

LIBERTY

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The solicitors employed by Liberty are individually authorised and regulated by the Solicitors Regulation Authority.

By email only to:

[REDACTED]

Our ref:

[REDACTED]

12 April 2022

Dear Madam

[REDACTED] v **The Commissioner of Police for the Metropolis**

CPN Appeal

We write further to our client's appeal against the Community Protection Notice ("CPN") issued to him by the Metropolitan Police on 17 March 2022. In order to assist the court to further the overriding objective, saving court costs and time, we invite you to revoke the CPN now.

Since the CPN was issued the following events have happened:

On 20 March 2022 our client was accommodated by Routes off the Streets at [REDACTED]. Your clients are aware of this as on or about 24 March 2022 they came to our client's hotel to apologise for the heavy-handed way in which they arrested him on 19 March 2022.

On 25 March 2022 our client was granted pre-settled status,¹ which Thames Reach²

¹ Pre-settled status enables our client to work legally in the UK. For more information, see: <https://www.gov.uk/settled-status-eu-citizens-families/what-settled-and-presettled-status-means>, accessed on 12 April 2022.

² Thames Reach is an organisation that runs outreach services that help those sleeping rough in London to move off the streets. For more information, see: <https://thamesreach.org.uk/what-we-do/response/>, accessed on 12 April 2022.

supported him in getting.

On 29 March 2022 our client was moved to [REDACTED] where he remains. This accommodation is also funded by Route off the Streets.

On 6 April 2022 our client started working at [REDACTED]. Our client was assisted in his job search by Thames Reach.

Representations

1. For the reasons set out in the grounds of appeal, which were served on you on 6 April 2022, we consider that your client's decision to issue the CPN did not comply with s. 43 (1) Anti-Social Behaviour Crime and Policing Act 2014 because your client could not have been satisfied on reasonable grounds that our client's conduct was having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and that his conduct was unreasonable.
2. As stated in the grounds of appeal, the conditions in the CPN are overly broad and unclear; Their meaning cannot be easily ascertained. Not only are the CPN conditions therefore unreasonable but any prosecution for breach of the CPN is also bound to interfere with our client's rights under Article 7 of the European Convention on Human Rights, see for example the European Court of Human Rights decision in Žaja v. Croatia, application no. 37462/09 at para 93:

“... the Court considers that its task in the present case is to examine whether the relevant law was foreseeable, that is, whether the applicant's act, at the time when it was committed, constituted an administrative offence defined with sufficient precision by domestic and/or international law (see, mutatis mutandis, Korbely, cited above, § 73) to be able to guide the applicant's behaviour and prevent arbitrariness. In so doing the Court must ascertain whether the applicant could have known from the wording of the relevant provision – and, if need be, with the assistance of the domestic authorities' interpretation of it and with informed legal advice – what acts or omissions would make him liable for the offence (see, mutatis mutandis, Vasiliauskas, cited above, § 154). Given that foreseeability also requires that a rule affords a measure of protection against arbitrary interferences by the public authorities (see Centro Europa 7 S.r.l. and Di Stefano v. Italy [GC], no. 38433/09, § 143, ECHR 2012), the Court must also ascertain whether the relevant law was sufficiently clear to provide, in accordance with the object and purpose of Article 7 of the Convention, effective safeguards against arbitrary prosecution, conviction or punishment (see Vasiliauskas, cited above, § 153).”

(Emphasis added)

3. Even if your clients would have had grounds to issue the CPN under s. 43 (1) Anti-Social Behaviour Act 2022 (which is not accepted) such grounds no longer exist now as our client is being accommodated and is working.
4. It is unreasonable to issue a CPN, such as the one issued to our client, which is overly broad and valid forever. Additionally, it is unreasonable to maintain such a CPN when the main behaviour that seemed to be behind its issuing (i.e.: condition 4 in the CPN, “must not pitch a tent”) is no longer a live issue. Indeed,

in so far as our client is able to ascertain what condition 11 in the CPN means (“to engage positively with current services offered”), he is complying with it too.

5. Your clients’ power to revoke a CPN is confirmed in the case of *Stannard v CPS* [2019] EWCH 84 (Admin) at paragraphs 41-42 and 45. At paragraph 45:

“... as we have indicated, there is a power for an authorised person to revoke or vary a CPN, as well as issue one. If the affected person sends written representations to such an authorised person with a reasoned case that the CPN is inappropriate, on ordinary public law principles, the authorised person will have to consider those representations when considering the exercise of his discretion as to whether to retain, or revoke or vary, the notice. If he fails to do so, then, again on general public law principles, the individual will be able to seek a judicial review of that failure on usual public law grounds.”

(Emphasis added)

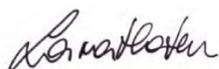
Conclusion

For the reasons in this letter and in the grounds of appeal served on you on 6 April 2022, we consider that the CPN issued by your client would not withstand judicial scrutiny. In order to save court time and costs, we invite your client to revoke the CPN now. If your client is unwilling to do so, please explain why.

We have already asked that a preliminary hearing be listed as soon as possible. If your client does not agree to revoke the CPN now, we shall ask at the hearing that the conditions in the CPN be suspended pending the outcome of our client’s appeal. Should this be necessary, we may also request an order for our costs in respect of the application.

We hope this is not necessary and look forward to hearing from you as soon as possible and in any event by 4 pm on 26 April 2022.

Yours faithfully,



Lara ten Caten

Solicitor

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