

## SEXUAL OFFENCES PREVENTION ORDER, BREACH OF Volume 1

### 127.13 *Minor breaches*

*R v Cook* 2014 EWCA Crim 137 D was convicted of engaging in sexual activity in the presence of a child in 2009. He was made subject to an indefinite SOPO and one of the prohibitions prevented him from entering any bus or coach station, or riding on any bus or coach unless authorized by his supervising police officer. He breached that order three times and was sentenced to 2 years in 2011. In 2013, D masturbated on a London Underground train and exposed his erect penis. Six days later, he wanted to go to hospital to get his hearing aid repaired. He had an ankle injury and struggled to walk. He caught a bus for the journey of about 2 miles. There was no sexual behaviour on that journey. He was arrested at the hospital for a breach of the SOPO. A month later, he pleaded to exposure and breach of his SOPO. The Judge sentenced him to 2 years (full credit) for the breach and 1 year for the exposure. D, aged 63 at appeal, had numerous previous convictions for sexual offences included two attempted rapes (6 years). Held. The Court had every sympathy with the Judge who had to sentence a worryingly persistence and incorrigible offender from whom the public clearly needs protection. There was no criticism of the 1-year sentence for exposure in light of D's record. The 2-year sentence for the breach offence caused concern however. D needed to get his hearing aid repaired, there was no evidence of alternative transport and D had behaved himself [on the journey]. Had he sought authorisation, the journey would have undoubtedly been authorised. 2 years was manifestly excessive. However D should have sought permission and the need to repair the hearing aid was not urgent. **12 months**, not 2 years, was appropriate for the breach, so 2 years not 3 in total.