

**IMPORTANT NOTICE**

This judgment was delivered in public. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of X must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Neutral Citation Number: [2023] EWCOP 53

**IN THE COURT OF PROTECTION**

**CASE NO: 14045574**

**IN THE MATTER OF THE MENTAL CAPACITY ACT 2005  
AND IN THE MATTER OF X**

**BETWEEN**

**LINCOLNSHIRE COUNTY COUNCIL**

**APPLICANT**

**-and-**

**X**

**(by their litigation friend, the Official Solicitor) (1)**

**LB(2)**

**MK (3)**

**AL (4)**

**RESPONDENTS**

***For the Applicant: Mr Borrett of Counsel, instructed by Deborah Broadhurst,  
Lincolnshire County Council***

***For X: Miss Scott of Counsel, instructed by Stephen Cardinal / Meghan Baxter,  
Irwin Mitchell LLP.***

***For LB and MK: No appearance or representation.***

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**JUDGMENT**

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1. The background facts are relevant to this judgement are set out below judgement dated 19 July 2023 which should be read alongside this Judgment.
2. I heard the application before me to commit the second and third respondents to prison in private. The reasons for that decision, to hold the committal hearing in private, are set out in the judgement of 19 July 2023.

**The law**

3. Proceedings for contempt of Court are criminal in nature. The particular allegations of contempt, or, as in this case how it is said that the respondents breached the Courts

injunction must be set out clearly in writing and served upon the respondents. It is important that each separate allegation of contempt is identified. The application, and the document in which the particulars of content are set out must be proved to have been served on the respondents in accordance with relevant procedural rules. The respondents must be given an opportunity to secure legal representation. The starting point is that applications for committal should be held in public. I determined that, in accordance with specific rules of procedure in the Court of Protection Rules 2017, the committal proceedings should be held in private. I have set out my detailed reasons for that in the Judgement of 19 July 2023. The Official Solicitor no longer pursues an application to withhold the respondents' names. I am satisfied in this case that the procedural requirements I have just referred to, and other requirements (as summarised, for example in *Re Dahlia Griffith (Application to Commit)* [2020] EWCOP 46) have been met in this case. The same case sets out the considerations which apply where the Court is invited or is considering proceeding in a respondent's absence.

4. The burden of proving the alleged contempt lies on the local authority applicant. The standard of proof is the criminal standard, beyond reasonable doubt. Within the committal proceedings, the presumption of innocence applies. The respondents are presumed not to have done anything in breach of the Court's order unless the applicant proves, beyond reasonable doubt, that they have done.
5. Two key purposes of sentence for contempt of Court are first, to secure compliance with the Court's order and secondly, to deter further breach. See generally (in the context of civil cases) *Lovett v Wigan CC* [2022] EWCA Civ 1631. The penalties which can be imposed for contempt of Court range from no order, through to a custodial sentence of up to 2 years. A fine may be imposed. Although there are obvious differences between sentencing in criminal Courts, as set out in more detail in *Lovett*, some guidance may be found in the Sentencing Council's Guidance in respect of criminal offences, including guidance in respect of factors which may indicate greater or lesser harm, culpability, aggravating or mitigating features.

### **The Second and Third Respondents' participation in the proceedings**

6. I held hearings in this matter on 4 July 2023, 19 July 2023, 2 August 2023, and, most recently, the 12 September 2023.
7. The second and third respondent (referred to respectively as LB and MK) were served, personally, with the application and notice of the hearings on the 4<sup>th</sup> and 19<sup>th</sup> of July on 26<sup>th</sup> June 2023. The Respondents have not attended any of the hearings. On the day of the hearing on 19 July 2023, I believed that there had been no contact whatsoever with the Court by the respondents. I made a decision to proceed to hear the evidence relied on by the applicant to prove breach of the injunction of Lieven J., In the respondents' absences.
8. The reasons, which I gave orally on that day, for doing so, are set out below.

**Proceeding in absence of the Respondents on 19<sup>th</sup> July 2023**

9. As noted above, LB and MK were served with notice of the hearing which took place on 19 July 2023, and indeed an earlier directions hearing which took place on 3 July 2023, by personal service, which was effected on 26 June 2023, at Queen Elizabeth Hospital in Birmingham.
10. In addition, after the directions hearing which took place on 3 July 2023, a further order was served upon the respondents at their last known address, in Birmingham, which is the same address where the injunctions themselves were served upon the respondents in May 2023.
11. I was entirely satisfied that both respondents had been properly served, and that they were aware of the hearing on 19 July 2023.
12. Further, I was satisfied that both respondents had had sufficient notice of the hearing to enable them to prepare for it, or to request an adjournment, to request alteration of the arrangements for it, or to arrange for legal representation at it. At the time that I gave my extempore judgement regarding the application to proceed in the respondents' absence, I believed that no reason whatsoever had been advanced by the respondents for their non-attendance and that there had simply been no communication with the Court at all. Further, I considered that there was evidence of a persistent attempt to

avoid service of Court documents, and that it was likely that the respondents were, at best, indifferent to the Court process and the potential consequences of a case proceeding in their absence.

13. In the light of the evidence and information before the Court I considered it very unlikely that a further adjournment would secure the attendance of the respondents voluntarily, further encourage their participation within the proceedings, or facilitate their representation. There was no information or evidence before the Court to suggest that an adjournment was likely to secure their attendance. The evidence before the Court was that they had sought to evade service, would be difficult to locate and chose not to attend voluntarily. I considered that if the proceedings were not to proceed on 19 July 2023, I would likely be required to issue a bench warrant to secure the respondents' attendance at Court, although, even then, I was aware that there would likely be difficulties in executing the warrant given the difficulties which had occurred in the past about service upon the respondents. I considered that there was a very real risk of unnecessary and protracted delay in the proceedings.
14. Those factors led to a reasonable concern that any adjournment would likely to be for an indefinite period of time for it to be a fruitful adjournment i.e. one where the respondents attended. I considered that delay, for reasons which I set out below, was contrary to the interests of justice, contrary to the purpose of the underlying proceedings, to secure and protect X's welfare, and contrary to the overriding objective.
15. I recognised the evident disadvantage that arose in proceeding in the respondents' absence: they would not be able to challenge the evidence or provide to the Court their own account of events. Weighing against that, in my judgment, the respondents had had a reasonable and fair opportunity to do just that. I also took into account that the evidence which I would be invited to consider was said to have come directly from the respondents, either through WhatsApp, text or other social media. I observed that the existence of the messages may make it difficult to disprove that messages had been sent by them, but I accepted that there may well be an explanation from the respondents of which I would be unaware, if I were to proceed in their absence. That, I noted, was an evident disadvantage to them and a risk of prejudice which weighed heavily in the balance.

16. I considered that there was another significant consideration which arose in this particular case. The underlying proceedings had been issued to protect X, who, as I have set out in the judgement of 19 July 2023, has particular vulnerabilities following their own individual and particular life experiences. The evidence before the Court is that X experiences acute distress and anxiety as a result of these proceedings. X has been conflicted between the fact that, whilst they have a grasp of the concept of what is right for them (not to suffer harm), they nonetheless wish to maintain their relationships with the respondents, LB in particular. The level of X's distress is significant. It is beyond normal 'stress and anxiety'. X has a number of diagnoses and mental health conditions. Those vulnerabilities, combined with their diagnoses and presentation means that they can be overwhelmed at times and particularly when stressful events occur which are linked to the facts relevant to these proceedings. I treat with the utmost seriousness the information placed before the Court that at times, the distress has been so great that X has expressed suicidal thoughts. I should not and do not treat that statement with anything but the utmost seriousness.
17. I considered carefully the overriding objective, and the need to deal with the case justly and fairly. Those considerations apply to all the parties involved in the litigation, not merely what one party may consider is expeditious or fair. I also considered the finite resources of the Court, and the responsibility to allocate to this case the appropriate level of resource. I considered that this is a significant matter. It involves an application to commit the respondents to prison. That is an application of the utmost gravity. For those reasons, it merits additional time to ensure that it is dealt with fairly.
18. In conclusion, and in balancing justice between the respondents and the other parties, I considered that the balance fell in favour of proceeding with the application on 19 July 2023 in the respondents' absence. I considered that it was neither just, nor fair, for an individual (X) who was before the Court because of an application brought by another party (the applicant) to be exposed to unnecessary delay and distress, which had been brought about wholly by the respondents in this case and for no good reason.

19. I determined to hear the evidence only and conclude whether there had been a, or any, breach of the relevant injunctions. I did not propose to consider sentence. My objective was to manage the proceedings efficiently and justly, but without unnecessary or protracted delay.

**The hearing on 2<sup>nd</sup> August 2023**

20. For reasons which are set out below, I found the breaches proved beyond reasonable doubt.

21. The hearing was then adjourned to 2 August 2023. I issued bench warrants to secure the attendance of the respondents at the hearing on 2 August 2023. The bailiffs sought to execute those warrants. They were unable to do so. When they attended the respondent's last known address, they were informed that the respondents had been evicted from it some weeks before.

22. However, on 2 August 2023, administrative staff informed the Court, for the first time, that an email had been sent to the Court late in the evening of 18 July 2023.

23. A number of points arose from the email:

- a. First, it confirmed that the respondents were aware of the hearing on 19 July 2023.
- b. Secondly, whilst the respondents provided an explanation for not attending Court, namely they stated that they did not like coming to Birmingham, because of events which they said occurred in the past and led them to be fearful of the Birmingham area, that did not address the fact that they appear to have been living in Birmingham for some time. In any event, it was not, in my judgment, a valid reason for not attending the hearing.
- c. The email stated that the Respondents had 'not had a chance' to instruct a solicitor (which I understood referred to not having had time to do so) and which they apologised for. In my judgment, there was adequate opportunity to instruct a solicitor between 26<sup>th</sup> June 2023 to 19<sup>th</sup> July 2023.
- d. The Respondents stated that they 'hoped' that the case could be dealt with in their absence.

- e. The Second Respondent stated that she had ‘tried’ following the injunction. The Respondents did not deny that they had been in contact with X in breach of the injunction made by Lieven J. The email suggested that they had done so because X had been in contact with them. They apologised for doing so and stated that they would not contact X ‘back’ again any more.
- f. The Respondents stated that they had poor mental and physical health, and that they had learning disabilities.

24. I was invited to proceed to sentence the respondents in their absence on the 2<sup>nd</sup> August 2023. I declined to do so. On that date I became aware, for the first time, of the email from them which I had not previously seen. In it, the respondents offered an apology, albeit limited. I wished to provide a further opportunity for them to attend the hearing, secure representation, or make submissions. As noted above, the bailiffs had been unable to execute the warrant for attendance, and were informed that the respondents had been evicted from their address in Birmingham. That raised a concern that they may not have known about the hearing on the 2<sup>nd</sup> August 2023. Given the difficulties in serving the respondents, I directed that service be effected through the email address(es) provided by the respondents in their email of 18<sup>th</sup> July 2023. I adjourned sentence to the 12<sup>th</sup> September 2023 and issued further warrants to secure the respondents’ attendance. Again, despite strenuous efforts (the detail of which I do not consider needs to be set out in this judgment) and attempts to locate the respondents both here and in Lincoln, those warrants have not been executed.

### **The evidence**

25. I heard evidence from the following witnesses who had travelled from Lincoln to Birmingham to give evidence:
- a. JK (a support worker for X);
  - b. MR (a SEND Team Leader who provides support to X).

