email sent by Sophia Hindley to the Court of Protection on 4 November (the date of the hearing) stating, amongst other matters, that she was unable to attend the hearing that day as she currently had an acute respiratory infection and fever and felt very unwell.
26. Sophia Hindley failed to comply with either paragraphs 3 or 4 of the order of 4 November. The adverse inference warning applied not only to the requirement to provide evidence in relation to the solicitor and barrister but also in relation to medical evidence because paragraph 6 of that order of 4 November says this, "Should [Sophia Hindley] not comply with the terms of paragraph 4 of this order, it is open to the court to draw the adverse inference that [Sophia Hindley] was not medically unfit to attend court."
27. On 20 November 2024, Sophia Hindley issued an application seeking a variation of the injunction order to allow her to visit JH on JH's birthday. That application was heard very quickly, 9.30 am on 21 November because JH's birthday fell on the following weekend. Sophia Hindley did not attend that application, but the ICB and the East Riding of Yorkshire Council did. They opposed the application and the ICB filed evidence in the form of a witness statement from TA (the General Manager of Placement 1) setting out further alleged breaches by Sophia Hindley of the injunction order made against her on 30 September 2024.
28. At the hearing on 21 November the court was satisfied that the injunction order made on 30 September had been served on Sophia Hindley and found on the balance of probabilities that there had been four breaches of that injunction order. Whilst those findings were made on the balance of probabilities because that was the applicable standard of truth in relation to the application before the court, the evidence in relation to the first two breaches that the court found was overwhelming and would have been made beyond reasonable doubt if that had been the applicable standard that applied.

29. The committal proceedings and the sentencing of the committal proceedings were relisted for 25 November 2024. On that day, the court was informed by the ICB that Mr Michael Kennedy of Switalskis Solicitors had contacted the ICB over the weekend on Saturday 23 November stating that Sophia Hindley had been in touch with his firm, and they were exploring the possibility of obtaining legal aid for her.
30. On the basis of that information, the court adjourned the matter on one last time to today, 9 December, to allow Sophia Hindley to instruct Switalskis Solicitors. The recital to the order made on 25 November made it clear that in the event that Sophia Hindley failed to instruct Mr Kennedy or failed to instruct him in time for him to be able to represent her on 9 December, there will be no further adjournments.
31. That date of 9 December was set in the light of a timescale that Mr Kennedy had indicated to the ICB on the morning of 25 November was required to obtain legal aid and represent Sophia Hindley. Sophia Hindley did instruct Switalskis Solicitors. On 25 November, the legal aid agency granted Sophia Hindley a representation order in the name of Switalskis Solicitors, and on 26 November, they were formally instructed to act for Sophia Hindley.
32. On 3 December, after close of business, Switalskis received an email from Sophia Hindley terminating their retainer with immediate effect. On the morning of 4 December 2024, Sophia Hindley further confirmed her unequivocal termination of the retainer with Switalskis Solicitors and in that email, she informed Switalskis that she had retained another firm of solicitors. All of this information has been provided to the court by Switalskis Solicitors pursuant to an order made by the court on 4 December, which required Switalskis to provide that information, and which also gave that firm permission to come off the record as acting for Sophia Hindley.
33. On 6 December, Sophia Hindley sent the present application to the court. I have already set out the terms of that application. That application was preceded by an email sent by Sophia Hindley to the court and others (but not I note, the ICB) saying this (amongst others):

"Humberside Police had to be involved on Tuesday and yesterday due to the conduct of Michael Kennedy at Switalskis. I am not adverse to hearing things I do not agree with, but his conduct was very concerning. I have spoken with a lot of solicitors throughout my life to know that how Switalskis treated me was very inappropriate. My neurology team were also concerned by some of his communications with myself relating to my grandma, domestic abuse and my health conditions. Michael was lying and putting things in writing that I quite frankly have never said. I am still working round the clock to sort out the solicitor and barrister, but Michael has really messed them and me around."

