An Order made pursuant to s.46 of the Youth Justice and Criminal Evidence Act 1999 has been made that protects the identity of Witness 1 and Witness 2 referred to in this Judgment. No matter relating to either Witness 1 or Witness 2 shall during their lifetimes be included in any publication if it is likely to lead members of the public to identify them as witnesses in the Crown Court proceedings *R v Mayfield and ors*. This prohibition applies unless waived or lifted. There is no prohibition on reporting this judgment.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
[2021] EWHC 1051 (QB)

No. QB-2020-000723

Royal Courts of Justice
Strand
London, WC2A 2LL

Friday, 16 April 2021

Before:

MRS JUSTICE EADY DBE

B E T W E E N :

HER MAJESTY'S SOLICITOR GENERAL — Claimant

- and -

KATIE MAYFIELD — Defendant

MS K. WILSON appeared on behalf of the Claimant.

MR C. ASPINALL appeared on behalf of the Defendant.

J U D G M E N T

(via Microsoft Teams)

MRS JUSTICE EADY:

Introduction

1 This is the hearing of the Solicitor General's application for the defendant's committal for contempt of court. Permission was granted for the bringing of these proceedings by Johnson J by order of 19 November 2020.

2 In this case, the alleged contempt is that:

(1) The defendant breached a reporting restriction order ("RRO"), made by O'Farrell J on 17 January 2018 in criminal proceedings relating to the defendant's cousin and brother, *R v Ricky Mayfield and Francis Mayfield*, which prohibited the identification of two prosecution witnesses, by posting two posts on her Facebook page which identified one or both of those witnesses; and

(2) The defendant interfered with the due administration of justice or created a real risk that the due administration of justice would be interfered with by: (i) taking photographs and a video at court during the above trial; and (ii) publishing them on Facebook, together with a still from a video taken in the courtroom by someone else of one of the above-mentioned witnesses giving evidence during the *Mayfield* trial, together with (iii) text which named the witnesses and expressed hostility towards them because they had given evidence.

3 The matters relied on in relation to the first ground, the breach of the RRO, are also relied on, albeit together with additional related matters, in support of the second ground, interference with the administration of justice.

4 There is no issue before me today that the defendant's conduct amounted to contempt of court. The questions that I am required to determine at this hearing are as follows:

(1) To the extent the defendant does not admit the entirety of the matters relied upon in support of the allegations of contempt, has the Solicitor General proven those matters to the criminal standard of proof?

(2) Whether the contempt is sufficiently contumelious to warrant a custodial sentence?

(3) If so, what should that sentence be?

5 Before proceeding to consider submissions from either party, I first reminded the defendant of her right to give evidence to the court, albeit that she also had the right to remain silent, although if she chose not to give evidence or, in giving evidence, then refused to answer questions, inferences might be drawn against her. Mr Aspinall, her counsel, confirmed that he had advised his client of her rights in this regard. The defendant did not give evidence before me.

6 Because this application relates in part to the wrongful disclosure of the identity of witnesses in criminal proceedings who have been granted lifelong anonymity, also by order of 19 November 2020, Johnson J provided that any third party seeking to obtain copies of documents in the court file which would identify those witnesses would need to apply to the court on notice to the Solicitor General. The order of O'Farrell J also remains in force more

generally and there is to be no publication of anything that might identify either Witness 1 or Witness 2.

7 At the parties' request, and given the continuing need to reduce the spread of the coronavirus and, more specifically, given the defendant's particular vulnerabilities due to her underlying medical condition, this hearing has taken place remotely by MS Teams. Having regard to the delay that had already occurred in these proceedings and the particular difficulties the defendant would otherwise face if required to attend court in person, I was satisfied that this was in accordance with the overriding objective and best enabled justice to be done in this instance. The defendant has thus attended by video link, represented by her counsel, Mr Aspinall, who similarly appeared remotely. Ms Wilson of counsel, who represents the Solicitor General, has similarly attended by video link. This remained, however, a public hearing and details of the listing and how to obtain access were published in advance in the cause list, thus ensuring the principle of open justice. Members of the media were present during the hearing (also attending by video link) and there was no objection to the hearing proceeding remotely in this instance.