26. In addition, I read and considered their sworn evidence, and the documents exhibited to their statements.

### **The breaches**

27. The injunctions made by Lieven J, dated 16 February 2023 and 8 March 2023, were served on the respondents on Friday, 5 May at 6 pm, as set out in the affidavit of service of Andrew Maplethorpe, dated 9<sup>th</sup> of May 2023.
28. I accepted the submissions made that the terms of the injunction were in simple, clear and unequivocal terms and were readily comprehensible. The injunction provided that:
- “[LB] and [MK] shall not have contact with [X]. [They] are forbidden, whether by themselves or by instructing or encouraging others, from having contact with [X]. For the avoidance of doubt, contact includes ... Telephone contact, postal contact, and contact over the Internet (including) emails and via social media.”
29. There could not, in my judgement be any doubt what those words meant. It was clear that LB and MK were not to have contact with X at all.
30. As noted above, the injunction was served at 6pm on 5 May 2023. The process server gave evidence that he attended the respondents’ address in Birmingham, but that they did not answer the door to the property. His evidence was that he called the third respondent and that the third respondent answered his telephone. He stated that he and the second respondent were inside the property. He stated that they were refusing to come and accept the papers. He said to the process server, “just post them”, and that the process server asked if it was safe to do so as it was shared accommodation. The second respondent confirmed that it was safe to post the documents. The process server did so and placed two envelopes sealed and correctly addressed to the respondents’ through the letterbox at 6pm on 5 May 2023 .
31. Importantly, at the time that the injunctions were served, the only people who knew that they had been served, was the process server and the respondents. The process server did not inform the applicant until sometime later that service had been affected, he did not swear his affidavit of service until 9 May 2023.

32. On 5 May 2023, at 6pm, X was in AB area and was waiting for their support worker to return to accompany to go shopping for some essential items.
33. JK gave evidence that on 5<sup>th</sup> May 2023 she was providing support for X who was particularly distressed. She met X at 5pm. X was distressed, and needed support with their care, the details of which do not need to be set out in this Judgment. JK was with X until 5.15pm when she left X in a safe place whilst JK located some items for X. JK returned to X at 18.24, therefore 24 minutes after the process server posted the two envelopes containing the application for committal through the respondents' letterbox at the property they were residing in.
34. At 18.30 JK accompanied X to a shop to purchase some items. Before X and JK undertook the shopping (so between 18.24 and 18.32) JKs's evidence was that X told her that X had received calls from LB. X stated that LB had called them (X), had read the injunction papers, and said it was all lies . X stated that LB called X names, including "lying bastard" and other names.
35. At 18.32 JK reported that which X had told her to the police and was provided with an incident number.
36. JK provided further support to X from the 5<sup>th</sup> May 2023 to 6<sup>th</sup> May 2023.
37. On 6 May 2020 X told JK that LB had called X again and wanted X to sell items to raise money, that LB and MK were going to return to PT area and that X could visit them in secret . Although JK was unable to give precise times of those calls she was clear that she had all that information by the time she called X at 19.56 in the evening of 6<sup>th</sup> May 2020. Further, in that call, at 19.56, X informed JK that LB had called X again, alternating between being 'angry and nice' such that X was very confused.
38. JK reported these calls to the police at 8pm.
39. On 7<sup>th</sup> May 2023, at 4:30pm, X called JK. X stated to JK that LB had called them several times, and said that LB had said that she had naked pictures of X, taken from

X's phone, and that she will send those pictures to social services and share them. X stated that LB alternated between threatening suicide, to begging X to drop the injunction. X stated that LB spoke about moving and X going to live with LB in secret, but also continued to threaten giving the photos to social services, along with her side of the story so that the injunction was dropped. JK's evidence was that X was very distressed.

40. JK reported that which X had said to the police at 4:50 PM.

41. At 7:30 PM, JK spoke to X. X stated that LB had called them to request money and that LB was pressuring them to sell items on gumtree.

42. On the morning of 8th of May 2023, X again reported calls from LB in the evening of the 7<sup>th</sup> May 2023. JK described the support she provided to X, including advice not to talk to LB, but that X had difficulty processing and acting on that advice.

43. JK gave evidence that X told her that LB would call them from different telephone numbers. X also provided JK with screenshots of texts which X stated that they had received. I have considered the contents of the screenshots of texts from X's phone. The messages identify the nature of the relationship between X and LB. The messages will have been difficult for X to receive. I also recognise that there is two-way contact between X and the second respondent.

44. On 15th May 2023 JK again provided support to X. X informed JK that X had received messages over the weekend of 13-14 May 2023 and that MK had informed X that LB was in hospital, in a coma, had an operation and had 'died once'. X asked for information about the hospital but was informed that it was a private one, paid for by a friend. X tried to locate the second respondent at a hospital but was informed that there was no one there of that name. MK informed X that he needed money for the second respondent's medicine (which JK believes refers to class A drugs) and that LB "will be rattling when she comes out of the coma", which JK understood to be a reference to the effects of withdrawal from class A drugs. X reported that MK stated that it was X's

fault that the second respondent was in hospital, and that if X cancelled the injunction, this would make her better.