34. It goes onto say that she has two neurology appointments in hospital on 11 December and 17 December which she is trying to prepare for. She goes on to say:

"I explained to Switalskis and Michal Kennedy that several barristers had already agreed to represent me, and I just required a solicitor to instruct. Michael stated he contacted these chambers, but the barristers and clerks said that categorically was not true. This messed the barristers around who were happy to represent me and now means they are not available on 9 December; they could represent me at the start of January."

35. The clear inference from that email is that somehow Switalskis Solicitors prevented Sophia Hindley from being represented today. Sadly, this is another example of Sophia Hindley's chronic attention seeking behaviour that the court noted and found back in December 2023, and it has to be said that on the evidence that is available to this court, objectively the polar opposite is true.
36. I note the suggestion from Sophia Hindley that she found herself a barrister to act for herself. That suggestion frankly is risible. Barristers are ordinarily a referral profession; they are instructed by solicitors. Whilst barristers can under some

circumstances be instructed under the Direct Access Scheme, if that were to take place there would be no requirement for a solicitor to be involved. The fact that Sophia Hindley instructed solicitors (Switalskis) and in her email to them she indicated she was again seeking to find solicitors and again in her application notice said that she is seeking to find solicitors is incompatible with her having contacted barristers under the Direct Access Scheme.

37. The reality of the situation is that shortly before today's hearing and with knowledge of the date of this hearing, and with knowledge of the fact that the court had already indicated there will be no further adjournments, Sophia Hindley chose to terminate her retainer with competent solicitors who were on the record and were willing and able to act for her today.
38. It leaves a very significant concern in the mind of the court that Sophia Hindley's actions have been designed in a way to try and engineer an adjournment today. On 6 December, I directed that this application for an adjournment be listed as a preliminary issue today, and I made the directions that I have already read out, requiring Sophia Hindley to provide the information alluded to in her application notice. Those directions were sent by email to Sophia Hindley at 5.48 pm last Friday. She has failed to comply with them.
39. As Chamberlain J pointed out, in the case of *The All England Lawn Tennis Club (Championships) Limited v McKay* [2019] EWHC 2373 at paragraph 29, "A defendant within committal proceedings can only benefit from legal representation if he is prepared to engage with legal representatives and the court." In the present case, the evidence overwhelmingly indicates that Sophia Hindley has not been prepared to engage with legal representatives, not in any meaningful matter, and she has certainly not been prepared to engage with the court.
40. In the same case, Chamberlain J also said, "To the extent that medical evidence is relied upon to explain absence from court or participation in the process, such medical evidence should ordinarily satisfy the criteria set out by the court in *Levy v Ellis-Carr* [2012] EWHC 63." Those criteria are as follow. Firstly, "Such evidence should

identify the medical attendant and give details of his familiarity with the party's medical condition (detailing all recent consultations)." Secondly the evidence:

"Should identify with particularity what the patient's medical condition is and the features of that condition which (in the medical attendant's opinion) prevent participation in the trial process."

41. Thirdly the medical evidence, "Should provide a reasoned prognosis and should give the court some confidence that what is being expressed is an independent opinion after a proper examination." As Chamberlain J rightly pointed out in the *All England Tennis* case, such medical evidence (if submitted) is expert evidence and the court can then consider what weight to attach to it and what arrangements may be made, sorting an adjournment to accommodate a parties' difficulty.
42. Reminding myself of that test and the need for a defendant to committal proceedings to be prepared to properly engage with legal representatives of the court I bear in mind Sophia Hindley's assertions made as long ago as prior to 4 November that she *had* obtained legal representation. Those were assertions made in an application notice supported by a statement of truth, signed by Sophia Hindley. Her failure to subsequently comply with the court directions, and the adverse inferences that the court draws from that, indicate that these assertions were untrue.
43. Sophia Hindley has sought to mislead the court as to whether she has or is seeking legal representation. The one time she did obtain legal representation, she has dispensed with it shortly before today's hearing. She has failed to attend any of the hearings within these committal proceedings, and I note that that was a pattern of behaviour that also pertained in relation to the committal proceedings before HHJ Miller, and she has failed to provide any medical evidence in relation to her inability to attend court today. She can be under no doubt of the requirement to provide such medical evidence because there have been a number of court orders made by this court pointing out and requiring her to do so.