8 In granting permission in these proceedings, Johnson J had earlier directed that the committal hearing should be listed before a divisional court. It is, however, common ground that CPR 81.3(8) provides that the hearing may now be before a single judge of the Queen's Bench Division and both parties made clear that they were content that I should proceed to hear the application today.

The Facts

9 The facts of this matter are set out in the affidavit of Mr Thomas Guest, Head of Criminal Casework, Attorney General's Office, dated 6 February 2020, supported by the evidence attached thereto; they are largely agreed and Mr Aspinall had made clear that the defendant did not require to challenge Mr Guest's evidence. To the extent there is a difference between the parties, I set out the defendant's position later on in this judgment.

10 I start, however, in January 2018, when, as Mr Guest explains, the defendant's cousin, Ricky Mayfield, and her brother, Francis Mayfield, were on trial at Sheffield Crown Court charged with attempted murder, causing grievous bodily harm with intent contrary to s.18 of the Offences Against the Person Act 1861 and possession of a firearm with intent to endanger life contrary to s.16 of the Firearms Act 1968. The victim had sustained injuries to his hand because a shotgun was discharged, leading to the amputation of some of his fingers.

11 The defendant, who has said she was a potential witness in the case, was present at the court, outside the courtroom, for a substantial part of the proceedings. At the start of the trial, on 17 January 2018, the trial judge, O'Farrell J, made an RRO pursuant to s.46 of the Youth Justice and Criminal Evidence Act 1999 ("the 1999 Act") which protected the identity of two witnesses, one of whom was the victim, the other his father. Exhibited to Mr Guest's affidavit are two statements of Mr Godley, both made during February 2018. Mr Godley was working at Sheffield Crown Court during the trial as a court clerk and confirms that the RRO was on display outside the court room throughout the trial; he explains,

> "Anybody stood outside the courtroom or entering the court would clearly be able to see this."

12 It is the Solicitor General's case that the defendant was aware of the RRO or its substance. The defendant says that she did not read the order posted at the court room door, but now

acknowledges that she was aware, through discussion with others, that the identity of the two witnesses was protected.

13 Returning to the criminal trial, Ricky and Francis Mayfield were acquitted on the attempted murder charge but found guilty on the other two charges. They were sentenced on 30 January 2018.

14 On 31 January 2018, the defendant posted the first of the two Facebook posts which form part of the subject matter of the current proceedings. On the same day, or shortly thereafter, she posted the second Facebook post.

15 The first Facebook post named Witness 1 and Witness 2. It comprised text, four photographs (one of which was a still from a video) and one video clip. The video still was of Witness 1, taken by someone other than the defendant whilst Witness 1 was giving evidence. Two of the photographs were of Witness 2. The photographs also showed some of the police officers involved in the criminal proceedings. The video clip included Witness 2, as noted in the annotation to it, "Really [Witness 2] getting escorted" It showed Witness 2 accompanied by police officers. The post started with the words, "South Yorkshire police n sheff star wanna fuk with me here I fuking go!!!..." The defendant then named the witnesses and continued:

> *"*FULL BLOWN LIEING DRUG DEALING FERRETS!!! HERES EVIDENCE TO PROVE THEY ATTENDED COURT N LIED THREW THERE BACK TEETH CRIED HIS EYES OUT THIS FAKE FUKING GANGSTER GETT FUKING TAGGING GETT FUKING SHARING. THE CRAB CLAW LITTLE FREAK*"*.

From the evidence available, that post was shared at least 56 times (it may, of course, have then been shared on multiple times further).

16 The second Facebook post named Witness 1, the defendant saying,

> "Ring police on me nar [Witness 1] you couldn't be named 4 legal reasons u crab claw mess. Bet ur felling crabby nar uve been exposed, you little gremlin."