45. JK gave evidence that she heard the voice mails left on X's phone when she attended a police station with X on 24 May 2023.
46. JK gave evidence that on 18 May 2023 X informed them that they had received eight phone calls from LB and MK between 5-11pm on 17<sup>th</sup> May 2023, and that they answered one from LB. X informed JK that MK had told X, that if X did not give LB £15, LB would die.
47. Further, JK stated that on Monday 22<sup>nd</sup> May 2023, she spoke to X who informed her that they had given money to LB, that the respondents had told X that LB had been hurt sex working and that photographs had been sent to X of the injuries. JK saw the photographs at the police station on 24<sup>th</sup> May 2023.
48. JK described X as distressed and confused by this contact and being concerned for LB's welfare.
49. I heard evidence from MR who supports X at an educational institution. MR's evidence was corroborated by the evidence of JK, and JK's corroborated MR's.
50. MR provides support to X at an educational institution. MR maintained contact with X over a period of time when X was not at the institution.
51. MR gave evidence that X called her on Friday 5 May, extremely upset. X stated that LB had contacted X and stated that it was X's fault that the injunction had been made.
52. MR's evidence was that X had reported to her, on a number of occasions, that X has received numerous text messages, and has shown them to MR, eventually forwarding them to her on 22 May 2023. In particular:
  - a. X informed MR that over the weekend of 6-8 May 2023, MK (the third respondent) contacted X by telephone on a number of occasions and, during

the phone calls said to X “you are a lying bastard, lying [@@@]”, “If you tell the truth the injunction will be dropped” and, “[LB] is going to kill herself.

- b. That over the weekend of 12-14 May 2023, LB contacted X by telephone on multiple occasions and said to X that LB is “dying and it is all your fault”; LB, “is in hospital. She is dying”; that he asked X for money: “can you pay me £15 so I can get her drugs when she gets out so that she is not rattling”.
- c. That LB asks X to ‘drop’ the injunction and threatens to hurt herself.
- d. That LB asks for money.
- e. That X sent money to LB on 12<sup>th</sup> May, 19<sup>th</sup> May and 20<sup>th</sup> May 2023.
- f. That MK called X numerous times on 18<sup>th</sup> May 2023.
- g. That at other times the respondents ask X to go and stay with them, and lie to professionals about where X is.
- h. That between 19<sup>th</sup>-20<sup>th</sup> May 2023 MK called X to inform X that LB was prostituting herself and missing and that he asked X for money so that LB did not have to sell herself.

53. JK and MR did not themselves witness calls being made. However, X contacted them separately, reporting very similar accounts. In addition, they saw texts which X had been sent. JK also heard a voicemail left by the second respondent whilst at the police station on 24<sup>th</sup> May 2023. MR saw messages on X’s phone, and could see the dates on the messages. Some messages were forwarded to her by X. The Court has seen some of the messages which were sent. The content of some of the messages are consistent with them being sent by LB.

54. I found JK and MR both to be credible witnesses whom I considered gave evidence honestly and sought to provide the Court with the most accurate account of events which they possibly could. They were independent of one another, different professionals supporting X in different environments. Yet they each provided similar accounts of underlying factual events which they say X reported to them. I considered that they gave evidence in a straightforward manner. I recognise that their evidence is, to a significant degree, hearsay evidence. However, there were a number of features of their evidence, when considered as a whole, which I considered were of significant probative value such that I was satisfied, beyond reasonable doubt, that the respondents were guilty of the breaches alleged.