44. I take all of those matters into account and also take into account the fact that at the hearing on 21 November (when Sophia Hindley's application for the injunction order to be varied was dismissed) the court was again informed that Placement 1 was struggling in relation to the challenges that Sophia Hindley's behaviour is putting on them. There is a need to ensure JH's continued placement at Placement 1 is sustained provided it continues to be in JH's best interest for her to remain there (and there is no evidence at all that it is not so).
45. I make this observation as well. Very recently Sophia Hindley also made an application pursuant to the provision in the order of 4 December 2023 for JH to not be discharged from hospital to Placement 1. This is against a background where Sophia Hindley's application for the injunction order to be varied so that she could visit JH on her birthday having been refused, sadly the evening before her birthday JH was admitted to hospital. She had managed to dislodge a treatment line, was admitted to hospital and the lack of suitably qualified radiographers within the hospital building meant that she was detained as an inpatient. The result was no doubt that Sophia Hindley was able to visit JH on her birthday. There is no order that prevents her per se from visiting JH in hospital and I have no doubt at all of her desire to have done so.
46. I do note that JH having been admitted to hospital, Sophia Hindley then issued an application for JH not to be discharged to Placement 1. That application was dealt by me on paper. It was refused. Written reasons were given for refusing the application, including that yet again, Sophia Hindley, had sent with an application note with accompanying photographs with no explanation of what the photographs were, when they were taken and what they were said to evidence. In that regard, I go back to the previous earlier order referred to in my judgment that pointed out to Sophia Hindley that that is what the court requires.
47. The order refusing Sophia Hindley's application for JH not to be discharged to Placement 1, also varied the order of 4 December 2023, in that it removed the ability of Sophia Hindley to apply pursuant to that provision. It made clear that that ability to make an application to the court on the basis that it is not in JH's best interest to be

discharged from hospital to Placement 1, was still open to other parties to the case, namely, AH, EH and AH's son (EH's brother, Sophia Hindley's uncle).

48. Because that was an order made on the court's own motion, a provision was included in the order that Sophia Hindley could apply to have that part of the order set aside or varied, providing such application was made by 4.00 pm last Friday, and if that application was made, it would be heard today, and Sophia Hindley would be required to attend court today to pursue that application. I note that no such application was made by Sophia Hindley, and the clear and strong picture that is emerging from the evidence and the various applications, is that Sophia Hindley is desperate to not attend court within these committal proceedings.
49. Having considered all of the evidence and the legal tests propounded by Chamberlain J and having found that Sophia Hindley is not meaningfully engaged with the court and has no intention of meaningfully engaging with the court or meaningful intention of obtaining legal representation to represent her at a hearing, the application for an adjournment in order to instruct solicitors is refused.

(After further submissions)

50. I turn now to the question whether having refused the adjournment, I should proceed and deal with the sentencing of Sophia Hindley in her absence. In that regard, I remind myself of the helpful guidelines set down by Cobb J (as he then was) in *Sanchez v Oboz* [2015] EWHC 235 which this court had cause to consider on 27 September when it considered on that date the same question, namely whether it should proceed in the absence of Sophia Hindley.
51. I do not intend to set out that in any detail what was said in that case, but looking at the helpful factors set out by Cobb J, I take into account the following. Sophia Hindley has been served with the relevant documents in relation to today and that includes the order made on 25 November 2024 and the previously approved judgments on whether to adjourn the proceedings on 27 September, whether to proceed in her absence (setting out the relevant factors set out in *Sanchez v Obez*) and the judgment handed down in

the committal proceedings setting out the findings made in relation thereto. She is therefore aware of the factors that the court must take into account when deciding whether to proceed in her absence and what issues the court will need to consider if it decides to sentence her in her absence.

