

ARTICLES

LEGAL SYSTEM

Contempt of court sanctions: a catalogue of injustices

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Introduction

This article is based on our database of 424 cases of sanctions for breach of behaviour orders that were imposed in the County Courts between January 2019 and 15 December 2025.

Criminal Behaviour Orders were introduced in the Anti-Social Behaviour, Crime and Policing Act 2014 to replace the Anti-social Behaviour Order regime, together with a civil injunction to prevent nuisance and annoyance (IPNA). Local councils, the police or any social landlord can apply for an IPNA to stop anti-social behaviour. Further, a court may grant an IPNA if it is satisfied on the balance of probabilities that a person has engaged, or threatens to engage, in anti-social behaviour, and it is just and convenient to grant the injunction for the purpose of preventing anti-social behaviour. In March 2015, Part 1 of the Anti-Social Behaviour Crime and Policing Act 2014 came into force. It introduced new powers for the police and the courts, including the imposition of a civil injunction, an ASBI – Anti-Social Behaviour Injunction. If breach of an injunction is alleged the complainant can bring the case before the County Court, under civil law. If the breach is proven to the criminal standard, beyond reasonable doubt, then the court has only four options: to take no action; to adjourn; to impose a fine; to impose a sentence of imprisonment of up to two years either immediate or suspended. Community orders under probation supervision are not a permitted option.

Criticisms of the legal system with respect to behavioural orders and contempt of court

This article now examines various aspects of behavioural orders and contempt of court which we identified in our empirical research.

No oversight of the courts

In a Court of Appeal case,¹ Sir James Munby related the history of imprisonment of those found to be in contempt of court. From 1963, the matter of such committals was regulated by the Direction to the Official Solicitor issued in May 1963, requiring the Official Solicitor to: ‘Review all cases of persons committed to prison for contempt of court ... take such action as he may see necessary thereon and ... report thereon quarterly ... in every year’. This direction remained in force until revoked by Chris Grayling, as Lord Chancellor, on 1 November 2012. The modern practice was that prison governors notified the Official Solicitor of the reception of every person jailed for contempt of court very shortly after the prisoner’s arrival, which meant that the Official Solicitor could intervene, where appropriate, very quickly. The process of quarterly review by an officer of the court, instituted in 1830, continued until 2012. It served well those found to be in contempt of court, and more generally, the justice system. Those inappropriately imprisoned could be freed at the earliest proper time. Following Mr Grayling’s decision in 2012, the

¹ *Devon County Council v Kirk* [2016] EWCA Civ 1221

protection provided by the review procedure ceased to exist.² The need for oversight was detailed by the Civil Justice Council in its October 2020 Report.³ In our cases, we see evidence of court practice that calls for investigation. For example, the transcript of the case of Floyd Carruthers indicates that he did not understand the court proceedings or its decision. When he asked, ‘Have I been found guilty?’ - the judge did not stop the proceedings to ensure that the defendant understood them.

Questions of procedure and decision-making arise regarding imposing injunctions on those suffering addictions and other mental illnesses: do they understand the injunction imposed and are they capable of complying with it? Questions arise too concerning those sentenced to imprisonment when mentally ill. Similarly, decisions that reveal disproportionate punishment should be scrutinised. However, there is no public body to whom we can put our concerns and suggest investigation of questionable practice.

No official data

As noted in the Council of Civil Justice report, there is no official record kept of contempt of court cases and the sanctions imposed. Our database information comes from 76 different county courts. There are 170 county courts. We do not know whether the 94 county courts not in our database have not imposed any sanctions for contempt of court in this period (January 2019 to December 2025) or whether they have heard such cases and have failed to report them, as they should have done under the applicable regulation.⁴

Non-compliance with the Regulation

Some courts are not complying with the regulation requiring them to report committals on the publicly available judicial site. This is seen in Carruthers, who died after being committed to prison by a judge in Birmingham County court for four months for his first breach of an Anti-social Behaviour Injunction (ASBI). This judgment is not published on the judicial site.⁵

Representation: legal aid

The Rule governing ASB, CPR Part 81 under the 2014 Act. Part 81, Rule 81.s.4 (2) (i) and (j), makes clear ‘the importance of legal representation for respondents via non-means-tested legal aid if they want it and there is an obligation on the court to ensure that this is made available’.⁶ Legal aid is difficult to obtain for civil hearings. There is no duty solicitor available in the county courts to present mitigation for someone who does not have a defence solicitor. About 50 per cent of those in our study were not represented when imprisonment was imposed. One example: on 18 December 2024, Peterborough County Court imposed 18 months immediate imprisonment on Jacqueline Reilly for breaching her injunction by sleeping in YMCA. She was not present in court; no one was in court to represent her.

