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*Judgment: approved by the Court for handing down  
(subject to editorial corrections)\**

ICOS No: POCA 2016/11

Delivered: 16/04/2026

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION

Between:

THE DIRECTOR OF PUBLIC PROSECUTIONS 12e  
FOR NORTHERN IRELAND

Applicant

-and-

JULIE McBRIEN

Respondent

Andrew Brownlie (instructed by the Public Prosecution Service for Northern Ireland) for  
the Applicant

Des Fahy KC and Joseph McCann (instructed by Patrick Fahy & Co, Solicitors) for the  
Respondent

**SCOFFIELD J**

*Introduction*

[1] By this application the Director of Public Prosecutions for Northern Ireland (“the Director”) seeks committal of the respondent, Julie McBrien (née Hogg), to prison for contempt of court, namely for five particularized breaches of a restraint order made against her under section 190 of the Proceeds of Crime Act 2002 (“the 2002 Act”).

[2] The application is grounded on an affidavit of Mr Robert Barr, an Accredited Financial Investigator within the Police Service of Northern Ireland (PSNI) and attached to its C1 Economic Crime Unit, sworn on 27 November 2025. The respondent filed a replying affidavit which, in terms, admitted each alleged count of breach of the restraint order. The matter proceeded therefore essentially as a plea in mitigation.

[3] Mr Brownlie appeared for the Director; and Mr Fahy KC appeared for the respondent, leading Mr McCann of counsel. I am grateful to all counsel for their helpful written and oral submissions.

### *Factual background*

[4] A restraint order was made by Maguire J on 9 June 2016 in relatively standard terms. It was made on the basis that the first condition set out in section 189(2) of the 2002 Act applied, namely that a criminal investigation had been started with regard to offences and there were reasonable grounds to suspect that the respondent (then, the alleged offender) had benefited from her criminal conduct. The restraint order was subsequently varied but in a manner which is not relevant for present purposes.

[5] The order included the usual requirements that those named in it should not remove from Northern Ireland any of their assets which are within the jurisdiction; and that they must not in any way dispose of, deal with, or diminish the value of any of their assets. In addition, as is also usual, the order required the respondent to provide to the Director details of all of their assets for the purpose of ensuring that the restraint order was effective. This included a requirement to disclose all persons, including financial institutions known to be affected by the order; details of all accounts held by the respondent; and details of all trusts of which the respondent was a beneficiary. This was to be done by way of affidavit. The order was personally served on the respondent by Mr Barr on 15 June 2016. An affidavit of assets, sworn by the respondent, was received in purported compliance with that requirement of the order on 21 July 2016.

[6] In due course, the respondent pleaded guilty, on 23 October 2019, to nine counts of dishonestly abusing her position in breach of sections 1 and 4 of the Fraud Act 2006 ("the 2006 Act"); sixteen counts of converting criminal property contrary to section 327(1)(c) of the 2002 Act; and one count of possessing articles to commit fraud contrary to section 6 of the 2006 Act. The nature of the offences involved the respondent defrauding her employer of very significant amounts of money.

[7] Following conviction, in November 2021 the respondent was sentenced to 5½ years' imprisonment. Confiscation proceedings in the Crown Court also followed. On 28 November 2022, His Honour Judge Sherrard held that he was satisfied that the respondent had a criminal lifestyle and had benefited from her general criminal conduct to the value of over £1.8m. However, he calculated the available amount under the 2002 Act to be in or around £673,000. The respondent was released from custody, having served her sentence, on 20 March 2024.

[8] The defendant's representatives indicated to the Crown Court that they intended to seek a variation of the order under section 173 of the 2002 Act on the basis that the amount actually available was inadequate to satisfy the confiscation order. In the course of this, however, it came to light that the respondent had a pension policy with Legal & General ("the pension policy") in her maiden name,

Julie Hogg. This policy had not previously been disclosed to the Public Prosecution Service (PPS), the Crown Court, nor the High Court in the respondent's affidavit of assets. It had not therefore previously been included in the Crown Court's calculation of the available amount. It was accepted before me that the existence of the pension policy was disclosed by the respondent, or on her behalf, in circumstances where it was (and may well have remained) completely unknown to the relevant authorities. On further enquiry, however, it became clear that the respondent had made a number of withdrawals from this policy throughout 2025 at a time when the authorities remained ignorant of its existence.