52. Secondly, Sophia Hindley, has had sufficient notice to prepare for today's hearing. This hearing was originally listed for 25 October and that followed a hearing on 30 September. She has had since 30 September 2024 time to prepare for today's hearing. I look at the reason for Sophia Hindley's absence, it is her alleged illness. Sophia Hindley is aware -- and I have set out in some detail in my judgment refusing the adjournment today -- from previous orders and judgments, including the judgment of 27 September, that the court requires medical evidence if she is to assert that she is unfit to attend court. There is none.
53. I do however note that in her email sent to the court today, she says this, "I am awaiting hospital treatment. The violent sickness then triggered me to have a seizure." The strong inference if she is awaiting hospital treatment is that she has already sought medical advice, and one would have expected her to do that if she had truly suffered a seizure as a result of vomiting. There is no evidence, and she has not provided any evidence of any medical advice sought over the weekend.
54. I also take into account that Sophia Hindley has long history of contacting court just before hearings and asserting that she is too unwell to attend. She has not on any one occasion provided medical evidence in support of those assertions. I also note that Sophia Hindley was able to email the court in relation to her alleged illness, but she has not complied with the directions order made on Friday. In other words, she is well enough to send one email to the court, but she has chosen not to comply with an order of the court. I also take into account that Sophia Hindley has failed to attend the substantive hearings on 27 and 30 September and in previous committal proceedings before HHJ Miller, she did not attend any hearings to the best of my knowledge.
55. In my paragraph 15 of the judgment that I handed down on 27 September when I made a decision to proceed in the absence of Sophia Hindley, I said this:

"There is a bench warrant outstanding for Sophia Hindley's attendance. The knowledge of that bench warrant or its existence is not procured her attendance at court today. Sophia Hindley has, in my experience, in the time that I have been dealing with this case, exhibited a pattern of behaviour whereby she has attended some hearings but not others, and on at least one occasion, attended a hearing seeking an adjournment on medical grounds which was refused and then fully participated in the hearing. In other words, the evidence that I have, shows that she picks and chooses which hearing she wants to attend, and she has made it very clear through her application for an adjournment made this week, through the previous application for adjournment made prior to the hearing on 5 August (also on medical grounds), that she has no desire whatsoever to attend committal proceedings."

56. Those observations made on 27 September are equally apt today. I am however mindful of one matter. It is Monday morning. If Sophia Hindley had genuinely been ill over the weekend, it may have been logistically difficult for her to obtain the medical evidence required for this morning. In my view that, "if" -- in light of the history of this case I make it very clear that in the court's view it is a big "if" but nevertheless it is an if -- can be dealt with by appropriate safeguards.
57. I intend, having considered all of the evidence and reminding myself that we are now at the sentencing stage of committal proceedings that have been ongoing and were issued in June 2024 (so we are six months down the line), to deal with matters in the absence of Sophia Hindley.
58. The safeguard that I intend to build into the order is this. If by 4.00 pm this Friday 13 December 2024, Sophia Hindley issues an application notice supported by medical evidence that complies with the requirements set out in *Levy v Ellis-Carr* (and those requirements will be set out again in the order made today) the court will list that application on Tuesday 17 December at 10.00 am, and it will consider then whether to set aside any sentence that is going to be passed today and if it does set aside any

sentence that is passed today, it will on Tuesday 17 December immediately reconsider the issue of the appropriate sentence to be passed.

59. There will be no hearing on 17 December if Sophia Hindley does not file the properly compliant application notice with the full medical evidence in support by 4.00 pm this Friday. I make it clear again, that if she does file that evidence the court will consider that application on its merits and if on its merits the court is satisfied that there was - - contrary to the court's serious doubts -- a genuine reason for Sophia Hindley not to attend court today, the court will deal with the sentencing again a week tomorrow.

