

114.17 Approach victim/Verbal threats to victim

See also: *R v Y* 2013 EWCA Crim 2369 (Plea (full credit). Living on the streets. Victim allowed defendant to stay with her. Order made to protect victim and her family. Breach morning after it was made. Wanted to wish her a happy birthday. Formidable record. History of violence to his family and other violence. Mother previously obtained Restraining Order which he breached. Long standing problem with alcohol. Starting point of **18 months** (which was higher than the guideline) and sentence of **12 months** upheld.)

114.18 Previous breaches

R v McDermott 2013 EWCA Crim 1807, 2014 1 Cr App R (S) 81 (p 502) D pleaded to two offences of breaching a restraining order in place to protect V, his former partner. Their relationship lasted 13 years and they had a son, J. V found another partner. D made a serious nuisance of himself concerning V and the police were called on many occasions. D threatened violence. In January 2013, six years, after the relationship ended, D continually knocked loudly on V's door and left when it was ignored. He was subsequently arrested and pleaded guilty. He was committed for sentence and bailed. One month later, D called V saying "Hello" and then ended the call. V found a handwritten note from D in the mail addressed to J. It said, 'Love you, Jake. Love dad.' A short time later D attended the property, drunk, asking to see J but left when told J was not present. J felt scared and intimidated. D, aged 45, had a serious alcohol problem. He had repeatedly breached previous orders. In May 2011, D was given a community order for two breaches of the order. In July 2011, D was given a suspended sentence for a breach. In October 2011, the suspended sentence was activated. In January 2012, he was sentenced to 4 months for sending a malicious communication and a new Restraining Order was made. In the summer of 2012 he received 6 months for a breach. There were no other significant previous convictions. He was also the subject of an order protecting his own parents, which he had breached. Held. D could not disregard court orders with impunity. The impact on the son was an aggravating factor. However, neither breach involved direct contact with V nor a threat of violence. D's motivation was only to see J. With full credit, **21 months** in all not 30.

R v Gough 2014 EWCA Crim 962 D pleaded (full credit) to breach of a Restraining Order, criminal damage, common assault and using violence to secure entry. There was a background of a turbulent relationship with his partner. He had previously pleaded to battery against her and a Restraining Order was made. He attended her address at 6.30am and demanded to be let in to see his son. She refused and he smashed a window and forcibly entered the flat. He brandished a knife at her mother who was also present. They all fled from the house. D was aged 26 with numerous convictions and a history of non-compliance with court orders. Held. This was a very frightening situation causing significant psychological harm. 12 months for the breach, 6 months consecutive for the substantive offences was correct, so **18 months** not 2½ years.

See also: *R v Edwards* 2014 EWCA Crim 1165 (Plea to breach and criminal damage. In prison, his partner ended their relationship. When released, he damaged her property. Pleaded. Suspended sentence and a Restraining Order made. Harassment continued. Gates opened in fields containing her horses. Fences damaged etc. Soil into her vehicle's fuel tank, (£2,000 damage). She felt compelled to install CCTV and had considered leaving altogether. Extensive previous for violence plus common assault and criminal damage after a previous relationship failed. Victim with two young children vulnerable. Because of the suspended sentence, starting point was 28 months, with plea, **21 months** not 24.)