

INJUNCTION AGAINST THE WORLD

Re: Wolverhampton City Council and others v London Gypsies and Travellers and others [2023] UKSC 47

The Supreme Court has handed down a landmark decision in which a new category of injunction has been granted to prevent “newcomers”, namely persons who at the time of the injunction being granted are unknown and/or unidentifiable, and in fact those who have not yet performed or even threatened to perform the acts which the injunction prohibits.

The case was advanced by a series of Local Authorities in an attempt to prevent Gypsies and/or Travellers from unauthorised encampment, as stated within the Judgment:-

“Since the members of a group of Gypsies or Travellers who might in future camp in a particular place cannot generally be identified in advance, few if any of the defendants to the proceedings were identifiable at the time when the injunctions were sought and granted. Instead, the defendants were described in the claim forms as “persons unknown”, and the injunctions similarly enjoined “persons unknown”.

The standard procedure of seeking an eviction and/or injunction has historically not been adequate to deal with the circumstances in which, following commencing proceedings, the original group has vacated and the land is occupied by new individuals. In such circumstances, the injunction could not be enforced against the new occupiers as they were not served the original proceedings.

However, the position has now altered, and the newcomer injunction can be enforced against any individual who had notice and therefore knew that their actions would breach the injunction, irrespective of if they had been served with the original proceedings. Thereby, circumventing the above historical issue.

Moving forward, the Supreme Court laid down a series of principles which must be satisfied for a newcomer injunction to be granted, namely: -

- There must be detailed evidence showing compelling justification for the newcomer injunction to be granted, and that the claimant has demonstrated that there are no other remedies which can protect its civil rights or enforce public law.
- Procedural safeguards must be built into both the application and the court order as those likely to be affected by the injunction will not have notice of the application.

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- The injunction must be defined as precisely as possible and must include a liberty to apply provision and a temporal and geographical limit.
- The injunction must also be advertised as widely as possible, so that those who may be affected by it have the chance, where possible, to make representations about its imposition. And once made, the injunction must be displayed as widely as possible so that once the newcomer becomes aware of it, they are able to apply to the court to have it varied or set aside depending on the circumstances.
- The claimant must comply with the duty of full and frank disclosure as those likely to be affected by it will not be present at the hearing which considers whether to grant the injunction.
- Finally, the court must be satisfied that, on the facts of the case, it is just and convenient to grant the injunction.

Whilst the decision in this matter has been made in reference to Local Authorities, the impact will be wide ranging moving forward, including breaches of intellectual property and planning controls, and a variety of other issues which both businesses and individuals may face.

If you have queries regarding seeking an injunction or any potential dispute, please do not hesitate to contact Andrew Dickinson [AndrewDickinson@chadlaw.co.uk / 0113 225 8811] or your usual Chadwick Lawrence contact.

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