

**IN THE COUNTY COURT AT WEST CUMBRIA**

Hall Park  
Ramsay Brow  
Workington

**Before DISTRICT JUDGE DERBYSHIRE**

**IN THE MATTER OF**

**THE RIVERSIDE GROUP LIMITED**

**(Claimant)**

**-v-**

**BRIAN HALEY**

**(Defendant)**

**MR LEWIS appeared on behalf of the Claimant**  
**THE DEFENDANT appeared as a litigant in person**

**JUDGMENT**  
**4<sup>th</sup> JUNE 2025**  
**(AS APPROVED)**

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JUDGE DERBYSHIRE:

1. On 28 May 2024, the defendant, Mr Brian Haley, was made subject to an anti-social behaviour injunction and power of arrest by Deputy District Judge Robson sitting at this court. Mr Haley did not attend the hearing, but the judge was satisfied that he had been served with the application and evidence in support of it. Mr Haley was served with the injunction and power of arrest on 30 May 2024.
2. On 6 June 2024, Mr Haley was arrested in respect of alleged breaches of that injunction on 5 June 2024 and 6 June 2024. Mr Haley was brought before District Judge Mackley on 6 June 2024 and remanded on bail to 2 July 2024.
3. At the hearing on 2 July, the Mr Haley failed to attend. The court recorded that by reason of application of section 11 and paragraph 4 of schedule 1 of the Anti-Social Behaviour Crime and Policing Act 2014, ("the 2014 Act"), Mr Haley was no longer remanded on bail, and that because the proceedings could not be dealt with in the time period prescribed by rule 65.47(3)(a) of the Civil Procedure Rules, the claimant, The Riverside Group Limited (hereafter Riverside), was to issue a contempt application. That application was issued, dated 12 August 2024, and the breaches of the injunction alleged form the first and second alleged breaches contained within the schedule of breaches before the court.
4. On 3 October 2024, Mr Haley was further arrested, and brought before me at Carlisle on 4 October. I directed that Mr Haley be released from custody and that Riverside file a contempt application in respect of the further alleged breaches. That application was issued, dated 11 October 2024, and the alleged breaches form the third and fourth alleged breaches set out in the schedule before the court. By my order of 20 November 2024, the two committal applications were consolidated.
5. On 4 February 2025, the consolidated applications were tried before me at this court. Mr Haley made a partial admission in respect of alleged breach 3 in the schedule of breaches, but otherwise denied that he had breached the terms of the anti-social behaviour injunction.
6. At trial, I found that Mr Haley had breached the anti-social behaviour injunction on four occasions, in accordance with the schedule of alleged breaches, except as to the third alleged breach, where I found he had dragged a knife rather than thrown a knife as set out in the schedule.
7. At the hearing on 4 February 2025, I adjourned sentencing to provide Mr Haley with an opportunity to put before the court evidence of his mental health, and to give him an opportunity to obtain representation for the hearing today. Mr Haley has attended the hearing without representation and submitted that he will represent himself. Mr Haley has not provided any evidence in respect of the sentencing hearing. Riverside has provided evidence in a witness statement from Mr Thompson, an employee of Riverside, dated 21 May 2025. I have heard submissions from Mr Lewis of counsel on behalf of Riverside, and heard submissions from Mr Haley, having directed him to the issues of law which I must consider.
8. Sentencing for breaches of anti-social behaviour injunctions is to be carried out in accordance with the authority contained in *Wigan Borough Council v Lovett* [2023] 1 WLR 1443. As is emphasized at paragraph 56 of the judgment, the task of sentencing a defendant for breach of orders in contempt of court is a multifactorial exercise of judgment, based on the particular facts and circumstances of the case before the judge. Any sentence must be just and proportionate.

9. In accordance with the authority in *Wigan v Lovett*, I have had regard to the guidance on sentencing in the report of the Civil Justice Council of July 2020 titled “Anti-social Behaviour and the Courts” and in particular to the proposal in respect of sentencing set out in paragraph 54 of the judgment of having regard to culpability and harm categorised at three levels for each.

10. I have had regard to the objectives of sentencing for breach applicable to civil contempt, set out in paragraph 39, which are, firstly, to ensure future compliance with the order; secondly, punishment, and thirdly, rehabilitation.

11. I have had regard to the sentencing options set out at paragraph 40. As is emphasized at paragraph 43, custody is appropriate only in respect of the most serious breaches and for less serious cases where other methods of securing compliance with the order have failed.

12. I have had regard to the good practice of considering the penalty for each of the breaches found proved, and that I should, thereafter, consider the totality of the penalties imposed. I have considered that a custodial sentence should never be imposed if an alternative course is sufficient and appropriate, and that if a court decides to impose a term of imprisonment, that term should always be the shortest term which will achieve the purpose for which it is being imposed.

13. I have had regard to paragraph 45 and the possibility that, in appropriate cases, the court may adjourn the consideration of a sentence. In accordance with paragraph 44, the court should determine if a custodial sentence is appropriate, and the length of that sentence, before deciding whether the sentence should be suspended.

14. In considering the categorisation of the harm and culpability in respect of the breaches found, I have had regard to the contents of paragraphs 47 and 48 of the judgment in *Wigan v Lovett*. I have had regard to the examples of factors set out at paragraph 49, including a history of disobedience, persistent breaches of the injunction and the vulnerability of any victim of the behaviour concerned. I have also had regard to the examples of mitigating factors.

15. In accordance with paragraph 49, the analytical approach to be taken to identifying culpability and harm allows for the court to determine a starting point, but the court must also have regard to additional elements which increase or decrease the seriousness of what has happened, or amount to personal mitigation. In considering the impact of the breaches found, I have regard to the statement of Mr Malcolm Wilson, Mr Haley’s neighbour, dated 10 October 2024.

16. In respect of the breaches found to have occurred on 5 and 6 June, I find that these breaches fall within harm category 2, culpability level B. The aggravating feature of these breaches is that they occurred in the immediate aftermath of the service of the injunction. I am satisfied that these are breaches which were directed at the Mr Haley’s neighbour, and which involve the use of derogatory language and a generalised threat of violence.

17. The appropriate starting point in respect of sentencing is one month which should be applied in respect of each of these breaches, the aggravating factors in respect of culpability being balanced against the lower level of harm arising from the nature of the conduct.

18. In respect of breach 3, I find that this falls within culpability level A and harm category 2, at the upper end of that harm category. The breach occurred in circumstances where Mr

Haley had already once been arrested for breach of the injunction and has subsequently been found to have been in breach of the injunction, and the breach was a very serious breach for it involved the use of a knife in a public place and in a manner directed at the property of the Mr Haley's neighbour, who had already been the subject of the conduct giving rise to the findings of prior breach. Whilst I have considered that the defendant made a partial admission in respect of this incident, that can provide no more than modest mitigation in light of the aggravating features of seriousness and persistence which I have identified.

19. In respect of breach 4, I find that this falls within culpability level A and harm category 2. I am satisfied that this amounted to a persistent serious breach involving a threat to kill, but that this was not a threat expressly directed at a particular individual, and therefore that the level of harm is appropriately categorised at category 2.

20. In respect of breach 3, the appropriate starting point is three months, and having regard to the aggravating and mitigating factors I have identified, it is not appropriate to depart from that starting point.

21. In respect of breach 4, whilst there is persistence of breach, the undirected nature of the harm means it is appropriate to depart from the starting point and to start with a sentence of two months, which appropriately addresses the difference in culpability from the most serious breach, breach 3.

22. In passing sentence the court must stand back and must have regard to any other additional factors which increase or decrease the seriousness, or amount to personal mitigation, and must consider the totality of the penalties imposed.

23. I have had regard to factors which go to seriousness and the defendant has not presented to me any evidence on which I could properly rely to justify a finding that personal circumstances should amount to mitigating factors. Mr Haley did make an apology, in circumstances where that apology could properly be characterised as having been prompted, but he has, throughout the protracted proceedings, failed to show a genuine remorse for his actions, apparent from his failure to attend hearings and his failure to admit breaches, and therefore there are no further mitigating factors, other than those to which I have had regard, which I should take into account when sentencing.

24. Standing back from the sentences in respect of the four breaches, I must apply the totality principle and the sentences should be considered in light of the principle that, if the court decides to impose a term of imprisonment, it should always be for the shortest term which will achieve the purpose for which it is being imposed. In this case, I remind myself that one of the purposes of sentencing is to ensure compliance with the order, and it is acknowledged that there have been no further breaches of the order.

25. Applying those principles, I determine that the appropriate sentence is one of six weeks, which should be reduced to take account of the time which Mr Haley has spent in custody, which amounts to three days. That amount should be doubled to have regard to the time which would be served under any sentence of imprisonment.

26. I turn now, to consider whether I should suspend the sentence. I am invited by Riverside to suspend the sentence on the terms of the injunction which has now expired. I am satisfied that this is a case where it is appropriate to suspend the sentence by reason of the absence of any further breaches of the injunction. I therefore sentence Mr Haley to a period of custody of 36 days, which is to be suspended for a period of 12 months on compliance

with the terms of the injunction, and I will now hear submissions on consequential matters arising.

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This transcript has been approved by the Judge