

IN THE COUNTY COURT AT CLERKENWELL & SHOREDITCH

Case No. K00EC819

Courtroom No. 12

The Gee Street Courthouse
29-41 Gee Street
London
EC1V 3RE

Monday, 1st December 2025

Before:
DISTRICT JUDGE KATHRYN SHAKESPEARE

B E T W E E N:

LONDON BOROUGH OF WALTHAM FOREST

and

MR KRZYSZTOF NIEDZIELSKI

MS CHAMBERS appeared on behalf of the Claimant
THE DEFENDANT appeared In Person

JUDGMENT

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DJ KATHRYN SHAKESPEARE:

1. This is the adjourned sentencing hearing of the claimant's committal application of 21 January 2025. At the hearing today the claimant, the London Borough of Waltham Forest, has been represented by Ms Chambers of counsel (as it has been on previous occasions). The defendant, Mr Niedzielski, was not legally represented and has addressed me in person with the aid of Mr Bakinski, a Polish interpreter.

Background

2. The background to the application is as follows: the defendant is a Polish national, and, on 21 March 2023, at an on-notice hearing, this Court made a final injunction order against him under section 1 of the Anti-Social Behaviour, Crime and Policing Act 2014. In essence, the injunction excludes the defendant from a specified area within Waltham Forest and prohibits him from consuming alcohol in public places. The terms of the order made are as follows:

“The defendant is forbidden, whether by himself or by instructing, encouraging or permitting any other person from:

 - (1) entering the exclusion zone highlighted in the map attached to the application;
 - (2) loitering or gathering in the company of two or more people within the exclusion zone. This will not apply when going to or from a parked vehicle or waiting for a scheduled bus at a designated bus stop unless engaging in nuisance or criminal behaviour;
 - (3) consuming alcohol or being in possession of any open can or bottle of alcohol in a public place;
 - (4) drinking or handing over any containers which are believed to contain alcohol to any other person unless requested to do so by Waltham Forest officers and/or representatives of the Metropolitan Police Service.
 - (5) verbally or physically abusing, threatening, harassing or intimidating any person or behaving in a way which causes or is likely to cause harassment, alarm or distress to another person;
 - (6) urinating, defecating, spitting or leaving litter in any public place. This includes the doorway or alcove of any premises to which the public has access.”
3. A power of arrest was attached to clauses (1) to (6) of the injunction, and it is in place until 21 March 2026. The defendant was personally served with the injunction on 23 March 2023, and he was personally served with the contempt application on 4 February 2025. The contempt application listed 29 alleged breaches of the injunction in the period 27 March 2023 to 14 October 2024.

4. After two case management hearings at which he was reminded of his right to legal representation and his right to remain silent, the matter came before me for trial on 22 April 2025. At that hearing, the defendant admitted all 29 breaches. Those accepted breaches are, therefore, as follows:

- “(1) On 27 March 2023, Krzysztof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (2) On 1 April 2023, Krzysztof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (3) On 9 May 2023, Krzysztof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (4) On 11 May 2023, Krzysztof Niedzielski breached terms (1), (2) and (3) of the injunction by being in the exclusion zone in the company of two or more males and consuming alcohol in a public place.
- (5) On 25 May 2023, Krzysztof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (6) On 29 May 2023, Krzysztof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (7) On 30 June 2023, Krzysztof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (8) On 14 August 2023, Krzysztof Niedzielski breached terms (1) and (2) of the injunction by being in the exclusion zone in the company of two or more males.
- (9) On 29 August 2023, Krzysztof Niedzielski breached terms (1) and (2) of the injunction by being in the exclusion zone in the company of two or more males.
- (10) On 3 February 2024, Krzysztof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (11) On 5 February 2024, Krzysztof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (12) On 10 February 2024, Krzysztof Niedzielski breached terms (1), (2) and (3) of the injunction by being in the exclusion zone in the company of two or more males and in possession of open containers of alcohol.
- (13) On 17 February 2024, Krzysztof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (14) On 2 March 2024, Krzysztof Niedzielski breached terms (1) and (2) of the injunction by being in the exclusion zone in the company of two or more males.
- (15) On 6 March 2024, Krzysztof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (16) On 11 March 2024, Krzysztof Niedzielski breached terms (1) and (2) of the injunction by being in the exclusion zone in the company of two or more males.
- (17) On 4 April 2024, Krzysztof Niedzielski breached terms (1) and (2) of the injunction by being in the exclusion zone in the company of two or more males.