17 The South Yorkshire Police became aware of the defendant's Facebook post on 1 February 2018 (the knowledge of the police and the steps then taken to secure evidence of the posts are explained in statements attached to Mr Guest's affidavit). The defendant was arrested regarding these matters on 14 February 2018 and interviewed, although she generally answered, "No comment" to the questions she was asked save that when she was shown a copy of the RRO she said that she, "wouldn't be able to read that" and, when shown an image of Witness 1 giving evidence, she stated, "How can I have taken that when I wasn't allowed in court?"

18 On 23 February 2019, the CPS took the decision not to charge the defendant with any criminal offence in relation to the Facebook posts. This matter was then sent to the Attorney General's Office and (following various personnel changes, including the appointment of a new Solicitor General) Mr Guest explains that a decision was taken to institute proceedings on 1 July 2019.

19 Having instructed the government legal department and counsel, a pre-action letter was served on the defendant on 22 August 2019. The defendant obtained legal advice and, on 1

November 2019, her solicitors responded, accepting that she had made the Facebook posts as alleged, but stating that she,

> "…did not contemplate that she was acting in any way unlawfully" and "until she was advised to take down the Facebook posting … was unaware of any order in the terms made by O'Farrell J."

20 Referring to the time that had since passed, the defendant's solicitor further explained that she (the defendant) had now moved on with her life and, whilst it was accepted that she had acted in contempt of court and breach of s.41 of the Criminal Justice Act 1925 ("CJA 1925"), it was objected that there could be no real public interest in any proceedings against her.

21 After considering the defendant's response, on 24 February 2020 the current proceedings were filed and a listing sought for a permission hearing. That hearing was eventually listed before Johnson J on 19 November 2020, when permission was given for these proceedings to be pursued.

The Defendant's Position

22 At the hearing before me today, Mr Aspinall has explained his client's position on instructions as follows. The defendant admits that she posted the content I have summarised above and that, contrary to s.41 of the CJA 1925, she took the three photographs published in those posts and that she recorded the video clip that was also posted. The defendant accepts that, by taking those photographs and video, and publishing them on Facebook, together with the image of Witness 1 giving evidence in court, she acted in contempt of court. She further accepts that she should have known that she was committing an offence as the court building had clear notices on display indicating such activity was prohibited. It is yet further not in dispute that the defendant's post named the two witnesses and that she thereby breached the RRO and acted in contempt of court.

23 Although the defendant says that she had not read the order posted on the courtroom door, she does accept that she was aware that the identity of the two witnesses was protected and she concedes that she should have made further enquiry before posting her messages on Facebook and was subjectively reckless when she did so. It is the defendant's case that she removed both Facebook posts shortly after posting (certainly within two days; albeit, by that time, the first post had been shared at least 56 times), and she did that immediately after receiving advice from the solicitor, who had acted for her brother, Francis Mayfield, that she was in breach of a court order.

Contempt of Court - The Legal Principles

(1) Breach of an Order

24 It is not in dispute that a breach of a restricted reporting order under s.46 of the 1999 Act is capable of amounting to a contempt and, moreover, that such a breach is capable of being a contempt even where the order itself contains no penal notice (see *AG v Yaxley-Lennon* [2019] EWHC 1791 (QB), concerning an analogous order made under s.4(2) of the Contempt of Court Act 1981). Although breach of an order made under s.46 of the 1999 Act is an offence itself (see s.49), that does not mean it is not capable of also being a contempt (see *Solicitor General v Cox* [2016] EWHC 1241 (QB), which concerned the taking of photographs and video images in court, which amounts to a summary criminal offence under s.41 of the CJA 1925).

25 As regards *mens rea*, in *Yaxley Lennon* the court considered it was not necessary to prove that an alleged contemnor had actual knowledge of the terms of what was (in that case) the s.4(2) order, the court observing that the gravamen of this form of contempt of court was culpable interference with the due administration and it was sufficient to establish subjective recklessness. As the Divisional Court concluded:

> "57. … A person who publishes material in breach of an RRO will be guilty of contempt if he or she foresees the possibility that the publication may be a breach of such an order, but proceeds with publication, taking an unreasonable risk. Someone who knows or suspects that an order is in place but does not know its terms is clearly put on inquiry. If the person makes no enquiry, or fails to take reasonable steps to find out what the terms are, it will ordinarily be easy to infer subjective recklessness."

