Neutral Citation Number: [2026] EWHC 471 (KB)

Case No: KB-2026-000135

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: Wednesday 11 February 2026

Before :

THE HONOURABLE MRS JUSTICE EADY DBE

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IN THE MATTER OF :

EURO CAR PARKS LIMITED

Appellant/Applicant

-v-

COMPETITION & MARKETS AUTHORITY

Defendant/Respondent

- -
- -

MR R KINGHAM (instructed by **Caytons solicitors**) for the **Appellant**
MR T JONES KC & MR T COATES (instructed by **CMA**) for the **Respondent**

Hearing date: 11 February 2026

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JUDGMENT

MRS JUSTICE EADY DBE:

Introduction

1. This is my judgment on the appellant's application for an urgent interim injunction to prohibit the respondent from publishing a Final Enforcement Notice ("FEN") in unredacted form.

2. The FEN was made by the respondent on 10 December 2025. It is the subject of an appeal before this Court made by appellant's notice, filed on 6 January 2026. Along with that appeal, the appellant made an application pursuant to CPR 39.2, for an order to withhold its name from the public in the appeal proceedings until final determination of that appeal.

3. The respondent has made clear its intention to publish the FEN on 13 February 2026; this has led the appellant to make the present application for an interim injunction to prohibit that publication taking place absent redaction of information that would permit the appellant to be identified. In support of this application, the appellant relies on the witness statement of its managing director, Ms Rita Tucker, dated 4 February 2026; for its part, the respondent has filed a witness statement by its litigation director, Ms Victoria McCord, dated 10 February 2026.

Background

4. The appellant is a parking operator (I am told it is the largest private, family-owned parking operator in the UK); the majority of its business is the operation of carparks for various clients. The respondent is a non-ministerial department, which seeks to promote competition and protect consumers. By the Digital Market Competition and Consumers Act 2024, and the Consumer Rights Act 2015, it has certain powers to investigate and enforce consumer protection legislation; specifically, by paragraph 16C(10) of schedule 5 of the 2015 Act, the respondent can publish a FEN *"in such manner as it considers appropriate."*

5. By letter dated 24 July 2025, the respondent served an information notice ("the Information Notice") on the appellant pursuant to paragraph 14 of schedule 5 of the 2015 Act. The purpose of the Information Notice was to enable the respondent to exercise and/or consider whether to exercise its consumer protection functions under the 2024 Act. The appellant was required to respond with the required information by 4 September 2025; it failed to do so. The appellant explains (in Ms Tucker's witness statement) that this was due to its genuine believe that the respondent's email was a phishing attempt.

6. On 21 October 2025, the respondent issued a Provisional Enforcement Notice pursuant to paragraph 16B schedule 5 of the 2015 Act. For failing to provide a response to the Information Notice, the respondent proposed a fixed penalty of £473,000 plus a daily penalty of £11,000 until a response was received.

7. On 10 December 2025 the respondent issued the FEN which is the subject of this application. The FEN imposes a fixed penalty of £473,000. No daily penalty was

imposed because, by this point, the appellant had provided its response to the Information Notice.

8. On 23 December 2025, the appellant made a complaint concerning the FEN to the Procedural Complaints Adjudicator of the respondent. That complaint was dismissed on 23 January 2026. The appellant also complained to the respondent's General Counsel, who rejected that complaint by letter of 3 February 2026. I have had regard to the complaints made, and the determination letters in response to those complaints, and I will return to those in due course. In any event, pending determination of the appellant's complaints the respondent agreed not to publish the FEN, but upon completion of the complaint process it made clear that it intended to publish the FEN in the normal way.

9. On 6 January 2026, the appellant issued its appeal in these proceedings. It challenges the FEN on the basis that it is: (a) based on an error of fact, (b) wrong in law, and (c) unreasonable; at the same time, the appellant issued an application for a withholding order under CPR 39.2 seeking to withhold its name from the public and to anonymise proceedings until final determination of its appeal ("the withholding order").

The evidential basis for the current application

10. In her witness statement, Ms Tucker explains the harm that she (and the appellant more generally) fears will occur if the FEN is published in unredacted form. She says that the management of carparks is an emotive issue, regularly attracting press attention, and that, over the years, the appellant and its employees have been subjected to abusive threats and trolling, often exacerbated by adverse media coverage. Ms Tucker has attested to more personal acts of intimidation, with the press attending at her family home and publishing personal photographs of company directors. More specially she relates (and I am quoting from her in her witness statement, at paragraph 34):

> "In response to the Daily Mail's publication of an article concerning ECP and my family in 2022, my home address was published online by vexatious members of the public. Photographs were published online of my grandchildren which, although they were blurred, was extremely intimidating. The comments on the Daily Mail article also included serious threats and implications of violence. For example:
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> - "Pik": "I hope their addresses get published and these people succumb to unfortunate accidents."
> - "AttackKipWay": "Now you know where they live and park their cars…"
> - "HE02": "Whatever happened to arson?"
> - "Everymanoftheworld": "They need re-educating, If you know what I mean..!""
> -

I have not seen any documentation in this respect, I am merely recording what Ms Tucker has stated her statement.

11. Ms Tucker has said that the appellant receives large volumes of abusive hate mail and that she has had members of the press stationed outside her home, approaching her neighbours, knocking on her door, and camping at her address; she further says that company vehicles have been deliberately damaged by members of the public, that parking attendants have been subjected to verbal and physical abuse, and that the directors have received threatening emails. Again, I am recording what Ms Tucker has stated in these proceedings; no corroborating evidence has been exhibited to her statement or provided to me at this stage. Ms Tucker further says that she fears that, if a story relating to the FEN is "*misrepresented*", there "*is a serious risk of a witch hunt which could lead to these incidents occurring again"*. She explains that she lives with vulnerable family members and has a *"great fear of physical reprisals."* Ms Tucker has related how she and her husband have taken preventative measures in relation to their safety, albeit she does not say that they have gone to the police about these issues. Acknowledging that the FEN relates to an administrative penalty rather than a substantive consumer law infringement, Ms Tucker nevertheless considers that it will be reported in a way that will spark further anger and hate from members of the public and she says, *"It seems very unfair that my family should be subject to this once again when there is every chance that the FEN will be reversed by appeal."*

The appellant's case

12. It is the appellant's submission that publication of the FEN in an unredacted form on 13 February 2026 would usurp the court's process in circumstances in which there is a serious issue to be determined on anonymity as a consequence of the withholding application. Acknowledging that, pursuant to section 12 of the Human Rights Act 1998 ("HRA"), an application for an interim injunction seeking anonymity must meet a higher standard, these, it is urged, are exceptional circumstances. In this regard, the appellant emphasises that (a) it does not seek to prevent the publication of the FEN but only that it - the appellant - not be identified until the appeal can be heard; and (b) the focus of the application is on the protection of identified individuals – Ms Tucker and her family – not simply the appellant's corporate reputation.

13. The appellant contends that damages cannot provide an adequate remedy in these circumstances: publication of the FEN before the court determines a withholding application would, it submits, result in immediate and irreversible harm which could not be adequately addressed in damages: (i) because the loss of anonymity, once it has occurred, cannot be reversed; and (ii) the distress, anxiety and fear caused to Ms Tucker and her family by harassment or threats are not properly remediable in damages.

14. As for the balance of convenience, the appellant says that, if relief is refused the consequences that it, Ms Tucker, and her family will face will be immediate and irreversible: it will have been deprived of the opportunity to maintain its anonymity in these proceedings before its application can be determined. By contrast, it is said the prejudice to the respondent is limited: if relief is granted, it will still be able to publish a redacted version of the FEN, and any public interest in the deterrent effect of the FEN (i.e. for other businesses) will still be met; yet further, if the appellant ultimately fails in its application for anonymity, the respondent would have suffered – at most – a short postponement in publishing the unredacted FEN.

The respondent's position

15. It is the respondent's case that the injunction application is misconceived: (i) its basic premise is flawed, given that the withholding application is about the confidentiality of the appeal proceedings – it does not seek to restrain publication of the FEN; (ii) as Ms Mascord attested in her statement, the respondent publishes its decisions in the ordinary discharge of its statutory powers – if there were any legal basis to constrain the exercise of those powers that should be via a judicial review (indeed, it is pointed out that the appellant had previously said it intended to apply for judicial review of the decision to publish the FEN).