- (18) On 13 April 2024, Kryzstof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (19) On 5 May 2024, Kryzstof Niedzielski breached terms (1), (2) and (3) of the injunction by being in the exclusion zone in the company of two or more males and consuming alcohol in a public place.
- (20) On 15 May 2024, Kryzstof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (21) On 30 June 2024, Kryzstof Niedzielski breached terms (1) and (2) of the injunction by being in the exclusion zone in the company of two or more males.
- (22) On 4 July 2024, Kryzstof Niedzielski breached terms (1) and (2) of the injunction by being in the exclusion zone in the company of two or more males.
- (23) On 15 July 2024, Kryzstof Niedzielski breached terms (1), (2) and (3) of the injunction by being in the exclusion zone in the company of two or more males and consuming alcohol in a public place.
- (24) On 18 July 2024, Kryzstof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (25) On 20 July 2024, Kryzstof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (26) On 27 August 2024, Kryzstof Niedzielski breached terms (1), (2) and (3) of the injunction by being in the exclusion zone in the company of two or more males and consuming alcohol in a public place.
- (27) On 3 September 2024, Kryzstof Niedzielski breached term (1) of the injunction by being in the exclusion zone.
- (28) On 4 October 2024, Kryzstof Niedzielski breached terms (1) and (3) of the injunction by being in the exclusion zone and consuming alcohol in a public place.
- (29) On 14 October 2024, Kryzstof Niedzielski breached term (1) of the injunction by being in the exclusion zone.”

5. At the end of the hearing on 22 April, and with the agreement of Ms Chambers, I adjourned the sentencing hearing to provide Mr Niedzielski with the opportunity to seek legal advice. That first adjourned sentencing hearing took place on 17 June 2025. At that hearing in June, I again heard from the defendant directly. I followed the approach to sentence set out by the Court of Appeal in *Lovett v Wigan Borough Council* [2022] EWCA Civ 1631 and, in particular, paragraphs 46 to 57 of the judgment of Birss LJ. For reasons that I gave at that hearing, I concluded that the appropriate course of action was to adjourn consideration of sentence for three months, reserved to me.

The hearing

6. The adjourned hearing was then listed for 29 October, unfortunately at a time when I was not available. It was, therefore, relisted for today, 1 December. This morning, I have again heard directly from Mr Niedzielski. He told me that he had seen a lawyer previously, but he did not think he needed one today. He explained that he currently works on an ad hoc basis as a labourer on construction sites, three to five days per week. He does not drink during the week because he is working, but says that he has a couple of beers at the end of the week. He no longer arranges to meet up with his friends, who were also the subject of similar injunctions, although he is in touch with them by telephone.
7. He explained to me that he had been assaulted in August, and he was concerned that that could be viewed as a breach. However, Ms Chambers, for the claimant, confirmed that there have been no further allegations of breach since the hearing in June, and as far as the claimant is concerned, the defendant has complied fully with the terms of the injunction. Mr Niedzielski again expressed his remorse for his behaviour and said that it would not happen again.

Sentencing

8. I follow the approach in *Lovett* today, and I sentence the defendant as follows: first, I consider the relevant levels of culpability and harm. I determine the appropriate starting point and range as set out in the Civil Justice Council's table endorsed at paragraph 54 of Birss LJ's judgment, adjusted to take into account aggravating and mitigating factors. I consider admissions made. Of particular importance here, where the defendant has admitted cumulative breaches of the injunction, I consider the totality of the penalty.
9. I am mindful of the number of breaches accepted by the defendant: 29 breaches over a period of 19 months. Many of the accepted breaches involve the same behaviour: being in the exclusion zone in the company of other men and being in possession of or drinking from an open can of alcohol. I have grouped the accepted breaches into two different categories, which, in my view, reflect differing levels of culpability and harm.
10. First, I consider the 16 breaches which involve only a breach of clause (1) of the injunction, i.e. being within the exclusion zone. Those are breaches (1), (2), (3), (5), (6), (7), (10), (11), (13), (15), (18), (20), (24), (25), (27) and (29). In my view, those breaches fall within Category C of the framework for culpability and level three in terms of harm. They involve being present in an area from which the defendant was excluded, but they do not involve associated anti-social behaviour. In particular, they do not involve drinking.