26 The Divisional Court further held (see para.65) that it was not necessary to establish a specific intent to interfere with the administration of justice (see also *Cox* at para.73.)

(2) Interference with the Due Administration of Justice

27 Conduct which interferes with the due administration of justice, or is inherently likely to do so, may also be a contempt. Such conduct may take various forms. In this case it is again common ground that it is an offence to take photographs, including video, at court and to publish any image taken in contravention of that prohibition (s.41 of the CJA 1925) and that, where sufficiently serious, such conduct is capable of amounting to a contempt (see *Cox supra*, in particular at paras.23-25).

28 In respect of the *mens rea* for this form of contempt, no specific intent to interfere with the administration of justice is required; it is only necessary to show that the act was deliberate and in breach of the criminal law or a court order of which the person was aware (see *Cox* at paras. 68-70).

The Case Against the Defendant And My Findings

29 I have already summarised the defendant's two Facebook posts above. The first named Witness 1 and Witness 2; the text included a direct reference to court proceedings (the defendant referring to them having "attended court n lied …"); the images, which included images of police officers, indicated that they had been taken at court. The material was published on the defendant's Facebook page; the defendant shares the same family name as the defendants in the criminal trial, which had only just finished. It is not in dispute but is, in any event, beyond all reasonable doubt, that some or all of those matters would mean that the first Facebook post was manifestly likely to lead members of the public to identify the named individuals as being witnesses in the proceedings, contrary to the terms of the RRO.

30 The second post named Witness 1 and referred to legal reasons which prohibited naming him. That thereby connected him with legal proceedings. Again, in the context of the recently completed proceedings against the defendant's brother and cousin, the connection to those proceedings was established. The second post was, again, posted on the defendant's Facebook page shortly after the first which, if necessary, would provide context in which the second post would be understood. Again, it is not in dispute but is equally beyond all reasonable doubt that Witness 1 was named in circumstances where it was likely to lead members of the public to identify him as having given evidence in the *Mayfield* case.

31 The defendant concedes that she was subjectively reckless as to the s.46 RRO. She does not, however, accept that she in fact knew of it. The Solicitor General maintains that the evidence supports a finding that she did.

32 On the evidence, to the extent it is necessary, I accept that the Solicitor General has discharged the burden of proof in this regard. I am satisfied so that I am sure that the defendant did in fact know of the existence and content of the RRO:

(1) Because there is evidence from Mr Godley, the court clerk at Sheffield Crown Court, that the RRO was posted outside the courtroom and would have been visible to a person outside the courtroom or entering it.

(2) Because the defendant was outside the courtroom for a significant period of time when the RRO was on display and was there precisely because of her interest in the trial to which it related. She was a potential witness, was related to the defendants and was taking a keen interest in those proceedings, as her Facebook posts made only too clear.

(3) The opening words of the first Facebook post, referring to the police and inviting them to, "wanna fuk with me here I fuking go!!! …" could only be understood as a reference to her knowledge that what she was about to do was prohibited. She followed that with the witnesses' names.

(4) The content of the second post, namely "couldn't be named 4 legal reasons," manifestly shows that the defendant knew that Witness 1 had been granted anonymity.

(5) The second Facebook page also delighted in Witness 1 having "been exposed."

33 The defendant, through her counsel, has accepted she was in contempt by way of a breach of the RRO. I am, however, sure that this was not merely a reckless act, but amounted to a wilful breach of what the defendant knew to be the contempt of a court order and, as such, was particularly serious.

