

The prohibition as drafted does not appear to allow the offender to park his own vehicle in a public car park or, for example, to be a passenger in a vehicle driven into a public car park in the course of a shopping trip. Thus, in the absence of evidence showing that the appellant committed vehicle crime in car parks, there would appear to be a question mark over whether the prohibition is proportional, particularly as prohibition (3) seems to be drafted with a view to allowing the appellant to ride a motorcycle. If the court contemplated the lawful use of a motorbike as an activity which the appellant could pursue, then this prohibition would significantly limit the places he might be able to park it. It is of note that in McGrath the Court of Appeal held a similar prohibition to be too wide, although it covered a much larger geographical area.”

We agree. Even if the order was necessary to prevent anti-social behaviour by the appellant, it was not proportionate.

**PART 5 © SWEET & MAXWELL**

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**R. v DEAN BONES AND OTHERS**

The second order prohibited the appellant from:

Entering any land or building on the land which forms a part of educational premises except as an enrolled pupil with the agreement of the head of the establishment or in the course of lawful employment.

**As to this the respondent submits:**

“It is not clear what information provided the basis for making this prohibition. There is nothing in the appellant’s previous offending history which suggests that he engages in anti-social behaviour in educational premises. It is submitted that the term ‘educational premises’ arguably lacks clarity; for example, does it include teaching hospitals or premises where night classes are held? There also appears to be a danger that the appellant might unwittingly breach the terms of the order were he, for example, to play sport on playing fields associated with educational premises.”

**We agree with this analysis.**

The order was not necessary and is, in any event, unclear.

**The third order prohibited the appellant from:**

In any public place, wearing, or having with you anything which covers, or could be used to cover, the face or part of the face. This will include hooded clothing, balaclavas, masks, or anything else which could be used to hide identity, except that a motorcycle helmet may be worn only when lawfully riding a motorcycle.

The respondent submits:

“It is presumed that this prohibition was based upon the assertion that the appellant is forensically aware and will use items to attempt to prevent detection. It is submitted that the terms of the prohibition are too wide, resulting in a lack of clarity and consequences which are not commensurate with the risk which the prohibition seeks to address. The phrase “having with you anything which could be used to cover the face or part of the face” covers a huge number of items. For example, it is not unknown for those seeking to conceal their identity to pull up a jumper to conceal part of the face, but surely the prohibition cannot have been intended to limit so radically the choice of clothing that the appellant can wear? It seems that the appellant would potentially be in breach of the order were he to wear a scarf or carry a newspaper in public.”

**We agree.**

**The fourth order prohibited the appellant from:**