11. The Civil Justice Council report indicates that examples of Category C culpability include breaches where there is no intention to cause harm or distress and no harm reasonably foreseeable from the breach. In my view, that applies here. The CJC report also indicates, in terms of harm, that an example of level three harm is where no one is actually inconvenienced and where the breach comprises mere presence in an unauthorised location other than in circumstances comprising greater harm. That is clearly the case here, as the breaches consist only of being in an unauthorised location.
12. For these 16 breaches, the starting point is, therefore, adjourned consideration, and the category range is no order or fine to two weeks' custody.
13. I then consider factors which increase or decrease the seriousness of the matter. In terms of mitigation, the defendant has told me that he accepted that he had breached the order and that he regretted his behaviour. In terms of aggravating factors, the first of the breaches was committed on 27 March 2023, less than a week after the order had been imposed, and the last breach on 14 October 2024, showing a prolonged pattern of behaviour.
14. I am mindful I have already adjourned sentence once for these breaches, and considering all the factors I have outlined and his behaviour in the meantime I impose no order for those 16 breaches.
15. I then consider breaches (4), (8), (9), (12), (14), (16), (17), (19), (21), (22), (23), (26) and (28). These 13 breaches involve a breach of both clause (1) and (2) and/or (3) of the injunction, i.e. being in the exclusion zone in the company of other men and/or consuming alcohol. I consider that these breaches fall within culpability level B. They are a step beyond simply being present in a non-authorised area, as they indicate an intention to meet others and involve drinking or being in possession of alcohol in a public place. That shows a level of intention and premeditation.
16. The defendant was aware he was not supposed to be drinking and meeting his friends, yet he did so anyway. In my view, that takes the culpability level to B as to the deliberate breach. I also find that these breaches fall within level three in terms of harm. Although they involve more than simply being in the exclusion zone, in fact, no one was inconvenienced or harmed by the behaviour and there is no associated threatening or abusive behaviour. The starting point for these breaches is, therefore, adjourned consideration and the range is adjourned consideration to one month.
17. I consider the aggravating and mitigating factors. As I have said, the breaches took place over a prolonged period at a time when the defendant was aware of the injunction and when he had

- been warned about his behaviour. They are numerous: 29 in total, and prolonged. In terms of the mitigating factors, I am mindful that the defendant has expressed remorse and appears, in the meantime, to have made progress in getting his life back on track. Custody is, of course, reserved for the most serious cases, and I must impose the shortest possible sentence to reflect the serious nature of the behaviour.
18. However, in my view, the cumulative and persistent nature of the defendant's behaviour: 13 breaches involving a culpability level of B, means that a custodial sentence is just and proportionate. I therefore find that the custody threshold has been reached and I impose a sentence of 11 days in custody. The defendant is entitled to the full reduction of 30% for his guilty plea and, therefore, for the 13 breaches involving a culpability level of B, the appropriate sentence is, in my view, eight days' custody.
19. I take a step back and consider the totality and the proportionality of the overall sentence. The defendant's behaviour was cumulative: a total of 29 breaches over a period of 19 months, showing a consistent pattern of anti-social behaviour. He knew about the injunction and was warned about it by Waltham Forest officers, but his behaviour did not cease. The appropriate total penalty should reflect the persistent and prolonged nature of that behaviour, as I have said. Although some breaches are in Category B for culpability, they all, however, fall within
20. level three for harm.
- Having regard to all the circumstances and having stood back and considered the totality of the penalty, I consider the appropriate sentence is eight days' custody. I note that that is two days less than the indication I gave at the previous hearing. That is to reflect the defendant's

continued
compliance

with the order, and the fact that there have been no further allegations
of breach in the meantime.

21. I then consider whether the sentence should be suspended. I am satisfied it is appropriate to suspend this sentence. The defendant is currently employed and has cut down on his drinking, which was the underlying cause of the anti-social behaviour. He appears to have removed himself from the influence of his friends and is no longer meeting up with them. I accept he has complied with the order in the meantime, and his life appears to be more stable. I emphasise to him the need to continue to keep complying with the order and to ensure that there is no further anti-social behaviour in the manner of the breaches which he has accepted.
22. Therefore, my order is that the defendant is sentenced to eight days' custody, suspended on terms that he comply with the terms of the injunction of 21 March 2023 until it expires on

21 March 2026. That means that if he breaches the injunction again, he will be liable to be sent immediately to custody and he will serve four days in prison.

23. I remind the defendant that he has an automatic right to appeal this decision. He does not

need permission to do so, and any appeal must be made to a circuit judge at this court.

24. Because I have imposed a custodial sentence, this judgment will be published on the public website.
25. That is the end of my decision.

End of Judgment.

Transcript of a recording by Acolad UK Ltd
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