34 As for the second allegation of contempt, the interference with the administration of justice, the defendant admits that she took photographs and a video in breach of s.41 of the CJA 1925 and that her conduct in this regard, and in her subsequent publication of those images (along with another image taken inside court by another person) amounted to contempt of court. Again, I am satisfied that the Solicitor General has established to the criminal standard that the defendant's conduct was serious:

(1) Because all the court buildings display signs informing court users that photography is prohibited and the defendant accepts that was the case at Sheffield Crown Court in this instance.

(2) Because the evidence demonstrates the defendant took three photographs and a video clip outside the courtroom using her mobile phone. Some of those images show that police officers were present, but they clearly did not notice the defendant's actions otherwise they would have prevented her from doing so. I am clear that the defendant was thus taking the photographs and videos surreptitiously, knowing it was prohibited for her to do so.

(3) I am sure that the defendant's actions, in taking the photographs and then publishing them, were clearly deliberate. She accompanied the images in the first Facebook post with the words, "here's evidence to prove they attended court".

(4) There can be no doubt that the defendant would have known that the still of Witness 1 was taken when he was giving evidence by video link (the image of the courtroom as it would have appeared to Witness 1 can clearly be seen).

35 I am sure that the defendant acted as she did knowing of the general prohibition of photography and of the RRO (as to which, see my findings above); her own words, as published in her Facebook posts, made that clear.

36 Again, I am satisfied that the Solicitor General has established, to the criminal standard, that the defendant is in contempt by way of conduct which was inherently likely to interfere with the administration of justice, as set out in the second ground of committal.

Conclusion

37 For the reasons I have set out, I am satisfied so that I am sure that the Solicitor General has established the matters relied on for both grounds of committal. I find that the defendant thereby acted in deliberate contempt.

Sanction

38 CPR 81.9 refers to the powers of the court in contempt proceedings. The court may impose a sentence of imprisonment for a fixed term, a sentence of imprisonment suspended for a fixed period, or a fine; on occasions, a finding of contempt may be considered sufficient of itself (see *Arlidge, Eady & Smith,* 5th ed, para.14.2). The maximum fixed term of imprisonment is two years (see s.14 of the Contempt of Court Act 1981).

39 The sanction imposed must be proportionate to the gravity of the offence. The seriousness of the matter and the contemnor's culpability are the primary considerations for the starting point for any penalty and the question whether the custody threshold is passed (see *In Re Yaxley Lennon (Practice Note)* [2018] EWCA Crim 1856 at para.82). In assessing the seriousness of the contempt, it is right to have regard to the purpose for which it was committed and the likelihood of any risk to the process of justice (see *R v Cullinane* [2007] EWCA Crim 2682).

40 Having established the appropriate starting point, the court will then take into account any matters that aggravate the offence and any factors in mitigation; any admission; whether any admission was made early; any apology for the contemptuous conduct; and also any evidence of personal circumstances. Factors which are likely to influence the appropriate punishment in cases of contempt for breach of the restricted reporting order were identified in *Re Yaxley (Practice Note)* at para.80, as follows:

> "(a) the effect or potential consequences of the breach upon the trial or trials and upon those participating in them; (b) the scale of the breach, with particular reference to the numbers of people to whom the report was made, over what period and the medium or media through which it was made; (c) the gravity of the offences being tried in the trial or trials to which the reporting restrictions applied; (d) the contemnor's level of culpability and his or her reasons for acting in breach of the reporting restrictions; (e) whether or not the contempt was aggravated by subsequent defiance or lack of remorse; (f) the scale of sentences in similar cases, albeit each case must turn on its own facts; (g) the antecedents, personal circumstances and

> characteristics of the contemnor; (h) whether or not a special deterrent was needed in the particular circumstances of the case."

41 In *R (Finch) v Surrey County Council - Re Contempt Application Against the BBC)* [2021] EWHC 170 QB, it was again reiterated (see para.58) that questions of culpability and harm should be the starting point for the assessment of seriousness before consideration of any additional aggravating and mitigating features. In that case, the court took into account the defendant's early admission and abject and sincere apology, which was seen as akin to an early plea, which should attract a commensurate reduction in sentence.