16. In any event, the respondent says that, even apart from those more procedural issues, the substance of the application is hopeless: (i) many thousands of regulatory decisions are published each year and there is an obvious and very strong public interest in such decisions being published, including the identity of the company in question, such that the court should only restrain publication of a decision by a public authority in exceptional circumstances; (ii) there are no exceptional circumstances, or anything close, in this case but the vague and unsubstantiated references to threats and abuse which the appellant *might* receive if the FEN is published.

My approach

17. It is common ground that my approach must be guided by section 12 HRA and Article 10 of the ECHR; section 12 HRA (relevantly) provides:

> "(1) This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the Convention right to freedom of expression.
> ...
> (3) No such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.
> (4) The court must have particular regard to the importance of the Convention right to freedom of expression and, where the proceedings relate to material which the respondent claims, or which appears to the court, to be journalistic, literary or artistic material (or to conduct connected with such material), to— (a) the extent to which— (i) the material has, or is about to, become available to the public; or (ii) it is, or would be, in the public interest for the material to be published; (b) any relevant privacy code."

18. As was held in *Cream Holdings Ltd and others v Banerjee and Others* [2004] UKHL 44, the Court should thus consider the merits of the anonymity application, albeit that the threshold to be met may be influenced by the seriousness of the consequences of publication and the nature of the application; as Lord Nicholls explained at paragraph 22 of *Cream Holdings*:

> "… the general approach should be that courts will be exceedingly slow to make interim restraint orders where the

> applicant has not satisfied the court he will probably ('more likely than not') succeed at the trial."

Then going on to note:

> "But there will be cases where it is necessary for a court to depart from this general approach and a lesser degree of likelihood will suffice as a prerequisite. Circumstances where this may be so include those mentioned above: where the potential adverse consequences of disclosure are particularly grave, or where a short-lived injunction is needed to enable the court to hear and give proper consideration to an application for interim relief pending the trial or any relevant appeal."

19. Some (but not all) applications to restrain publication of information also engage Article 8, ECHR. In *In Re S (A Child) (Identification: Restrictions on Publication)* [2005] 1 AC 593, the House of Lords summarised the approach that should be taken where both articles have engaged with, the following four propositions (I read in from paragraph 17, emphasis in original):

> "First, neither article has <u>as such</u> precedence over the other. Secondly, where the values under the two articles are in conflict, an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary. Thirdly, the justifications for interfering with or restricting each right must be taken into account. Finally, the proportionality test must be applied to each."

20. Where, however, an applicant seeks to restrain publication of a decision or a report by public authority, the right of the public to receive that report (itself protected by Article 10 ECHR) will generally prevail, with the result that injunctions to restrain publication require exceptional circumstances; as was explained in the application of *R (on the application of Barking and Dagenham College) v Office for Students* [2019] EWHC 2667 (Admin) at paragraphs 35 to 37. At paragraph 35, it was made clear that:

> "35. ... Where a public authority has the function of publishing a report, that function will often be conferred for the benefit of a specific section of the public… This interest is protected by Article 10 ECHR, which confers the right not only to express but also to receive information. The right of a section of the public to receive information which a public authority wishes to communicate to them in what it regards as their interest must carry very substantial weight in the balancing exercise."

Recognising the potential countervailing interests that might arise, the court continued:

> "36. ... In other cases… damage to third party or public interests is also relied upon. But even so, it is important not to lose sight of the fact that, if interim relief is refused and the decision is published, those to whom it is published can be told that the

> decision is the subject of legal challenge. … [A] fair-minded observer learning of a decision critical of the claimant would factor in the existence of a pending challenge before reacting to it.
>
> 37. In these circumstances, and other things being equal, the authorities rightly impose a high hurdle ('pressing grounds', 'the most compelling reasons' or 'exceptional circumstances') for the grant of interim relief to restrain publication of a report by a public authority. The high hurdle is consistent with, and indeed flows from, the *'intense focus on the comparative importance of the specific rights being claimed'*."

This analysis was endorsed by the Court of Appeal in *R (oao Governing Body of X) v Ofsted* [2020] EWCA Civ 594 at paragraphs 67 to 79.

21. More generally it is clear that harm to a person's reputation (even involving seriously defamatory statements) would not provide sufficiently exceptional circumstances: see the summary of the relevant case law in *Taveta Investments Ltd v Financial Reporting Council* [2018] EWHC 1662 (Admin), at paragraphs 95 to 99. It is the respondent's submission that orders restraining public reports are hardly ever granted and it is observed that one of the only reported cases in which relief was granted involved what was called a "*constellation of unusual factors*" (*Barking and Dagenham*, paragraph 37).

22. As regards to the confidentiality of court proceedings, CPR 39.2 relevantly provides at subparagraph 4:

> "…The court must order that the identity of any person shall not be disclosed if, and only if, it considers non-disclosure necessary to secure the proper administration of justice and in order to protect the interests of that person."

23. CPR 39.2 thus reflects the principle of open justice. This is a "*fundamental principle in English law … at the heart of our system of justice and vital to the rule of law*", see *JC Bamford Excavators Limited v Manitou UK Limited & Anor* [2023] EWCA Civ 840, at paragraphs 71-73. Although a statement of the common law principle of open justice, this can also be seen to derive from Article 6 of the ECHR, which requires a fair and public hearing, and judgment in public, subject to limited exceptions, and also Article 10.

24. The importance of the names of parties to the principle of open justice, and Article 10 ECHR was explained in *In Re Guardian News and Media Limited* [2010] 2 AC 697 at paragraphs 63 to 65. In short, there is a public and journalistic interest in reporting the names of persons involved in litigation or subject to public decisions.

25. Derogations from the principle of open justice can generally only be justified in "*exceptional circumstances*" where strictly necessary to secure the proper administration of justice and are "*wholly exceptional*": Practice Guidance: Interim Non-Disclosure Orders, paragraph 10.

Analysis and conclusions

26. It is the appellant's case that the withholding application filed alongside its appeal, raises a serious issue of determination via the court, namely whether identification of the appellant would give rise to exceptional hardship justifying departure from the principle of open justice. The appellant says that, if the respondent is permitted to publish the FEN in unredacted form before that issue is determined, the practical effect will be to identify the appellant publicly and irreversibly; once that has happened, the anonymity which the appellant seeks to preserve will be lost – certainly any subsequent order granting anonymity in these proceedings would be deprived of any real effect. The appellant thus says that permitting publication now would pre-empt the court's decision on a live issue before it and frustrate the purpose of the pending anonymity application; it contends that the balance of fairness favours maintaining the status quo until that issue can be determined.

27. That submission, however, requires some unpacking; it is important to be clear as to what is, in fact, before the court on the appeal and on the withholding order application. The first point to make is that the court's powers on the appeal are to quash, vary or uphold the respondent's decision, *not* to order that the FEN be upheld and published but only in redacted form; this is, I note, not a judicial review (although that was threatened in the letter before action and referenced in the statement accompanying the withholding application), but a statutory appeal. Secondly, turning to the withholding application itself, that: (i) relies on a possible judicial review, which has not been pursued; (ii) does not directly seek to restrain publication of the FEN (although, as the respondent has accepted in oral argument, it could have that effect – if a withholding order were to be made relating to court proceedings, the respondent would have to think carefully as to whether publishing the FEN might permit the company concerned to be identified as the appellant in the court proceedings); (iii) is itself sought on an interim basis; and thus (iv) would also have to meet the same exceptional circumstances test as arises on the application before me.

28. Under section 12(3) of HRA the first step in considering an application to restrain publication before trial is for the court to ask whether it is "*satisfied that the applicant is likely to establish [at trial] that publication should not be allowed*". The straightforward answer to that in this case would at first blush seem to be that the court cannot be so satisfied, because the trial of this matter (the appeal) will not, as such, be concerned with the publication of the FEN (ordering non-publication of the FEN is not within the scope of the appeal court's powers). Indeed, even if the appellant were to win its appeal, it would not follow that it would become entitled to have the FEN withheld; as the respondent has pointed out in its submissions, the public have as much right to know that this regulatory body made a decision which was overturned on appeal as they do to know that it made a decision which was upheld.

29. For the appellant, it is contended that the application I am presently concerned with falls into the category of case envisaged in *Cream Holdings*, where the potential adverse consequences of a publication are particularly grave or where a short-lived injunction is needed to enable proper consideration to be given to an application for interim relief pending trial (the kind of fuller consideration the appellant says the court could and should give to its withholding order application).

30. There is no dispute in this case that the respondent has a statutory power to publish the FEN and that there is a strong public interest in publication of the FEN in unredacted form. As Ms Mascord has explained in her statement, the respondent's power to gather information (the point of the Information Notice) is fundamental to its ability to enforce substantive consumer protection law, and it is therefore essential that regulated persons should comply with Information Notices that they receive from the respondent: publishing FENs publicly communicates the consequences of non-compliance and thus deters such non-compliance on a wider basis. Moreover, as the evidence before me underlines, the respondent, as the UK's principal consumer protection authority, has a public commitment to openness and transparency in its decision making (that much is clear from its guidance and policy documents that have been placed before me). That transparency is important not only in identifying those who do not comply with regulatory requirements but also in making clear who is, and who is not, the subject of any action taken. Thus, simply referring to a parking authority in the FEN, and not naming the appellant, would risk other parking authorities being suspected; that would be neither transparent nor fair.

31. In these circumstances I am clear that Article 10 ECHR is engaged not only in terms of the respondent's right to publish information but also, perhaps more importantly, in respect of the public's right to receive that information.

32. The appellant says, however, that there is a countervailing consideration in this case because of the concerns raised by Ms Tucker, which, if taken at face value, raise genuine fears of threats to Ms Tucker and to members of her family.

33. I have given careful consideration to that evidence and, notwithstanding that the concerns relied on by the appellant have not always been consistently expressed, I have proceeded on the basis that what Ms Tucker has said is true and reflects her entirely genuine concerns.

34. Adopting that approach, however, I am clear: this application does not establish exceptional circumstances capable of justifying the interim relief sought. Firstly, no corroborative evidence has been provided by Ms Tucker, which would enable me to understand the context of the matters she attests to in her statement. Secondly, as Ms Tucker acknowledges, the FEN is an administrative penalty, it does not find any breach of substantive consumer protection law; it is therefore very hard to see why it should unleash the kind of "*witch hunt*" to which Ms Tucker refers. Moreover, thirdly, Ms Tucker's evidence is so unspecific that it does not substantiate any real risk of abuse. She refers to abuse of threats "*over the years*" and to press intimidation "*in the past*" without explaining when or why this happened or why it might happen again. She refers to one article in the Daily Mail, and some below the line comments in relation to that, from four years ago, but, again, has not sought to exhibit or otherwise present to me any corroborative evidence in this regard. Similarly, I have not been given any examples of what is said to be the "*abusive hate mail*" which the appellant is said to have received. More generally, while Ms Tucker says that her family is being "*intimidated and harassed*", she gives no details of this, and does not explain why the FEN would contribute to such behaviour. More specifically, I am afraid I do not find it credible to think that publication of the unredacted FEN would lead to "*physical reprisals*", or to the press being camped outside Ms Tucker's home or to company vehicles being damaged.

35. Accepting the weaknesses in the evidence provided in support of this application, Mr Kingham turns to the other consideration identified in *Cream Holdings*, saying that this is precisely the kind of consideration that should weigh in favour of granting a short-lived injunction, which would enable the court to receive further evidence and give fuller consideration to the issues identified. The difficulty with that point is that the opportunity has already been given to the appellant to provide this information. There was reference to concerns of the form identified by Ms Tucker in the appellant's complaint to the respondent, and the determination of that complaint specifically identified the lack of context and absence of corroboration provided by the appellant: the points identified as weaknesses in the evidential basis for this application are thus not new, but the appellant has chosen not to address them. In the circumstances, there is no basis for thinking that allowing further time will materially change the position, and I do not find that the appellant would be likely to succeed on this point at the trial of the withholding application; moreover, I am, in any event, clear, that the extent of the concerns raised do not outweigh the very strong public interest in this regulatory publication.

36. For completeness I should say that, in the paperwork, the appellant initially also referred to the possibility of "*commercial difficulties with our clients*" and "*irreparable harm to [its] reputation*." These are not points that have been emphasised to me at this hearing but, in any event, it is clear they cannot assist. First, it is not explained why an administrative penalty would cause any irreparable harm or commercial difficulties; but, in any event, those are not the sort of highly confidential matters that may, in principle, be protected by an order of the court – in particular, when even seriously defamatory statements do not justify restraint for regulatory decisions. Moreover, as the Court recognised in the *Barking and Dagenham College* case, any reputational damage can be mitigated by the appellant publicising the fact it is appealing the FEN.

37. Therefore, for all the reasons thus provided, I refuse this application.

This transcript has been approved by the Judge