(After further submissions)

60. I now have to decide what penalties to pass in relation to the 16 breaches that have been found within these committal proceedings. As Ms Perrett (who acts for the ICB) has quite properly pointed out and if I can put it this way, in an attempt to assist the court, the approach that I must take in relation to this exercise is as follows.
61. Any penalty must be proportionate to the seriousness of the contempt. Prison is not a starting point, and it is not -- if I can put it this way -- always the necessary or appropriate response. But on the other hand, there is no principle that a sentence of imprisonment should not be imposed on a contemner who has not previously been before the court.
62. Where the court finds that a prison sentence is appropriate, that prison sentence should be as short as possible in relation to the gravity of the breaches and should bear some reasonable relationship to the maximum sentence which is two years. If imprisonment is the appropriate penalty, the length of imprisonment must be fixed without reference the question of whether or not the sentence is to be suspended and only once that exercise has been undertaken, should the court expressly ask itself whether the sentence should be suspended. Put another way, the court must be satisfied that the custody threshold is met and only once it is satisfied that the custody threshold is met, and it has settled on a reasonable and proportionate period of imprisonment should it consider suspension.

63. The range of powers that are available to me are found under section 14 of the Contempt of Court Act 1981 and the appropriate rules, including the Court of Protection Rules. I remind myself of the guidelines that I have already set out and that any penalty is at my discretion, taking into account those guidelines.
64. It is also in light of the decision in *Lovett v Wigan Borough Council* [2022] EWCA Civ 1631 undoubtedly the fact that the objectives of sentencing are as follows in the following order: firstly to ensure future compliance with court orders, secondly, to punish a contemner and thirdly, to effect rehabilitation.
65. In that same case, the Court of Appeal adopted the recommendations of the Civil Justice Council set out in annex A to its report of 20 July 2020 in relation to anti-social behaviour and whilst that was -- if I can put it this way -- a report specifically dealing with antisocial behaviour and the current case is not a case where there has been a breach of antisocial behaviour, I regard the approach taken by the Court of Appeal in *Lovett* as being equally applicable to the present case, where an injunction was made with the intention of providing protection to others (in this case, JH) and where that injunction has been breached.
66. I therefore accordingly need to have regard to the questions of harm and culpability. I have to consider Sophia Hindley's level of culpability and the harm that she has caused. In relation to culpability, Sophia Hindley's level of culpability is high. There have been persistent serious breaches of the injunction order made on 4 December 2023.
67. In relation to the harm, I consider the direct visits that Sophia Hindley made to Placement 1 to be breaches that caused or were capable of causing very serious harm. They were intended to have a potentially destabilising effect on JH's placement. The evidence of TA within the committal proceedings was that as a result of the breaches, JH's placement is at risk. That was reiterated to the court on 21 November in relation to another application by Sophia Hindley to vary the injunction order.
68. This is a lady whom the ICB struggle to find a placement for in area. This is a lady who currently has the benefit of regular visits as I understand it on an almost daily

basis from her devoted husband, AH, and regular visits from her daughter, EH, and other close friends and a wider circle of friends within the area.

69. I am very clear, and I have already in the judgment dealing with an adjournment today, referred to the evidence that the evidence clearly shows that the ICB struggled to find the placement for JH in area, that the actions of Sophia Hindley since the injunction order were made are actions which have been designed to effect a breakdown of that placement, and if that placement were to no longer be available for JH, that would be catastrophic for her (provided it remains in her best interests to continue to reside at Placement 1 and receive care there, and there is no credible evidence that this is not the case).
70. It would result in JH's removal from a placement where she has built firm relationships with the carers, who say that she is a joy to look after. It would severely interfere with the ability of AH to visit her. Given JH's age and health, any move is also likely to have an impact on her physical and emotional wellbeing.
71. In relation to the attendance at Placement 1, this is using the CJC Sentencing Guidelines a category A1 case. There is a high level of culpability and serious harm. Other breaches which fall into the broad category of Sophia Hindley providing inaccurate information to professionals about JH are breaches which did not cause no or little harm, but in my view did not cause very serious harm. They fall into category 2 when considering harm and are as such category A2 breaches.
72. I remind myself that the starting point for category A1 breaches is six months imprisonment with a category range of eight weeks imprisonment to eighteen months imprisonment. The starting point for A2 breaches is three months imprisonment with a category range of an adjourned consideration to six months imprisonment.
73. There are some aggravating features in the present case. The breaches started very shortly after the order was made. The order was designed to protect and defend an elderly and vulnerable person. There are other matters which could or would be aggravating features if I had not already taken them into account when considering

culpability and harm, namely that Sophia Hindley's access has been targeting with an intent to destabilise JH's placement and there had been persistent breaches of the order. I make it clear that both of those factors are not taken into account as aggravating features, because they have already been taken into account at an earlier stage of the sentencing exercise.