No protections

Anti-Social Behaviour Injunctions come under civil, not criminal, law. There are many safeguards built into the criminal law system,⁷ but none of them apply to contempt of court hearings which are heard under civil, not criminal, law:

² Sir James Mumby, *Devon CC v Kirk* [2016] EWCA Civ 1221. See: Rona Epstein, Imprisonment for contempt of court, (2016) 21(2) *Coventry Law Journal*, page? See: Gordon Exhall:

<https://www.civillitigationbrief.com/2016/12/06/civil-committal-proceedings-still-a-matter-for-grave-concern/>

³ <https://www.judiciary.uk/guidance-and-resources/anti-social-behaviour-and-the-civil-courts/>

⁴ Following a committal hearing, 81(8): The court shall be responsible for ensuring that where a sentence of imprisonment (immediate or suspended) is passed in contempt proceedings under this Part, that judgment is transcribed and published on the website of the judiciary of England and Wales.

⁵ <https://www.judiciary.uk/judgments/>.

⁶ *Christopher Lovett v Wigan Borough Council* [2022] EWCA Civ 1631, para 27.

⁷ <https://www.transformjustice.org.uk/news-insight/in-praise-of-criminal-courts/>

- The public interest factors which must be considered before a criminal case is brought (offenders are less likely to be prosecuted if elderly or suffering from significant mental or physical ill health) do not apply in the civil system.
- The Probation Service does not serve the civil system. In contrast, in the Magistrates' court a pre-sentence report (PSR) must be obtained from the Probation Service before the court orders imprisonment, unless the court gives reasons as to why a PSR is unnecessary. (Adult Court Bench Book, April 2025, page 8). The civil courts being unable to request a PSR are less likely to learn of any physical or mental ill-health issues, dependants or family problems.
- In the Magistrates' Courts the defendant should be legally represented (Adult CoBench Book, April 2025, page 8). This does not apply in the civil courts. The Civil Justice Council's report on anti-social behaviour and the civil courts found that half the defendants in the county court had no legal representative.
- The county court, unlike the criminal court, has no power to impose a community order. Such orders provide support and supervision in the community.
- In civil courts there is no provision for liaison and diversion services to assess mental health problems, and to provide support and help. Out-of-Court disposals, diversion and pre-court measures are available to the police to deal with less serious low-level crime. There is evidence that these measures have been largely successful and have kept people subject to them out of the criminal justice system. For example, see NEW CHANCE run by West Midlands police. Help with drug and alcohol problems, housing and employment issues, and mental health difficulties have proven effective in curbing criminal activity and lessening the harm to communities.
- The Sentencing Council advises the criminal courts when there may be issues of mental ill-health. These Guidelines do not apply in the civil courts. Our research has revealed many instances where mental ill-health is mentioned in the judgment, but imprisonment is nevertheless imposed.
- Criminal courts must follow the Sentencing Guidelines regarding defendants who have dependent children, especially if he or she is the sole or primary carer of children (the 'General Guideline: Overarching Principles'). In some cases, the court may think that custody is not inevitable but that it is one possible option. If so, the court should not impose a prison sentence if the impact on any dependants would mean that the sentence was disproportionate to the aims of the sentencing. In other cases, the court may think that the is so serious that custody is unavoidable. If so, the impact on any dependants could be relevant to the length of the sentence and whether the sentence should be suspended. This does not apply in the civil system.
- In the criminal courts the court must take account of the Sentencing Guideline on mental disorder (October 2020) which lays down how offenders with mental disorders, developmental disorders or neurological impairments must be treated.

None of the above safeguards apply in the civil system.

JUSTICE'S Report, *Lowering the Standard: a review of Behavioural Control Orders in England and Wales*⁸ states that these orders have attracted criticism because they bypass the procedures and evidential standards of the criminal law whilst still attracting criminal sanctions. The Report states, at page 9: 'The desire to bypass the criminal process is intentional'.