[9] The value of the pension policy on 18 February 2025 was in or around £100,000. The respondent had made withdrawals on four occasions between that date and September 2025 in the total sum of £60,000 gross (around £45,000 net); leaving the value of the fund around £44,000.

### *The alleged contempts*

[10] This application is made pursuant to RCJ Order 52, rule 1(3). Leave for the application is therefore not required: see Order 52, rule 2(1). Nonetheless, the notice of motion was accompanied by a statement such as is required by Order 52, rule 2(2) setting out, inter alia, the grounds on which committal is sought. Each count was also supported by the affidavit sworn by Mr Barr. I summarise the counts below:

- (1) Failure to disclose the pension policy in compliance with the disclosure requirements of the restraint order;
- (2) Withdrawing funds from the pension in breach of the non-dissipation prohibition within the restraint order (see para [9] above);
- (3) Opening a Virgin Money credit card account on 8 July 2016 and failing to disclose it at any time in compliance with the disclosure requirements of the restraint order;
- (4) Opening a Capital One credit card account, also in July 2016, and failing to disclose it at any time in compliance with the disclosure requirements of the restraint order; and
- (5) Opening a further bank account with Natwest in April 2024, into which were paid the withdrawals from the pension policy and failing to disclose it at any time in compliance with the disclosure requirements of the restraint order.

[11] The respondent has dealt with the substance of these allegations in a short replying affidavit. She accepts that she did not initially disclose the existence of her pension policy to the relevant parties. She further accepts that, from February to September 2025 she withdrew around £45,000 from her pension fund, which was paid into the Natwest account. She has averred that she withdrew this money "in

order to repay a loan from family members, repay credit card debt, and pay for day-to-day sundry living expenses.” She further avers that, on 14 November 2025, she told her legal representatives what she had done and instructed them to inform the PPS and the court.

[12] The respondent further accepts that she opened a Virgin Money credit card account in July 2016. From June 2016 to November 2021, she received monthly benefits payments (commencing at £440 per month, although this subsequently increased). Her mortgage was changed from a repayment mortgage, with a £1,400 monthly repayment, to an interest-only mortgage, with a £400 per month repayment. She also avers that she had additional household bills in relation to house insurance, heating, electricity, etc.. She says that she felt she was in a ‘catch 22’ situation, unable to sell the house due to the restraint order and also unable to leave it empty to fall into disrepair. She avers that she therefore felt that she had no other choice but to take out a credit card which was used for day-to-day living expenses. The Virgin Money credit card account was closed and settled in May 2025. The respondent accepts that she opened the Capital One credit card account shortly thereafter in July 2025. It had a low credit limit of £1,000; was used for day-to-day living expenses; and was paid off in full each month.

[13] Finally, the respondent accepts that she opened a Natwest account on 24 April 2024. Her previous bank account had been closed during her time in prison, due to account inactivity. When she was released, she had to open a new bank account. This was the account into which her benefits were paid and into which the withdrawn pension funds were placed.

[14] In addition to having disclosed the issue with the pension policy to the Director and the court, the respondent relies upon the fact that she has since remedied the position. She avers – and the Director accepts – that she paid around £45,000 to the Northern Ireland Courts and Tribunals Service (NICTS) on 3 December 2025, which she obtained by way of loan from family members, to replace the sum which she had withdrawn from her pension fund. On 12 January 2026 she also gave instructions to Legal & General to pay the balance of her pension funds to NICTS.

[15] At the time of the respondent’s affidavit, therefore, she estimated that she had discharged around £547,000 of the £673,000 required to be paid in compliance with the confiscation order.

### *Finding of contempt*

[16] Committal for contempt of a restraint order pursuant to section 190 of the 2002 Act is a civil, not a criminal contempt: see *R v O’Brien* [2014] UKSC 23. The court has an inherent power to punish for such contempt. It has been said that, although the penalty for a civil contempt contains a punitive element, its primary purpose is to make the court’s order effective. However, authority also recognizes

the deterrent nature of punishment for such contempt. It is common case that the burden of proof rests on the party seeking committal (see *R v Dean & Dean* [1987] 1 FLR 517); and that the standard of proof is that of beyond reasonable doubt (see *Re Bramblevale Ltd* [1970] Ch 128, at 137A).

