

Claim Nos: see attached schedule

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

The Honourable Mr Justice Nicklin
16 October 2020



BETWEEN: -

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

Claimants

-and-

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

Defendants

ORDER

THIS ORDER had been made with the concurrence of the President of the Queen's Bench Division and Mr Justice Stewart, the Judge in Charge of the Queen's Bench Division Civil List

UPON the Court in the claim *London Borough of Enfield -v- Persons Unknown* (QB-2020-003471) ("the *Enfield* case") having, on 2 October 2020:

- adjourned the Claimant's Application for an interim and final injunction against Persons Unknowns who enter and/or occupy any of 96 sites in the London Borough of Enfield for residential purposes (whether temporary or otherwise) including siting a caravans, mobile homes, associated vehicles and domestic paraphernalia ("the Application");
- directed a hearing of the Claimant's Application which has been fixed for 2 days on 27-28 January 2021;

- directed a Case Management Hearing which has been fixed for 17 December 2020 (“the Case Management Hearing”); and
- directed that the Attorney General be invited to instruct an advocate to the court given the wider issues of public importance raised by the Application

AND UPON it appearing that:

- injunctions in similar terms to that granted in the *Enfield* case may have been granted in the actions identified in Schedule 1 to this Order;
- it is likely that common issues or considerations are likely to arise in the actions identified in Schedule 1 to this Order; and
- the most proportionate way of managing the resolution of any common issues is by identifying lead cases from amongst the actions identified in Schedule 1 to this Order

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

1. Pursuant to CPR 30.2(4) and s.41 County Courts Act 1980, the actions identified 18, 19, 21, 29, 31, 32, 35 and 36 in Schedule 1 are forthwith transferred to the High Court, Queen’s Bench Division, Royal Courts of Justice.
2. By 4.30pm on 30 October 2020, each Claimant in actions identified 18, 19, 21, 29, 31, 32, 35 and 36 are to upload to the CE-File copies of:
 - a. the Claim Form (and any Particulars of Claim if applicable)
 - b. all Application Notices filed in the claim; and
 - c. all orders made by the Court in the claim.
3. By 4.30pm on 30 October 2020, all other Claimants (not covered by Paragraph 2 above) are to ensure that the Claim Form, all Application Notices filed in the claim and all orders made by the Court in their actions are available on the CE-File, by uploading any missing documents.
4. By 4.30pm on 13 November 2020, each Claimant in the actions identified in the attached Schedule 1 must file in the action (and provide a copy to the Clerk to Mr Justice Nicklin: Daniel.Mendonca@justice.gov.uk) a completed and signed Questionnaire (Schedule 2).
5. Any Claimant who answers either Question 8(a) or 8(b) in the Questionnaire “yes”, must attend or be represented at the Case Management Hearing.

6. Any Claimant who, having considered the Court of Appeal decisions in ***Bromley LBC -v- Persons Unknown* [2020] PTSR 1043** and ***Canada Goose UK Retail Ltd -v- Persons Unknown* [2020] 1 WLR 2802**, wishes to:
 - a. discontinue its claim under CPR 38.2, or
 - b. apply to vary or discharge any current injunction previously granted in its favour

must issue, file and serve an Application Notice by 4.30pm on 13 November 2020 and, unless the Court otherwise orders, the Application will be heard at the Case Management Conference.
7. Until further order, any application in each of the actions identified in Schedule 1 must be made to Mr Justice Nicklin.
8. 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 and supported by evidence;
 - b. issued and filed by 4.30pm on 23 October 2020; and
 - c. will be determined by Mr Justice Nicklin.

Reasons

- (A) The recent hearing in the ***Enfield*** case has led to the identification of issues that are likely to arise in other cases involving the grant of local authority wide injunctions to prohibit trespass on land granted against Persons Unknown who have typically, but not exclusively, been defined as Gypsies or Travellers (“Traveller Injunction”). The issues concern existing injunctions that have previously been granted (in most cases for several years) as well as applications for new or renewed injunctions of this type. The principles upon which such injunctions are granted have been subject to review in a series of cases: ***Cameron -v- Liverpool Victoria Insurance Co Ltd* [2019] 1 WLR 1471**; ***Boyd -v- Ineos Upstream Ltd* [2019] 4 WLR 100**; ***Bromley LBC -v- Persons Unknown* [2020] PTSR 1043**; ***Cuadrilla Bowland Ltd -v- Persons Unknown* [2020] 4 WLR 29**; and ***Canada Goose UK Retail Ltd -v- Persons Unknown* [2020] 1 WLR 2802**.
- (B) The Court has identified the cases listed in Schedule 1 as claims in which Traveller Injunctions may have been granted in the past. The Court has held, in the ***Enfield*** case [32], that a local authority which has, in the past, obtained a Traveller Injunction is under a duty to restore the claim before the court if it becomes aware that there exist grounds upon which there is a realistic prospect that the injunction would be modified or discharged by the Court. This includes grounds that arise as a result of a change in the legal principles that apply. Any local authority not identified in Schedule 1 which has been granted a Traveller

Injunction should provide the details to the Clerk to Mr Justice Nicklin (details in Paragraph 4 of this Order).

- (C) It is likely that common issues will arise between the **Enfield** case and those identified in Schedule 1 (and any other cases in which a Traveller Injunction has been granted). The Court wants to manage the resolution of any common issues in an effective and proportionate manner. The Order provides (a) for transfer of Claims in Schedule 1 to the Queen's Bench Division of the High Court at the Royal Courts of Justice; (b) for completion of a Questionnaire to gather information about the Schedule 1 Claims; and (c) a Case Management Hearing on **17 December 2020** which will enable the Court to identify the extent of common issues and determine the best way of resolving them.
- (D) Prior to formulation of any common issues, the Court's first objective is to identify those local authorities with existing Traveller Injunctions who wish to maintain such injunctions (possibly with modification), and those who wish to discontinue their claims and/or discharge the current Traveller Injunction granted in their favour.