Injunctions not enforceable if the subject is unable to understand it or comply with it

Since many of the people who breach an injunction live with mental ill-health, a relevant issue is whether the person subject to an injunction understands it and is able to comply with it. The Court of Appeal decision in *Wookey* states: A respondent must have mental capacity to

⁸ <https://justice.org.uk/behavioural-control-orders-report/>

understand the injunction and have mental capacity to comply. This is colloquially known as *Wookey capacity* following the leading case on this: *Wookey v Wookey*.⁹

During this research, I have read about 300 judgments of committals following breach of an injunction. *Not one single judgment* refers to *Wookey*.

The *Wookey* test applies particularly in the following cases:

- (i) Floyd Carruthers was diagnosed with schizophrenia in 2003. In April 2021 he breached an ASBI by banging twice on his neighbour's door, first at 17.30 and again at 19.30. The Court found he had breached his injunction; he was remanded in custody. When the case was again before the Birmingham County Court on 6 May 2021, he was committed to prison for 66 days. He had an infected heart valve and did not eat in the prison for four days. No medical personnel were called. He was found collapsed in his cell and died in hospital on 14.6.2021.
- (ii) On 19.10.2021, Milton Keynes County Court ordered Charlotte Nudd, who had a long history of self-harming and drug overdoses, to be taken directly from a psychiatric ward to serve 6 months in prison (she had directed vile abusive racist language at a housing official).¹⁰ The judgment states that Charlotte Nudd is attending the court hearing remotely from Arbury Court PICU, Townfield Lane Winwick, Warrington which is a secure psychiatric hospital.

Addressing Ms Nudd, the judge stated:

Your behaviour at court on 6th August in shouting and interrupting the proceedings was such that the court had reason to think that a Mental Health Assessment was required, (at para 14). Your mental health deteriorated whilst within the court building and the court was informed that you refused to leave the cell. It was not possible to proceed with a hearing that day. I adjourned the hearing and remanded you in custody for further medical examination. At the return hearing ..., you attended by video and were represented by your solicitor Ms M. The court had read the medical report from Dr T which states, "I believe that the defendant is fit to plead and fit to stand trial based on the Standard Pritchard Criteria" and an email dated 16th September 2021 from DH who stated, "I am of the opinion that she [Mrs Nudd] requires transfer to hospital for assessment and treatment". At that hearing you made it clear to the court and to your solicitor that you did not believe that you were suffering any mental health condition and were not prepared to be assessed any further and having heard representations, the case proceeded to a penalty hearing. (at para 15).

- (iii) Gillian Marriot, described as having mental health issues, had repeatedly telephoned 999, and attended Stoke Mandeville hospital, when there was no medical need. Phoning 999 is a criminal offence, the maximum sentence under criminal law (s.127(2) Communications Act 2003) is 6 months in prison.¹¹

The judge stated he had no option but to commit her to prison for six months, for Anti-Social Behaviour Injunction breach. On leaving prison, she repeated the same anti-social behaviour (calling 999) as before. This time, on 3 March 2023, Milton Keynes County Court committed her

⁹ [1991] 3 All ER. <https://greenandburtonasb.co.uk/mental-capacity-in-injunction-and-contempt-proceedings/>

¹⁰ See: <https://www.filia.org.uk/latest-news/2022/1/25/the-rich-go-to-rehab-the-poor-go-to-prison>

¹¹ A person is guilty of an offence if, for the purposes of causing annoyance, inconvenience or needless anxiety, he...sends a message that he knows to be false...or persistently makes use of a public electronic communications network. Under s.127(3), the maximum penalty for this offence is six months' imprisonment and/or an unlimited fine.

to **12 months** immediate imprisonment for contempt of court for breach of an ASBI.¹² She had breached the injunction three times.

Disproportionate punishment

Committals for ASBI breach are rarely appealed. When the Court of Appeal heard the case of Lovett,¹³ it stated that any sentence must be ‘just and proportionate.’ (at para 56) The CJC Report referred to the above reported disproportionate punishments imposed by the civil courts under ASBI legislation. We have found this too.