55. First, the timing of the first report X made to JK. Within a matter of minutes of the injunction being served upon the respondents X was said to have reported to JK that they had been contacted by the second respondent and that LB and MK had been served with the injunction. The most realistic way through which JK or X could have had knowledge that service had been effected was that X was telling the truth. Only the process server and the respondents knew that service had taken place. X could not have done so, unless contacted by the respondents or the process server. The contents of X's report to JK is credible and consistent with her having been contacted by LB. Whilst I fully accept that a witness may be honest about one matter, and wholly dishonest about another, the timing of this event adds credibility to not only the event itself, but also the other reports X makes.
56. Secondly, X is reported to be consistent in the reports they make to the police, JK and MR. The content of the communication is also consistent with the history of the relationship between X and the respondents. X has been reluctant to support the application for committal due to the significance of the relationships involved. In context, I consider it highly unlikely that X has fabricated their accounts. I did not consider that either JK or MR lied in their evidence.
57. I am satisfied beyond reasonable doubt that the second respondent breached the injunction over 9 separate periods of time: that she called X on 5<sup>th</sup> May 2023, the 6<sup>th</sup> May 2023, the 7<sup>th</sup> May 2023, 8<sup>th</sup> May 2023, 9<sup>th</sup> May 2023, 17<sup>th</sup> May 2023 and over the 20-21 May 2023, and that she text X between the 6<sup>th</sup> to the 10<sup>th</sup> May 2023 and the 13<sup>th</sup> to the 14<sup>th</sup> May 2023.
58. I am satisfied, beyond reasonable doubt, that the third respondent breached the injunction on over 6 separate periods of time: that he called X on 6-8 May 2023, 12-15 May 2023, 17 May 2023, 18 May 2023, 19-20 May 2023 and 20-21 May 2023.
59. I considered that the threats involving the sending of naked pictures of X, made on 7<sup>th</sup> May 2023, and the manipulation of X by informing them that LB was in hospital and in a coma to be particularly serious.

### **Sentence**

60. The proven incidents of contempt took place over a period of almost 3 weeks. They amounted to a sustained course of conduct through which the respondents, in my judgment, jointly sought to manipulate X for their own ends. They sought to extract money from X and they also blamed X for the injunction proceedings and put pressure upon X to “cancel” or “drop” them. In addition, the respondents’ actions took place immediately after the injunctions were served upon them. Contrary to that which was set out in the email from the respondents, I consider that there was no genuine attempt to abide by the injunction: the immediate response of the respondents to the service of the injunction was to contact the very person they had been prohibited from contacting by the injunction. That, in my judgement, showed a complete disregard for the Court’s order.
  
61. In addition, the nature of and content of the contact has been abusive, threatening and manipulative. The threats to distribute naked photographs of X is a very serious breach of the injunction. So too is the contact which took place over the 12 to 15 May when the third respondent told X that the second respondent was dying or in a coma, and that it was X’s fault. The contact over that weekend also sought to use that information to pressure X into dropping the injunction proceedings. That in my judgement was another very serious breach of the injunction which also showed a complete disregard for the Court’s order.
  
62. There is very little evidence in my judgement, of any genuine remorse on the part of the respondents. The admission set out in their email places the largest part of the blame for contact upon X. As I have stated above, I consider that the statement that there had been an effort to comply with the injunction was simply not accurate. The evidence set out above paints a very different picture. I consider the apology at the end of the email against that background.
  
63. With the exception of the email of 18 July 2023, the respondents have not engaged with the Court process at all.

64. The breaches of the injunction which I have found are specific to each respondent. The third respondent is guilty of making contact on six occasions, whilst the first is guilty of doing so on nine. The first respondent sent the messages regarding threats of publication of nude photographs. The second respondent made the calls over the weekend of the 12-15 May 2023 informing X that the second respondent was in hospital, pressuring X to drop the injunction and to send money. He was not merely complicit in actions led by the second respondent: he too took a lead.
65. The degree of culpability is, in my judgment, significant. I consider that it is moderate to high. The respondents' actions have been deliberate, in full knowledge that they are acting in breach of Court orders, and one which is clear and simple to follow. The contact which they have made with X has occurred over a sustained period of time, and was persistent. Its content was, at best, unpleasant, and, at times, simply cruel and calculating. By that conduct, the respondents sought to manipulate X, a young person with vulnerabilities which the respondents are aware of, and to do so, primarily, for their own means: to obtain money or, to ensure that the injunction is "dropped" or "cancelled". The efforts to manipulate X to drop the injunction (which X had not sought) is one which shows complete disregard for the Court process and its orders. It seeks to undermine the effectiveness of the protection afforded by the Court and is inimical to the interests of justice and rule of law.
66. The degree of harm in my judgment is high. The purpose of the injunction proceedings, preventing the respondents from contacting X, is to protect X and secure their welfare. The second respondent's actions have caused X intense distress, upset and confusion, which at time can be overwhelming for X. X has experienced conflicting emotions, at times torn between recognising that X themselves should not be harmed and the relationship with the second respondent. X at times has expressed suicidal thoughts and has required significant support. More recently X has been reluctant to leave accommodation for fear they may see the respondents.
67. Although a sustained series of breaches, I recognise that the proven breaches are the first breaches of the injunction. The respondents have not previously appeared before the Court in respect of their adherence to the Court's order. There is evidence before

the Court that their health may not be good. There is evidence that they have their own vulnerabilities in terms of drug addiction and the consequences of that addiction.

68. The imposition of no order or a fine in this matter would in my judgment, not be an appropriate sentence: the breaches are too serious and, significantly, such a sentence would, in my judgment, not secure the primary objective, that the respondents abide by the injunction. They also appear to have no means to pay it, being on state benefits and pressuring X to provide money to them. There is a risk that imposition of the fine may lead to an increase in the contact and pressure to supply money.
69. The respondents have acted with complete disregard for the Court orders, in a persistent and sustained manner. Their lack of participation in the Court proceedings and past evidence of evading service gives me little confidence that anything short of a custodial sentence will secure their compliance with the Court's Orders. In addition, I consider that the custody threshold is crossed by the breaches I have found to be proven, having regard to the matters I set out above.
70. There are a number of relevant aggravating features. The course of conduct of the persistent breaches began immediately after the order was made and served. X is particularly vulnerable and the conduct can be described as taking place within a broader domestic context. The respondents are manipulative in their actions, seeking to undermine the protection afforded to X and at times, encouraging X to lie to those tasked with supporting X.
71. Mitigating factors are somewhat limited. However, the course of action the respondents engaged in amounted to a first breach, and this is the first time they come before the Court in respect of breaching the Court's Order. The respondents have made partial admissions in their email to the Court and gave an apology, although I do not consider it to be genuine as set out above.
72. I consider that the range of sentence is between three to sixth months. I have concluded that for each individual breach, with the exception of those relating to the threats of publishing nude photographs and the messages regarding LB being in hospital, the

respondents should serve a term of imprisonment of two months, to be served concurrently. In respect of the messages regarding the threat to send nude photographs to others, and the messages regarding the second respondent being in hospital, each defendant should serve a period of three months' imprisonment. The sentences for those offences should be served concurrently with one another, but consecutively to the other offences for which I have imposed a sentence of two months. That will mean that each respondent will serve a period of 5 months in prison.

73. Whilst the second respondent is guilty of 9 breaches and the third of 6, I consider that these sentences, which run to the same period of time, are appropriate. They reflect the fact that this was, in truth, a joint enterprise between them. It also marks the seriousness of the sustained action of the third respondent over the 12-15 May 2023.

74. Finally, I have considered suspension of this sentence. There has been no proven breach of the Order since the end of May 2023. We are now in September 2023. The Applicant has invited me to impose an immediate custodial sentence in light of events which they assert have taken place recently. There has, however, been no further notice to show cause and application to commit in respect of those further breaches, and they have not been proved beyond reasonable doubt. I have not taken them into account.

75. In light of the lapse in time from the end of May 2023 to today, I consider that it is appropriate to suspend the sentences on condition that there are no further breaches. I propose to suspend the sentence for the duration of the injunction. I wish to hear further submissions on whether that injunction should be extended.

76. The respondents should know that I came very close to not suspending the sentence, and imposing an immediate custodial sentence given their disregard for the Court's Order and the Court proceedings and the seriousness of their actions and the harm caused. Their actions have shown a flagrant disregard of the Court order, have caused intense distress and upset. They have acted in a manipulative and cruel manner. The sentence is suspended only on condition that there is complete compliance with the injunction. They must not contact X. They told me that they had tried to follow the Court Order. They must try harder. They must comply with the Court's Orders.