The Present Case - Seriousness

42 In assessing the question of seriousness in the present case, I make the following findings:

(1) The publication of material which risks identifying witnesses whom the court had considered required the protection of anonymity is a serious matter. It affects those witnesses and may impact on the particular proceedings. Although in the present case the criminal proceedings had concluded, had there been a successful appeal against conviction the defendant's actions may have had a very real impact on the possibility of any re-trial. I also reject the defendant's arguments that the harm was limited as the posts were directed to those who had access to her Facebook account and might already have been expected to know about the trial and the identities of Witnesses 1 and 2. The defendant expressly encouraged others to circulate her posts and, even if (as Mr Aspinall tells me) there had been inadvertent identification of the witnesses in the local press, the manner of the defendant's publication was expressly intended to prejudice the view that might be formed of the witnesses in a way that would not have been true of any local press article, and that placed the two witnesses at a risk that the court order was plainly made to avoid. In any event, the risk of harm in this regard goes beyond the particular proceedings. As Mr Aspinall has acknowledged, conduct such as that of the defendant risks affecting the confidence or willingness of potential witnesses in the future, who may be asked to testify with the benefit of similar protection. This is a matter adding to the seriousness of the contempt as it is likely to have harmed the process of justice more generally.

(2) The defendant's actions were deliberate and her Facebook posts demonstrated hostility towards the witnesses because they had given evidence in the criminal proceedings. This is evident in the final words of her second Facebook post, "nar uv been exposed, you little gremlin". This is relevant to both seriousness and the degree of the defendant's culpability. The reasonable inference is that the defendant intended to have an impact when she exhorted others to share the first Facebook post ("get fuking tagging get fuking sharing"). Again, this is relevant to culpability and seriousness of harm; it also goes to the scale of the publication, which is a consideration relevant to breaches of restricted reporting orders. As Ms Wilson observes, the expression "going viral" is used to describe what often happens in relation to social media posts. I have no specific evidence that is what happened here but I cannot be certain that the posts were only read by the 56 who shared the first post before it was taken down.

(3) I accept, however, that the defendant did remove the Facebook posts promptly when the matter was brought to her attention.

(4) In response to the pre-action protocol letter, the defendant acknowledged that she had breached the criminal law and was in contempt. She therefore acknowledged that her

conduct amounted to a contempt at an early stage. That said, the defendant also resisted these proceedings by arguing that they were not in the public interest.

(5) In the skeleton arguments served on the defendant's behalf, first for the permission hearing but then for today, it was observed that, at the time, "emotions … were running very high" (although I note the posts were made the day after sentence, which itself took place the day after the verdicts were given) and it is said that she "… does not anticipate ever being in a similar situation again but, even if that were the case, she gives assurance that she would not act in this way again." And an unreserved apology is today given on the defendant's behalf.

(6) I also take into account the delay that has occurred in bringing this matter to court. Whilst the defence side has not always acted with expedition, most of the delay is not to be laid at the defendant's door; I accept that this becomes a relevant factor in determining the relevant penalty in this instance.

43 As Mr Aspinall fairly accepts, thus weighing questions of culpability and harm, the seriousness of this matter is such that the defendant's contempt passes the custody threshold.

44 Both parties have referred me to various decisions on penalties in cases concerning a breach of court orders, filming or recording at court and/or prohibited publications on social media. I have had due regard to all of the authorities to which I have been taken but, as has been recognised by both sides, each case inevitably turns on its own facts.

45 This was a very serious and flagrant breach of the court's order and the defendant exhorted others to do likewise. By identifying Witnesses 1 and 2 in the way that she did, I am sure that the defendant was seeking to undermine the protection that they had been afforded by the court. Her actions also impacted upon the administration of justice more generally, as such conduct will inevitably lead potential witnesses to fear that the court cannot afford them protection should they attend to give evidence.

46 Given the seriousness of this case, I consider that the minimum term that would reflect the gravity of the defendant's offending on each count is six months.

47 In assessing culpability and harm, I have already taken into account the defendant's publication of the photographs and video clip that she had taken whilst at court and the language of her posts. It would be double-counting to treat those matters as further aggravating features.