- A. In 2021, a group of Travellers breached injunctions forbidding them from moving their caravans onto land that Essex County Council believed they should not occupy (an issue of current litigation). The sanctions imposed were extremely harsh; clearly disproportionate.
 - (i) On 14 December 2021, the High Court imposed 14 months immediate imprisonment on Thomas Cleary who breached his injunction by moving his caravan to a proscribed site. (By way of comparison, in a recent case, Luton Crown Court imposed a sentence of 14 months in prison on a man who admitted causing death by careless driving and causing death while uninsured or unlicensed.)
 - (ii) The High Court committed Leah Foley, a mother of six dependent children to prison for 6 months for the same breach.
 - (iii) For the same breach the High Court committed Bridget McDonagh to 11 months immediate imprisonment.
 - (iv) Gerry Anderson spent 24 weeks in prison for the same breach.
- B. Discussed above, is the committal of Jacqueline Reilly, long term no-fixed-abode, 18 months immediate imprisonment. Her breach was to sleep in a proscribed place.
- C. On 21 April 2021 Leicester County Court imposed 12 months immediate imprisonment on a Mr Barry for begging.¹⁴

Custody imposed when no harm caused

The Court of Appeal (*Lovett*) stated that committals to prison under ASBI law must be just and proportionate. Committal to prison cannot be just and proportionate if ‘no harm or inconvenience to any person was caused’. This database includes three cases of immediate imprisonment, where ‘no harm was caused’.

- A. Annie Harley: On 9 January 2023, Nuneaton County Court imposed four weeks immediate imprisonment on Annie Harley, stating that there was no evidence that her presence in the prohibited area caused any harm, or distress to any person. She did not appear in court and was not represented. The judge said: ‘*On no occasion was there evidence of a resident or person lawfully present in the exclusion zone suffering any adverse consequences as a result of the defendant being present*’. She spent 15 days in prison on remand.
- B. Zacherian Gordon: On 20 October 2022 Swindon County Court sent Gordon to prison for 15 days; he spent five days in prison on remand. The judge said: *It could not be shown the breaches had caused harm to any persons.*
- C. Christopher Scott: On 29 April 2024 Newcastle County Court committed Mr Scott to prison for two days for entering an exclusion zone. The judgement states: ‘Little or no harm or distress caused to any person, no persons were actually inconvenienced by his presence in the exclusion zone.’ The Defendant explained he was simply meeting his grandmother who lives within the exclusion zone, and she has mobility issues. He said he sought to obtain funds for food, as he is currently homeless.

¹² <https://www.judiciary.uk/judgments/committal-for-contempt-of-court-chief-constable-of-thames-valley-police-v-marriot/>

¹³ *Christopher Lovett v Wigan Borough Council* [2022] EWCA Civ 1631.

¹⁴ <https://www.judiciary.uk/judgments/leicester-county-council-v-batty/>

In prison on remand

Many protestors have been remanded in custody.¹⁵ The judgments all state ‘this was an entirely peaceful protest.’ We note that imprisonment should be reserved for those who have been found guilty of committing offences causing serious harm, as a last resort for the most serious offences, Criminal Justice act 2003. Yet imprisonment on remand has been imposed on those who have engaged in peaceful protest who have not yet been found guilty of any criminal offence or found to have breached an injunction.

Apart from the protestors, we note also that in two of the cases cited in Section 8, Harley and Gordon, whose behaviour caused ‘no harm or inconvenience’, had spent time in prison on remand before the court hearing. There is also the tragic case of Floyd Carruthers (above) who was remanded in custody for his first and only breach of an ASBI (shouting through his neighbour’s door and banging his fist on the door), was then sent to prison for four months for the breach and died in hospital of sepsis having collapsed in his cell.

Punishing destitution

Those found sleeping rough and/or begging have been sentenced to immediate imprisonment for terms of 12, 26 and 52 weeks.

- A. In January 2022, Watford County Court found that Pukakdandawa Lanke, an asylum seeker who was not represented nor present in court, had breached an injunction by sleeping rough and leaving belongings in front of St Albans Civic Centre. He was committed to 12 weeks immediate imprisonment.
- B. On 21 February 2021, Mr Batty came before Leicester County Court, which found that he had breached an injunction against begging. It ordered 52 weeks immediate imprisonment.¹⁶
- C. On 25 April 2019, Recorder Hill QC, sitting in the County Court at Birmingham as a Judge of the County Court, sentenced James Maguire to a custodial sentence of 26 weeks for contempt of court (Case Number D02BM967): he had been found begging.
- D. On 21 July 2022, at Swindon County Court, Mr Recorder Main Thompson (‘the Recorder’) committed Mr Abrook for contempt of court to HMP Bullingdon for ten months. He is a long-term drug addict.¹⁷ On release, he continued to beg.