[17] In view of the evidence and the respondent's admissions, I am sure that she knowingly failed to comply with the terms of the restraint order in each of the respects summarized at para [10] above. I so find; and hold the respondent to thereby be in contempt of court.

### *The appropriate punishment*

[18] The parties were agreed that count 2 – relating to the withdrawal of some £45,000 from the undisclosed pension funds at a time when the respondent was seeking to make the case that she had inadequate funds to meet the confiscation order – is the headline offence. For my part, however, I also consider the original non-disclosure of this source of funds, both initially after the restraint order was made and thereafter throughout the entire confiscation proceedings, to be a separate, serious breach. Had that breach of the requirements of the order not occurred, the opportunity to withdraw and use those funds would not have arisen. I recognize, of course, that there is some overlap between the non-disclosure of the pension funds and the later dealing with them. The parties are ultimately correct to consider that the withdrawal and use of the funds is the more serious breach, in that case a breach of the non-disposition prohibition, since, if undetected and unremedied, that would have wholly undermined the purpose of the restraint and confiscation regime.

[19] As to aggravating factors, I consider the following to be relevant:

- (i) The withdrawals from the pension policy were repeated (occurring on four occasions), of substantial amounts of money and, as I have already noted, at a time when the respondent was making, or teeing up, an argument based on impecuniosity.
- (ii) The Virgin Money credit card account was opened a mere matter of weeks after the service of the restraint order upon her, in almost immediate defiance of the order. Substantial transactions appear to have been made through this account. There was a long period of non-disclosure in relation to this account (from July 2016 to its closure in May 2025).
- (iii) The Natwest account appears to have been opened, at least in part, to receive payments from the pension policy and keep them concealed.

[20] As to mitigating factors, I consider the following to be relevant:

- (i) The respondent's disclosure of the pension funds which appear unlikely to have been discovered but for this having been volunteered by her.

- (ii) The replenishment of those funds in the sum which had been withdrawn, through a loan from her family.
- (iii) The instruction to Legal & General to pay over the remainder of the funds towards discharge of the confiscation order without the need for further proceedings in that regard. (Although the application of those funds towards the discharge of the confiscation order may have been inevitable once they had been discovered, the respondent's attitude and actions have saved time and costs in this regard.)
- (iv) The early acceptance of the contempts alleged against her (effectively, her plea).

[21] On an application to commit for civil contempt, the court may imprison or fine the contemnor. Pursuant to section 14(1) of the Contempt of Court Act 1981 ("the 1981 Act"), as it applies to Northern Ireland, the maximum sentence in a case of committal for contempt is limited to two years' imprisonment. The court also has a power to bind the contemnor over and/or to order them to pay the costs of the committal proceedings.

[22] The authors of *Arlidge, Eady & Smyth on Contempt* (5<sup>th</sup> edn, 2017, Sweet & Maxwell) ("*Arlidge*") at 14-6) indicate that, in cases of civil contempt, where it is desired to punish for past acts, a fixed term of imprisonment was generally imposed, as opposed to committal for an indefinite period which was imposed (until the introduction of a maximum term in the 1981 Act) where the court was seeking to coerce compliance.

[23] The parties helpfully referred me to a number of authorities, from this jurisdiction and elsewhere, which were of some assistance in relation to the appropriate level of penalty. There is a valuable review of relevant authorities, and discussion of the relevant principles, in the judgment of Rooney J in *Re Man Tai Cheuk* [2023] NIJB 394, at paras [31]-[49]. That was a case of dissipation of assets of in or around £65,000 and a two-month prison sentence was imposed but suspended.

[24] The case of *Re Harris* [2018] NIQB 38 appears to me to be somewhat comparable to the present case, with elements of sale of assets (to the tune of about £30,000) in breach of a restraint order and failing to file affidavits disclosing their assets. In that case, the court imposed a three-month prison sentence. The sums involved in the present case are higher. In *Re Doherty* [2018] NIQB 56, the issue was simply one of failure to swear and file an affidavit of assets. This was considered to be a calculated decision but, in the circumstances of that case, the court considered that the custody threshold was not met and a fine of £7,500 was imposed.

[25] A number of English authorities were highlighted to me, many of which were also considered by Rooney J in *Man Tai Cheuk*. As I observed during the course of

the hearing of this application, it seems to me that the courts in this jurisdiction have generally been somewhat more lenient in sentencing for contempt of court occasioned by breaches of restraint orders than have the courts of England and Wales. (That is the case even when one takes into account that *some* of the discrepancy may be accounted for by reason of the fact that, in England, contemnors benefit from remission of their sentence in a way which does apply in this jurisdiction, pursuant to section 258 of the Criminal Justice Act 2003.) I see no reason in principle why this should be so. It may be appropriate for the High Court in this jurisdiction to stiffen its approach to these cases.

[26] Whilst there are obviously some differences, and in each of these cases there was an element of deception, the sentences of 15 months' imprisonment and 18 months' imprisonment in *R v Roddy* [2010] EWCA Crim 671 and *R v Baird* [2011] EWCA Crim 459 respectively, suggest that a disposal in the region of 12 months' imprisonment may be in order in a case of this nature in England. That was the disposal in *R v Samra* [2011] EWCA Crim 2799, which shares some features similar to this case. Even allowing for the differential effect of statutory reduction, that would equate to a six-month sentence in this jurisdiction.

[27] In the *Samra* case the Court of Appeal in England made clear that "once a suspect is served with an order restraining him from dealing with his assets, if he quite deliberately seeks to avoid the consequences of that order then a sentence of imprisonment - and immediate imprisonment - must follow." In addition, it was said that, as a matter of principle, any sentence for contempt in these circumstances must be made consecutive to the sentence for the indictable offences.

[28] In *R v Patel* [2017] EWCA Crim 820 the Court of Appeal upheld a total sentence of 12 months' imprisonment and a significant fine in a case involving failure to disclose assets where there had been no actual dissipation of assets. At the same time, there are some outliers in the English authorities, such as *R v Taktouk* [2020] EWCA Crim 1325 where two concurrent terms of seven months' imprisonment were imposed (and upheld on appeal) where the appellant had committed positive breaches of a restraint order, dealing with approximately £45,000 in funds. That case may also be argued to bear some similarities to the present case and to be an example of sentencing which is more lenient than some of the other English authorities suggest.

[29] In any event, the present case is not, in my view, an appropriate one for a wholesale re-examination of the sentencing approach in cases of this kind. That may be necessary or appropriate in another case where there is fuller argument.

[30] I consider that the custody threshold is plainly met in this case, which involved both elements of non-disclosure and dissipation of assets.

[31] On each of the first and second counts, I would take four months' imprisonment as a starting point and reduce this to three months' in light of the

respondent's early plea, to be served concurrently. In sentencing for contempt, it is common case between the parties that community sentences are not available. Short sentences which might otherwise not be imposed in the magistrates' court or crown court may therefore be more common. On the remaining counts, I impose a term of one month imprisonment, to be served concurrently with each other and with the terms on the first and second counts.

[32] In view of the significant factors mentioned at sub-paras (i)-(iii) in para [20] above, as Rooney J did in *Man Tai Cheuk* and as Morgan J did in *SOCA v McKinney* [2008] NIQB 111, I will exercise my discretion to suspend the sentence. (There is no requirement for exceptional circumstances before the court exercises this power in sentencing for civil contempt and, in some cases, it has been recognised that this is an appropriate course where, as here, there has been full disclosure and remedial action taken.)

[33] The power to suspend the order of committal is contained in RCJ Order 52, rule 9, which provides as follows:

- “(1) The Court by which an order of committal is made may by order direct that the execution of the order of committal shall be suspended for such period or on such terms or conditions as it may specify.
- (2) Where execution of an order of committal is suspended by an order under paragraph (1), the applicant for the order of committal must, unless the Court otherwise directs, serve on the person against whom it was made a notice informing him of the making and terms of the order under that paragraph.”

[34] The order of committal in this case is suspended on the following conditions, namely that the respondent (a) commit no further crime of a financial nature or involving dishonesty or money laundering and (b) commit no further breach of the restraint order during the period of suspension, namely two years from the making of the order.

[35] Since the suspended committal order is explained in this written ruling, I direct that the Director need not serve a notice to similar effect on the respondent pursuant to Order 52, rule 9(2).

### ***Conclusion***

[36] The respondent is therefore sentenced to committal to prison for three months, suspended for two years on the conditions set out at para [34] above.

[37] I will hear the parties on the issue of costs.