74. As far as mitigating features are concerned, as far as I am aware, Sophia Hindley is of previous good character.
75. I turn now to the sentences I intend to pass. I bear in mind the need to have penalties which are proportionate to the seriousness of the breaches. In my clear view, this is not a case where a fine would be adequate. It is to use the parlance of my criminal colleagues, a case where the custody threshold is clearly passed.
76. This is not an easy sentencing exercise, and I have in mind the fact that I was also taking into account the issues of totality as well as proportionality. It could be said that the two are the same, I do not think they quite are. I think each sentence that has passed in relation to each breach must be proportionate, but the court must then stand back and look at the issue of totality.
77. It is not a case of passing a sentence for each breach, totalling them up and coming to a figure. I intend to deal with each breach separately because I should do so and then step back to consider the least or the shortest possible sentence that is appropriate and proportionate to reflect the 16 breaches found.
78. In relation to breaches 5, 7, 16, 20, 23, and 32, those are category A1 breaches, those are the incidents where Sophia Hindley attended Placement 1 without the prior agreement of Placement 1. They are cases where there is a high level of culpability and harm and I remind myself that they also cause potential of conflict in the very place where JH should be able to feel safe and secure.
79. As I noted in the judgment dealing with the committal itself, those actions put the staff on the frontline and remove staff from their caring duties for JH and other residents. In

my view, the appropriate sentence for each of those breaches is 28 days in prison with each sentence running concurrently. That makes a total of 168 days in prison.

80. I turn now to the remaining breaches. Breach 3 was in relation to an assertion made by Sophia Hindley to others that no court order is in place and that a nurse working at Placement 1 had been stuck off. In my view, the appropriate period of imprisonment for that breach is 14 days. I will deal with the question of whether that is consecutive or concurrent when I deal with the issue of totality.
81. In relation to breach 8, whilst that was a separate breach that was found to occur because it was an assertion made by Sophia Hindley to professionals and the nurse at Placement 1 that there was no order preventing her from visiting, that breach occurred on the same day Sophia Hindley attended Placement 1 and in relation to which Sophia Hindley has already been given a prison sentence of 28 days and in my view, it is therefore appropriate that there is a prison sentence of 14 days concurrent with breach 7 which was the breach in relation to which Sophia Hindley attended on 29 December.
82. In relation to breaches 12 and 13, those breaches relate to information given by Sophia Hindley to professionals and in my clear view, when one looks at the chronology, breach 13 follows on from breach 12 and is part of the same action by Sophia Hindley in relation to a false allegation that JH was being abused and had bruising and had a brain injury. In my view, the appropriate sentence for breaches 12 and 13 is 14 days for each breach concurrent with each other and I will consider whether that should be concurrent or consecutive with 168 days that I have already given, when I step back at the end of this exercise and consider totality.
83. In relation to breach 15 which was an assertion made by Sophia Hindley on 7 March 2024 to the safeguarding team, that there was no court order in place and that JH was laid down coughing and choking on her food, again in my view, the appropriate sentence is 14 days. That in my view again, I will consider whether that should be concurrent or consecutive when I consider totality.

84. In relation to breach 17, that breach arose out of the same episode on 10 March 2024 when Sophia Hindley attended Placement 1 in relation to which she has been given a 28-day sentence. In my view, that warrants a 14-day sentence which is concurrent with the 28 days already given in relation to breach 16.
85. In relation to breach 18, that is an assertion to the out of hours safeguarding team that Sophia Hindley had paperwork that she could visit JH. Again, a 14-day sentence is appropriate but again, I need to consider whether it is concurrent or if it is consecutive.
86. In relation to breach 22, that relates to Sophia Hindley interacting with and having contact with a nurse at Placement 1 on 14 February 2024. I have already passed a 28-day sentence in relation to breach 20 which was the visit on 14 April and given the facts and circumstances relating to that visit, in my view no penalty should be passed in relation to that breach.
87. In relation to breaches 28 and 29, these relate to Sophia Hindley contacting JH's GP on 18 April 2024 and in my view, an appropriate sentence is 14 days concurrent with each other and again, whether concurrent or consecutive with the sentences that I have already passed will remain to be seen when I step back and look at totality.
88. I now have to step back and look at totality because in addition to the 168 days that I have given Sophia Hindley, there are a number of other sentences of 14 days, which if I were to add them up and add them to the 168 days in my view would be totally disproportionate to the breaches that have been found.
89. When I consider the Sentencing Council Guidelines and the starting point for category A1 offences, but also the range of sentences that are available and I look at what is the shortest possible sentence that can be passed, my clear view is that 168 days is that appropriate period of imprisonment. As such, all other sentences in relation to all other breaches that are not already consecutive to the sentences passed, will be concurrent to the sentences already passed in relation to breaches 3, 7, 16, 20, 23 and 32.

90. The result is that I pass a sentence of 168 days imprisonment on Sophia Hindley. That in my view is the shortest period that reflects proportionality, totality and that is just and proportionate to the breaches.
91. I then turn to the question of whether the court should suspend that sentence, and I remind myself that in *Lovett*, the Court of Appeal emphasised that the first purpose of any penalty passed for contempt of court is to ensure future compliance with the court order in the case.
92. Secondary to that, is the question of punishment. Sophia Hindley has no respect for court orders. The breaches that have been found indicate that. In particular, the breaches that related to her knowingly making false assertions to professionals, that there was no court order in place preventing her from visiting her grandmother or, from making assertions to professionals that a judge of the Court of Protection has specifically said that she could visit her grandmother.
93. In addition, on 21 November when the court dealt with Sophia Hindley's application for the injunction to be varied to allow her to visit JH on JH's birthday, the court found that there had been four further breaches of the amended tightened injunction order that was made on 30 September 2024. That injunction order made on 30 September was made in light of the findings that Sophia Hindley was in contempt of court and in order to protect JH and in JH's best interest.
94. In other words, since being found to be in contempt of court and with the prospect of this sentencing hearing looming, and in the knowledge that the court had tightened the injunction order against her, Sophia Hindley nevertheless chose to breach that injunction order on a further four occasions. I found those breaches to the civil standard, but I also have commented, and I repeat that observation today, that two of those breaches would without doubt have been found beyond reasonable doubt if the criminal standard were to apply.
95. All of the evidence shows that Sophia Hindley has no respect for court orders and by her actions, she has shown that she has no intention of complying with them. It would

be futile to suspend any sentence because the purpose of such suspension, namely, to ensure future compliance with the injunction order of 30 September, is frankly unattainable. This is in my view the clearest of cases where it would be inappropriate to suspend the sentence passed.

96. The period of sentence therefore is 168 days immediate custodial sentence. I am going to add this caveat. In light of the order that I have made when I decided to proceed in Sophia Hindley's absence which has given her the opportunity to file an application notice and medical evidence by 4.00 pm on Friday 13 December, proving that she was medically unfit to attend court today, no action is to be taken and no bench warrant will be issued until after 4.00 pm on Friday 13 December.
97. In other words, whilst there is an immediate custodial sentence, no steps are to be taken by the ICB or the court to ensure that Sophia Hindley is brought before this court and starts that sentence until after she has been given the opportunity to file the application notice, that she can file if she chooses to do so by 4.00 pm this Friday. If no such application is issued, the court will issue a bench warrant.
98. I also record that Sophia Hindley has a right to appeal this sentence and the findings of contempt to the Court of Appeal. The period for lodging such an appeal is 21 days after today i.e. by 31 December 2024.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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