16 October 2020

SCHEDULE 1

	Claimant(s)	Defendants	CASE No:
1.	LB Barking and Dagenham	Tommy Stokes & 63 others	QB-2017-006899 (HQ17X00849)
2.	LB Bromley	Persons Unknown	QB-2018-003485 (HQ18X02920)
3.	LB Croydon	Persons Unknown	QB-2018-003395 (HQ18X03041)
4.	LB Ealing	Persons Unknown	QB-2019-001696
5.	LB Greenwich	Persons Unknown	QB-2018-003037 (HQ18X04086)
6.	LB Havering	William Stokes & 104 others and Persons Unknown	QB-2019-002737
7.	LB Hillingdon	Persons Unknown	QB-2019-001138
8.	LB Hounslow	Persons Unknown	QB-2019-002113
9.	LB Kingston-upon-Thames	Persons Unknown	QB-2019-000150
10.	LB Merton	Persons Unknown	QB-2018-000452
11.	LB Redbridge	Martin Stokes & 99 others	QB-2018-003983 (HQ18X01522)
12.	LB Richmond-upon-Thames	Persons Unknown	QB-2019-000777
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)
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	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	Thomas Corcoran & 52 others and Persons Unknown	QB-2019-000616
27.	Reigate and Banstead Borough Council	Persons Unknown	QB-2019-002297
28.	Rochdale Metropolitan Borough Council	Shane Heron & 91 others	QB-2017-005202 (HQ17X04668)
29.	Rugby Borough Council	McDonough & 5 others and Persons Unknown	Nuneaton County Court E00NU379
30.	Runnymede Borough Council	Andrew Doig & 15 others and Persons Unknown	QB-2017-006641 HQ17X01528
31.	Sandwell Metropolitan Borough Council	John Cassidy & 13 others and Persons Unknown	Birmingham District Registry D90BM116
32.	Solihull Metropolitan Borough Council	John Cassidy & 13 others and Persons Unknown	Birmingham District Registry E90BM026
33.	Test Valley Borough Council	Albert Bowers & 88 others and Persons Unknown	QB-2020-002112
34.	Thurrock Council	Martin Stokes & 106 others and Persons Unknown	QB-2019-002738
35.	Walsall Metropolitan Borough Council	Brenda Bridges & 17 others and Persons Unknown	Walsall County Court C00WJ967
36.	Wolverhampton City Council	Persons Unknown	Birmingham District Registry E90BM139
37.	Wycombe District Council	Persons Unknown	QB-2019-002783

Schedule 2 - Questionnaire

Details of Claim:

Name of Claimant:

Name(s) of Defendant(s):

RCJ Case Number:

Previous District Registry (if applicable):.....

Service of the Claim Form

1. Has the Claim Form been personally served in accordance with CPR 6.5 on any Persons Unknown?

.....

2. Has the Court made an order for alternative service of the Claim Form on Persons Unknown under CPR 6.15(1) or CPR 6.15(2)?

.....

If no, go to Question 3.

If yes,

a. Did you issue an Application for an order for alternative service of the Claim Form under CPR 6.15(1) or 6.15(2)?

.....

b. Does the Order for alternative service comply with CPR 6.15(4)?

.....

c. provide a copy of the order for alternative service of the Claim Form on Persons Unknown.

3. Has the Court made an order dispensing with service of the Claim Form on Persons Unknown under CPR 6.16?

.....

4. Has any defendant in the category of Persons Unknown filed an Acknowledgement of Service?

.....

Injunction

5. In your claim, is there an injunction currently in force against Persons Unknown?

.....

If no, you need not answer any further questions.

If yes,

- a. When was it granted?

.....

- b. Is it an interim or final order?

.....

- c. When does the injunction expire?

.....

- d. If an interim order, when is the next hearing?

.....

- e. If it is a final order, do the terms of the injunction purport to apply to and bind “newcomers” (as defined in **Canada Goose UK Retail Ltd -v- Persons Unknown [2020] 1 WLR 2802 [89]**):

.....

- f. Please provide a copy of the Order

6. Has the Injunction order been served on identified (or identifiable) individuals in the category of Persons Unknown?

.....

If yes, on a separate sheet, identify (by name or other method) those served with the Injunction and when they were served.

7. If a final injunction has been granted in your claim, is it possible to identify (by name or other method) those against whom, in the category of persons unknown, judgment has been granted?

.....

If yes, on a separate sheet, identify (by name or other method) those against whom judgment has been granted.

8. Having regard to the Court of Appeal decisions in ***Bromley LBC -v- Persons Unknown* [2020] PTSR 1043** and ***Canada Goose UK Retail Ltd -v- Persons Unknown* [2020] 1 WLR 2802**:

a. Are you satisfied that the injunction you have previously been granted complies with the principles identified in these decisions?

.....

b. Do you intend to seek an extension to the injunction that you have been granted (whether by application in the current proceedings or fresh claim)?

.....

9. If applicable, when is the next hearing listed for your case?

.....

Statement of Truth

(I believe) (The applicant believes) that the facts stated in this questionnaire (and any continuation sheets) are true.

Signed: **Full name:**
Claimant's (legal) representative

Name of legal representative's firm (if applicable):

Position or office held:
(if signing on behalf of the Claimant, firm or company)

Date: