

Urgent

The Editor
Nick Ferrari show on LBC Radio
Global Media & Entertainment Ltd
30 Leicester Square
London
WC2H 7LA

By email

Date 25 July 2020

Your ref

Our ref

Direct Dial

Direct Fax

Email

Dear Sirs

Interview with Cressida Dick on 22 July – Nick Ferrari at Breakfast

We act for Mr Simon Dolan.

As you may be aware, our client is a successful businessman and entrepreneur who, since April of this year, has been seeking to have the Government's draconian lockdown legislation challenged in the Courts by way of judicial review. That legal action remains ongoing in the High Court where Mr Dolan has filed an appeal to the Court of Appeal against the initial refusal of the Court to give permission to his case.

Meantime, over 7,400 people have now backed our client's legal action by contributing their own money to support the case through our client's crowdfunding page for the case at <https://www.crowdjustice.com/case/lockdownlegalchallenge/>.

Our client has also set up the pressure group Keep Britain Free which campaigns on the subject of personal freedom and against the imposition of restrictions on the lives of citizens in this country. Currently, one aspect of this campaign is its opposition to the compulsory wearing of face coverings inter alia, in shops, introduced by the Government from Friday 24th July with criminal penalties for not doing so.

Our client was therefore concerned to hear what was said by Cressida Dick, the Commissioner of the Metropolitan Police Service, during an interview and phone in on LBC with Nick Ferrari on the morning of 22 July 2020.

When asked about the likely police response to incidents in which shop customers refused to wear face coverings, Ms Dick suggested that police attendance would only take place as a last resort where violence or disorder was being threatened. But she suggested that people who did not comply with the rules should be "shamed" into doing so. In fact she went on to repeat this idea (i.e. that other shoppers should "shame" those not complying). On LBC's website she is quoted as saying:

"My hope is that the vast majority of people will comply and people will be shamed into leaving the store"

In the actual interview (which can be listened to here <https://www.lbc.co.uk/radio/presenters/nick-ferrari/facemasks-cressida-dick-police/>) she says that her hope is that:

DOL/0041/00001/21097522/1

71 Queen Victoria Street London EC4V 4AY | Tel +44 (0)20 7395 3000 | Fax +44 (0)20 7395 3100
DX 307441 Cheapside | www.wedlakebell.com

Wedlake Bell LLP is a limited liability partnership incorporated in England and Wales with registered number OC351980.

Wedlake Bell LLP is authorised and regulated by the Solicitors Regulation Authority under number 533172. Its registered office and principal place of business is at 71 Queen Victoria Street, London EC4V 4AY. A list of members may be inspected at this address. The term 'Partner' is used to refer to a member of Wedlake Bell LLP

TRANS EUROPEAN
TELFA
LAWYERS ALLIANCE
Associated offices
throughout Europe

"People who are not complying will be shamed into complying or shamed to leave the store by the store keepers or other members of the public".

This suggestion that members of the public or storekeepers should "shame" others for not wearing masks including, into "leaving the store" in question was, on any basis, an extraordinary thing for someone in Ms Dick's position to say on a popular radio programme such as this. Most members of the public are not familiar with the intricacies of the new legislation set out in the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020. In practice, they are likely to view the meaning of "non-compliance" as simply being where someone does not wear a face covering and they are unlikely to take account of the fact that people - apparently - not complying may have a perfectly valid reason for not doing so.

Unfortunately, however, neither Ms Dick, nor Mr Ferrari pointed out to listeners that the new laws concerning compulsory face coverings in shops, are indeed subject to a number of legal exemptions which excuse people from having to comply by wearing face coverings in shops.

Among the most important of those exemptions are for people with disabilities whose medical conditions render it impracticable, uncomfortable or impossible to wear face coverings in compliance with the regulations.

In other words, there will be many people – including those who fall into vulnerable categories – who cannot wear face coverings and have a perfectly legitimate reason for not doing so.

Yet, taken at face value, Ms Dick appeared to be calling on other shoppers or store owners to "shame" them. Whilst she did not specify the details of what that "shaming" would consist of, it amounts, in effect, to an incitement to people to adopt a hostile stance towards those not wearing face masks. This could manifest itself in verbal criticism in public or even physical threats. We are not suggesting that this amounts to a breach by LBC of section 3.1 of the Ofcom Broadcasting Code. But you will, we think, appreciate the point we are making.

Perhaps not surprisingly, because of his campaigning stance, this has led to our client being contacted by those who would stand to be affected by Ms Dick's comments - i.e. those whose disabilities make it impossible for them to don face coverings, but whose conditions are not visible or obvious (e.g. those suffering from asthma or other respiratory illnesses). For example, one such person's comments included the following:

"...I not only have asthma but I spent a year of my life last year in intensive therapy for PTSD from an abusive relationship. I bought a medical exemption lanyard which I wore in town on Monday with my children and despite wearing it I had people loudly accusing me of lying... it's humiliating. (my daughter is Autistic and if this gets any worse which I'm sure it will, then she will have extended periods of extreme distress). As a result, I now keep getting panic attacks (I'm concerned I'm going to get flashbacks again if I keep getting harassed in the street.",

You will appreciate that at what is already a very worrying time for such persons who are more vulnerable to Covid-19 than those in the population with no pre-existing health conditions, for the head of London's police force to come on the radio and call, in effect, for the indiscriminate shaming of those not wearing face coverings and not to explain about the exemptions is extremely upsetting. It is also, we submit, extremely ill-advised.

The Nick Ferrari show is a popular show with many listeners. Mr Ferrari himself would no doubt be as horrified as the next person to think that one of the guests on his show had caused such distress and worry to disabled people over this issue.

Clarification

We are therefore writing to request that Mr Ferrari make a clarificatory statement on on his next show so as to make it clear to listeners that following the interview with Cressida Dick, LBC wishes to point out the following:

1. there are exemptions to the new laws concerning the wearing of face coverings;

2. just because a person is not wearing one in a shop does not mean that they are deliberately flouting the law, because they could well be disabled or have another perfectly legitimate reason under the regulations for not wearing a face covering (indeed, as Mr Ferrari himself was pointing out to the Minister Helen Whately only last week, staff in shops are not required by law to wear masks);
3. the suggestion that shoppers or storekeepers should automatically "shame" those not wearing face coverings as advocated by Cressida Dick is an idea that should be discouraged, not encouraged, not least because;
4. to denigrate, harass or otherwise treat persons not wearing face coverings unpleasantly could not only cause considerable distress and worry to those people, but could also constitute unlawful discrimination by the store owners if they were to wrongly subject someone to such "shaming" or refuse them access where the person in question did have a reasonable excuse under the regulations for not wearing a face covering.

We look forward to hearing from you as soon as possible not least because with the new regulations in force, the impact of Ms Dick's comments undoubtedly need to be countered as a matter of urgency.

Yours faithfully

A handwritten signature in cursive script that reads "Wedlake Bell LLP".

Wedlake Bell LLP