Punishing mental illness¹⁸

In fifty cases in this database (12 per cent), where judgments mention ‘mental health issues’ or ‘mental illness’ or ‘drug or alcohol addiction’ sentences of imprisonment were imposed. As noted above, in several cases the judge mentions the defendant’s mental ill-health and then imposes terms of immediate imprisonment: Charlotte Nudd, Floyd Carruthers, and Gillian Marriott.

Similarly in cases of addiction, committal to prison is imposed, sometimes stating that the defendant will not be able to obtain treatment in prison.

- In December 2021, Swindon County Court imposed seven months immediate imprisonment on Michelle P, who is addicted to drugs, the judge stating: ‘*The Defendant expressed remorse for her actions and explained the assistance she was seeking to deal with her addictions.*’

¹⁵ See for example: <https://www.judiciary.uk/judgments/north-warwickshire-borough-council-v-brocklebank-pritchard/> See: Rona Epstein: Women in prison: remand in custody The Justice Gap 29 June 2022.

¹⁶ <https://www.judiciary.uk/judgments/leicester-county-council-v-batty>

¹⁷ *Swindon BC v Abrook* [2024] EWCA Civ 221

¹⁸ <https://www.crimeandjustice.org.uk/resources/punishing-mental-illness>

- Kelly B breached her ASBI by being drunk and in a prohibited area. On 16 September 2020 the judge at the Central London County Court stated that the defendant '*is of no fixed abode, has a chaotic lifestyle*'. She was under the influence of alcohol. Her drunken aggressive behaviour manifested itself in particular by shouting, swearing, lashing out with her feet and spitting: the defendant's conduct and demeanour caused nuisance or annoyance. She was sentenced to 48 weeks immediate custody of which 28 weeks was for the breach of suspended sentences.

Penalising the victims of domestic abuse

On 25 July 2023, Rachael Williamson, Head of Policy and External Affairs at the Chartered Institute of Housing, spoke at a seminar on Anti-Social Behaviour organised by the Public Policy Exchange. She reported findings from Resolve¹⁹ that show that one in three cases of ASB are noise related. Analysis from the Domestic Abuse Housing Alliance shows domestic abuse survivors are four times more likely than the general tenant population to receive ASB complaints²⁰. While both men and women experience domestic abuse, women are considerably more likely to experience repeated and severe forms of it. When complaints are made and dealt with as instances of ASB housing nuisance – loud noise, abusive language, banging and shouting – these are frequently due to domestic abuse. Both parties are then subject to the sanctions for ASB. Thus, the victim of domestic abuse is punished in the same way and to the same extent as the perpetrator. Clearly, this is a serious injustice.

Bereavement

Natalie W's baby had died. In July 2021, at Bristol County Court, the judge commented on her mental health issues, stating that, due to the Covid pandemic, no mental health help was available to her, and said: '*I am very sorry to see her in such a distressed state*'; he hoped she would get help. The court imposed four months suspended imprisonment for making a noise outside her flat.

Nicholas M fed pigeons on his balcony, causing mess from birds: he was committed to 15 weeks' immediate custody on 12 June 2020.²¹ He gave this account of his mental condition to Freedom in Everyday Life.²²

I started feeding birds with my mum in the 60s. In recent years, feeding the birds has helped with my grief, depression, and on-going sobriety. I owe them. I lost my partner, mother, brother, and best friend in the space of a few years. I haven't drunk since 1990. My first CPN for feeding the birds was in 2016; then a civil injunction was issued. In 2017, there was another CPN, and, in 2019, another injunction was issued. In 2020, I was arrested for breaches and held for one day. At my breach trial, the council had four members present, all saying things that were exaggerated, including lies from the next-door neighbour who hated birds (and poured disinfectant on my balcony). The judge was horrible. I tried to tell him about how feeding the birds saved me from drinking again and helped my grief. I had a solicitor, who said that it was a mental health issue, but the judge disagreed. He offered no compassion for my severe grief and very fragile mental state and told me that I was sentenced to 15 months prison for several breaches.

Neurodiversity and learning difficulties

The JUSTICE Report on Behaviour Control Orders states 'Similar concerns were also raised in respect of Orders being imposed on neurodiverse persons and those with learning difficulties ...

¹⁹ Noise Nuisance - Resolve (resolveuk.org.uk)

²⁰ <https://www.dahalliance.org.uk/>

²¹ <https://www.judiciary.uk/judgments/committal-for-contempt-of-court-in-open-court-at-bristol-magistrates-court/>

²² <https://manifestoclub.info/imprisoned-for-feeding-the-pigeons/>

a report by HM Inspectorate of Prisons and Probation found that, in the context of the criminal justice system generally, people experience specific disadvantage because of their neurodivergence'. In our data there are two men sent to prison for feeding pigeons. Continuing to feed birds, despite having an injunction imposed, may be linked to neurodivergence.²³

Darren J. fed pigeons. On 5 April 2022, Birmingham Civil Justice Centre sentenced Darren J. to six weeks imprisonment suspended, stating '*He has a number of physical and mental health issues, and he has a history of chronic pain due to spinal difficulties.*' The judgment reports this exchange:

Defendant: 'Your Honour, I was allowed to feed the birds then, there was not an injunction. It was – I was OK to feed the birds then.'

Judge Truman: Mr Jones, you were not at liberty to feed the birds then, there was an injunction against you. Please do not interrupt.'

No consideration of dependent relatives

Under the criminal law, the court should have regard to the Sentencing Council's 'Definitive guideline 2017 on the imposition of community and custodial sentences.' It states that a factor indicating that suspending the sentence may be the correct decision is where immediate custody will result in significant harmful impact upon others. Under the criminal law, being a 'sole or primary carer for dependent relatives' is a statutory factor reflecting personal mitigation.²⁴ In the civil law, there is no requirement to take account of a significant harmful impact on others.

On 28 September 2023, the judge at Wolverhampton County Court sentenced Ms Rothan to 14 weeks immediate custody for breaching an injunction by causing nuisance to her neighbours. He noted that her daughter was 'on the autism spectrum' but did not state her age and made no mention of any enquiries regarding who would care for her during her mother's three months in prison.

The right to protest

Above, we discussed the imprisonment on remand of people taking part in peaceful protest, an injunction having prohibited them from standing in a particular place - outside an arms factory or an oil-refinery, for example. The right to protest is an intrinsic feature of a functioning democracy which should be valued, guarded and protected.

JUSTICE has recently published its report on the right to protest, detailing the many ways in which this right has been eroded in the past decade.²⁵ The report recommends that to restore clarity, safeguard public confidence, and ensure compliance with the rule of law, there should be:

- a pause on all new protest-related legislation
- repeal of the most draconian and unworkable powers introduced since 2022
- the creation of an independent Public Order Monitoring Authority to review policing and legislation annually
- removal of protest from civil order regimes and stronger oversight of local authority powers
- a statutory requirement for visible police identification at all protests
- a national database to bring transparency to protest policing.

²³ Lowering the standard: a review of Behaviour Control Orders (2023) <https://justice.org.uk/behavioural-control-orders-report/>

²⁴ See: Shona Minson Safeguarding children when sentencing parents: information for sentencing courts. <https://shonaminson.com/safeguarding-children-when-sentencing-parents-information-for-sentencing-courts/> Rona Epstein & Hugh Williams, Sentencing Mothers and The Rights of the child, *New Law Journal* 20 October 2023

²⁵ <https://www.justice.org.uk/reports/striking-the-balance-protest-rights-and-public-order>

Care not punishment: an example

A report broadcast on BBC Radio 4 *File on Four* on 6 June 2023 illustrated some aspects of the multi-faceted problem of Anti-social Behaviour:

- The dreadful damage that ASB can inflict on an area, in this case an attractive park in an area short of green spaces, which was trashed and rendered unusable.
- How anti-social behaviour reflects the poverty and deprivation of the poorest areas of our cities.
- That positive measures – for example, organising activities for young people, arranging for the supply of food, school uniforms, toys and other goods – can lead to lower levels of anti-social behaviour and the development of pro-social attitudes and behaviour among those young people who previously caused so much damage and destruction in their home area.

Recommendations

- Reform is urgent. The current system is profoundly unjust. The punishments fall largely on the most vulnerable in our society, those with mental illness and addictions, those suffering from trauma and bereavement, those least able to cope without support. The sanctions are ineffective; the same names appear in the court records again and again.
- Reform should include adequate protections for those accused of breach of injunctions.
- The right to legal representation should be respected.
- There should be an obligation on the court to ensure that the contemnor understands the proceedings, both in terms of providing interpreters if the contemnor's main language is not English and in the sense that mental ill-health, disability or learning difficulties may mean the defendant requires help to ensure understanding.
- When a committal order (or a community sentence, should that option be available) is being contemplated as a contempt sanction, the court should be required to order a pre-sentence report, unless the court considers it to be unnecessary in the circumstances.
- Community sentences should be available as a sanction for contempt of court. The courts should be able to order community sentences together with probation support in case of breach of an injunction.
- If the court imposes a suspended sentence of imprisonment, it should be obliged to order and arrange support from probation and other services (such as health care, help with accommodation, education, training or employment) for the contemnor. Without support, there will be further breaches.
- A finding of contempt and any associated sanction should never appear on a criminal record certificate.
- Where a committal order is being contemplated as a contempt sanction and the contemnor is or appears to be suffering from a mental disorder, before that order is made:
 - the court should be required to obtain and consider a medical report unless, in the circumstances of the case, it considers that it is unnecessary to obtain a medical report; and
 - the court should be required to consider any information before it which relates to the contemnor's mental condition (whether given in a medical report, a pre-sentence report or otherwise), and the likely effect of committal on that condition and on any treatment which may be available for it.
 - the court should have to consider the *Wookey* test: the injunction cannot be enforced unless the defendant is able to understand it and to comply with it.
- Where no harm or inconvenience has been caused by a breach, no sanction should apply.
- There should be annual publication of data, publicly available, in relation to contemnors received into prison, including, for each contemnor,
 - the court that sentenced them

- the nature of the breach
- any mention of mental ill-health, physical ill-health or addiction
- the number of days expected to be served before their automatic release date,
- the number of days actually served in prison.
- Annual statistics should be published on the numbers of people sanctioned for breach of a behaviour order injunction, categorised by the nature of the breach
- There must be adequate and effective oversight of courts imposing sanctions for breach of injunctions to ensure that sentences are not disproportionate.

Comparison with other jurisdictions

As part of the research, I examined the law and practice in this area in various other jurisdictions. Below is a summary of those jurisdictions.

Australia: Prohibited Behaviour Orders & Personal Safety/Intervention Orders

- Australia does not have a nationwide ASBI (Anti-Social Behaviour Injunction) civil anti-social order with a single statute.
- Instead, there are **State/Territory orders**:
 - In Western Australia, the **Prohibited Behaviour Orders Act 2010** allows courts to impose orders against persons with a history of anti-social behaviour offences to restrict future conduct; breach is an offence with fines or imprisonment.²⁶
 - Across most states/territories, victims can apply for **Apprehended Violence Orders (AVOs)** or **Personal Safety Intervention Orders** (e.g., Victoria's **Personal Safety Intervention Orders Act 2010**), especially where there is fear of violence or harassment.
- These tools focus primarily on **personal protection** (harassment/violence) rather than broad anti-social behaviour like public nuisance

Austria

- Austria does **not have a broadly comparable ASBI system**.
- Anti-social conduct is generally dealt with through **criminal offences** (harassment, public disorder) or **administrative fines**, not preventive civil orders like ASBOs. (OECD reviews note that countries like Austria mainly use criminal and administrative methods rather than civil anti-social orders).

Brazil

- Brazil lacks a formal ASBI-type injunctive system for anti-social behaviour.
- Public disturbances, harassment, vandalism, and anti-social acts are handled through **criminal law** (public disorder, damage to property) and **administrative police powers**, with courts imposing penalties including imprisonment. (Comparative sources indicate Latin American jurisdictions do not widely replicate the UK's civil anti-social order model.)

Canada: Equivalent tools: Peace Bonds / 810 Orders

- Canada does **not have an ASBI equivalent** expressly for "anti-social behaviour."
- Instead, courts can issue **peace bonds** under **section 810 of the Criminal Code**, which are recognisance/ protection orders requiring a person to "keep the peace and be of good behaviour" and obey conditions (e.g., no contact with someone). They are preventative and may include conditions limiting behaviour likely to cause harm.

²⁶ legislation.wa.gov.au+1

- If conditions are breached, it is a **criminal offence**, and the person can face prosecution with possible **imprisonment** (up to **four years** depending on how the prosecution proceeds).
- Peace bonds are similar in effect to civil restraining orders, but are enforceable as criminal offences if breached

Chile

- Chile does not appear to have direct equivalents of anti-social behaviour injunctions; conduct considered anti-social (e.g., public disorder, threats) may be addressed through standard **criminal provisions** or administrative sanctions rather than a separate civil injunction regime.

Denmark

- Denmark does **not have an ASBI system**.
- Anti-social conduct like harassment or disorderly behaviour is addressed via the **Danish** Penal Code (crimes such as insult, public disorder) and through police powers under criminal law. There is no known civil injunction regime with contempt/ imprisonment consequences similar to the UK's ASBIs.

France

- France does **not have a UK-style anti-social behaviour injunction**.
- Conduct that might be labelled "anti-social" (harassment, public nuisance) is regulated under **criminal law or administrative sanctions**. For example, public insult/ harassment can be criminal offences with fines or imprisonment.

Germany

- Germany does **not use ASBI equivalents**.
- Anti-social conduct is predominantly within **criminal offences** or dealt with in youth courts for juveniles. There is **no civil injunction** regime equivalent to UK ASBIs with contempt enforcement by imprisonment.

Ghana

- Ghana lacks a specific anti-social behaviour injunction system like the UK.
- Anti-social conduct generally falls under **criminal law** (public nuisance, disorderly conduct) with criminal penalties (fines or imprisonment).

Italy

- Italy does **not have a UK-style civil anti-social behaviour injunction regime**.
- Behaviour like harassment is typically criminalised in specific contexts (e.g., stalking under Penal Code art. 612-bis).
- Preventive injunctions exist in limited contexts (e.g., domestic violence restraining orders) but **not a broad public ASB injunction system**.

Japan

- Japan does not have an ASBO-like civil order system specifically for anti-social behaviour.
- Anti-social conduct is covered under various criminal provisions or administrative guidance orders, but there is no standalone broad civil injunction for general anti-social

conduct with imprisonment for contempt. (OECD indicates Japan lacks civil enforcement tools similar to ASBOs and relies on other mechanisms.)

Netherlands

- The Netherlands **does not use ASB civil anti-social behaviour injunctions**.
- Issues like harassment, stalking, or public nuisance are dealt with through **criminal offences** (e.g., stalking under the Criminal Code) or **administrative measures** (local authority exclusion orders for specific contexts like homelessness). pace.coe.int+1
- There is no broad civil injunction regime with contempt proceedings for breach akin to UK ASBIs.

Portugal

- Portugal does not use ASBI-style measures.
- Behaviour considered anti-social is dealt with under **criminal law provisions** (public order offences) or administrative sanctions rather than an independent civil anti-social injunction system

Spain

- Spain does **not broadly employ ASBI-like orders** for general anti-social conduct.
- Conduct such as insult, harassment, or disorderly behaviour is addressed through **criminal code provisions** and police powers. Administrative sanctions may also be used, but not a standalone ASB injunction regime.

Summary of Key Differences

Country	ASBI-like Civil Injunction System?	Breach Leading to Criminal Penalty/Imprisonment
UK	✓ Yes (civil order, breach contempt/crime) =	Up to several years for breach of orders.
Canada	Peace bonds (not exactly ASBO)	Breach = criminal offence (possible imprisonment)
Australia	Varies by state (PBOs/AVOs)	Breach can be offence punished by imprisonment.
Austria, France, Germany, Denmark, Netherlands, Japan, Spain, Portugal, Ghana, Chile, Brazil, Italy	✗ No broad ASBI equivalent	Anti-social behaviour addressed through criminal/administrative law.

Conclusions

We should not accept the injustices occurring every day when county courts deal with breach of behaviour control orders which are heard under civil law, with none of the protections afforded by the criminal courts, with no judicial oversight, falling disproportionately on the poorest and most disadvantaged in our society. This echoes the report by the Civil Justice Council in 2020. They noted the lack of representation for many in contempt cases, and the disproportionate punishments imposed. They reported how limited are the options available to the judges in such

cases, and made it clear that diversion and liaison services, so useful in the criminal system for supporting people who have committed minor offences, are not available in contempt of court cases. They called for reform of the system, making fifteen recommendations. None has been implemented. Sensible reform would be compliant with human rights and would respect the need for social justice and for a welfare-based, rather than a punitive, approach to social problems. Such reform would make economic sense, as prison is the most expensive option when dealing with anti-social behaviour. It would also provide a significant contribution to alleviating the pressure on prison places.²⁷

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