48 In assessing mitigation, I take into account the fact that the posts were promptly removed by the defendant and, at least in response to the pre-action protocol letter (albeit not in her earlier police interviews) she acknowledged her contempt at a fairly early stage. As to the defendant's personal situation, I understand that she is now 32; at the time of the trial, she was 29. She has little in the way of previous convictions. There is a referral order from 2003, when she was still at school, and I am told that relates to an assault upon a boy who had sexually assaulted her; and two cautions, both in 2008. There are no matters recorded against the defendant for disobedience of orders of the court, although there is, however, an outstanding matter before the Crown Court relating to the defendant's involvement in an affray that took place at the Sheffield Crown Court, in the court room, at the end of the trial in January 2018.

49 The defendant is mother and sole carer to three children aged 12, eight and two. I am told that the defendant's eldest child has additional needs; he has a diagnosis of autism, has

learning and behavioural difficulties and anxiety and attends a special needs school. Were the defendant to face an immediate custodial sentence, Mr Aspinall's instructions are that her mother would look after the children but they would still suffer from the absence of their own mother. I accept it is relevant that I have regard to the article 8 rights of the defendant's children in considering the appropriate penalty in this case. I am also told that the defendant was formally in an abusive relationship from 2005 to 2019, which ended on the incarceration of her former partner, but during which time she suffered physical and emotional abuse. I further take note of the defendant's health issues: she has chronic obstructive pulmonary disease as a result of suffering anaemia, which has scarred her lungs. I am told that she is thus susceptible to chest infections for which she is prescribed nebuliser steroids. This underlying condition means, in particular, that the defendant is especially vulnerable to infection from Covid-19.

50 Having regard to those mitigating factors, I arrive at a reduced starting point of 18 weeks in this case. From this, I am prepared to give the defendant a full one third discount for her early admissions, which I treat as analogous to an early plea. This is somewhat generous as the defendant did not make any earlier admissions when interviewed by the police and it is only recently that she has accepted that she knew that the identities of Witnesses 1 and 2 were to be protected. I have erred on the side of generosity in this respect.

51 The final question for me is whether this is a case where the term should be suspended. In this regard, I have considered the Sentencing Council Guideline on the Imposition of Community and Custodial Sentences. I am prepared to accept that there is no risk to the public that could not be addressed by a suspended custodial term. Whilst there is a need for deterrents in relation to offences such as this, as was observed in *AG v Pritchard* [2020] EWHC 607, appropriate punishment need not be achieved only by immediate custody and I accept Mr Aspinall's point that the defendant has already had this matter hanging over her head for a long time, with the inevitable uncertainty that would imply. This is not a case where there is a history of poor compliance with court orders and there is strong personal mitigation in relation to the defendant's underlying health condition, in particular at a time when the continuing global pandemic places her at additional risk. I also take into account her caring responsibilities for three children. I further accept that the time that has now passed, and the fact that there have been no further publications relating to these matters, points to there being a realistic prospect of rehabilitation. In considering whether it would be appropriate to attach conditions to a suspended sentence in this case, I have concluded that all I can do is to state that, should the defendant take any further action to again publish any matter that might identify Witness 1 or 2, or to again publish the photographic images and video which she previously posted, she will not only be committing a criminal offence and acting in breach of O'Farrell J's order (and may face further proceedings in relation to that), but she will also be in breach of the condition upon which this sentence has been suspended, such that she may then face an immediate custodial term.

Sentence

52 Ms Mayfield, I have found you in contempt in respect of both counts against you. In respect of each, I impose a custodial sentence of 12 weeks (concurrent), suspended for two years. Within that period, as I have just said, should you take any further action to again publish any matter that might identify Witness 1 or 2, or any of the photographs or images that you earlier posted, you will not only be in breach of O'Farrell J's order and potentially committing a criminal offence (and may face further proceedings in those respects) but you will also be in breach of the condition upon which my sentence has been suspended, such that you may then face an immediate custodial term.

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge.