Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where death is caused

Dangerous Dogs Act 1991 (section 3 (1))

Triable either way
Maximum: 14 years' custody

Offence range: High level community order – 14 years' custody

STEP ONE
Determining the offence category

In order to determine the category the court should assess **culpability** and **harm**. The court should determine the offence category with reference only to the factors in the tables below.

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability**.

CULPABILITY demonstrated by one or more of the following:
A – High culpability:
Dog used as a weapon or to intimidate people
Dog known to be prohibited
Dog trained to be aggressive
Offender disqualified from owning a dog, or failed to respond to official warnings, or to comply with orders concerning the dog
B – Medium culpability:
All other cases where characteristics for categories A or C are not present, and in particular:
Failure to respond to warnings or concerns expressed by others about the dog's behaviour
Failure to act on prior knowledge of the dog's aggressive behaviour
Lack of safety or control measures taken in situations where an incident could reasonably have been foreseen
Failure to intervene in the incident (where it would have been reasonable to do so)
Ill treatment or failure to ensure welfare needs of dog (where connected to the offence and where not charged separately)
C – Lesser culpability:
Attempts made to regain control of dog and/or intervene
Provocation of dog without fault of the offender
Evidence of safety or control measures having been taken
Incident could not have reasonably been foreseen by the offender
Momentary lapse of control/attention

Harm

There is no variation in the level of harm caused, as by definition the harm involved in an offence where a death is caused is always of the utmost seriousness.

STEP TWO
Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

High culpability	**Starting point** 8 years' custody	**Category range** 6 – 14 years' custody
Medium culpability	**Starting point** 4 years' custody	**Category range** 2 – 7 years' custody
Lesser culpability	**Starting point** 1 year's custody	**Category range** High level community order – 2 years' custody

The table is for single offences. Concurrent sentences reflecting the overall criminality of offending will ordinarily be appropriate where offences arise out of the same incident or facts: please refer to the Offences Taken Into Consideration and Totality guideline.

The court should then consider any adjustment for any aggravating or mitigating factors. On the next page is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

See page 68.

Factors increasing seriousness
Statutory aggravating factors:
Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
Offence committed whilst on bail
Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity
Other aggravating factors:
Victim is a child or otherwise vulnerable because of personal circumstances
More than one dog involved
Location of the offence
Sustained or repeated attack
Significant ongoing effect on witness(es) to the attack
Serious injury caused to others (where not charged separately)
Allowing person insufficiently experienced or trained, to be in charge of dog
Lack or loss of control of dog due to influence of alcohol or drugs
Offence committed against those working in the public sector or providing a service to the public
Injury to other animals
Established evidence of community/wider impact
Failure to comply with current court orders (other than any referenced in culpability A)
Offence committed on licence
Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation:
No previous convictions **or** no relevant/recent convictions
No previous complaints against, or incidents involving the dog
Evidence of responsible ownership
Remorse
Good character and/or exemplary conduct
Serious medical condition requiring urgent, intensive or long-term treatment
Age and/or lack of maturity where it affects the responsibility of the offender
Mental disorder or learning disability
Sole or primary carer for dependent relatives
Determination and/or demonstration of steps having been taken to address offending behaviour

STEP THREE

Consider any factors which indicate a reduction, for assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour.

STEP SIX

Compensation and ancillary orders

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:

Disqualification from having a dog

The court **may** disqualify the offender from having custody of a dog. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

If the dog is a **prohibited dog** refer to the guideline for possession of a prohibited dog in relation to destruction/contingent destruction orders.

The court **shall** make a destruction order unless the court is satisfied that the dog would not constitute a danger to public safety.

In reaching a decision, the court should consider the relevant circumstances which **must** include:
- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:
- other relevant circumstances.

If the court is satisfied that the dog would not constitute a danger to public safety and the dog is not prohibited, it **may** make a contingent destruction order requiring the dog be kept under proper control. A contingent destruction order may specify the measures to be taken by the owner for keeping the dog under proper control, which include:
- muzzling;
- keeping on a lead;
- neutering in appropriate cases; and
- excluding it from a specified place.

Where the court makes a destruction order, it **may appoint a person to undertake destruction and** order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where a person is injured

Dangerous Dogs Act 1991 (section 3 (1))

Triable either way
Maximum: 5 years' custody

Offence range: Discharge – 4 years' custody

STEP ONE
Determining the offence category

In order to determine the category the court should assess **culpability** and **harm**. The court should determine the offence category with reference only to the factors in the tables below.

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability**.

CULPABILITY demonstrated by one or more of the following:
A – High culpability:
Dog used as a weapon or to intimidate people
Dog known to be prohibited
Dog trained to be aggressive
Failure to respond to official warnings or to comply with orders concerning the dog
Offender disqualified from owning a dog, or failed to respond to official warnings, or to comply with orders concerning the dog.
B – Medium culpability:
All other cases where characteristics for categories A or C are not present, and in particular:
Failure to respond to warnings or concerns expressed by others about the dog's behaviour
Failure to act on prior knowledge of the dog's aggressive behaviour
Lack of safety or control measures taken in situations where an incident could reasonably have been foreseen
Failure to intervene in the incident (where it would have been reasonable to do so)
Ill treatment or failure to ensure welfare needs of dog (where connected to the offence and where not charged separately)
C – Lesser culpability:
Attempts made to regain control of the dog and/or intervene
Provocation of dog without fault of the offender
Evidence of safety or control measures having been taken
Incident could not have reasonably been foreseen by the offender
Momentary lapse of control/attention

Harm The level of **harm** is assessed by weighing up all the factors of the case.	
Category 1	Serious injury (which includes disease transmission)
	Serious psychological harm
Category 2	Harm that falls between categories 1 and 3
Category 3	Minor injury and no significant psychological harm

STEP TWO
Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

Maximum: 5 years' custody

	Culpability		
Harm	**A**	**B**	**C**
Category 1	**Starting point** 3 years' custody	**Starting point** 1 year 6 months' custody	**Starting point** High level community order
	Category range 2 years 6 months' – 4 years' custody	**Category range** 6 months' – 2 years 6 months' custody	**Category range** Medium level community order – 6 months' custody
Category 2	**Starting point** 2 years' custody	**Starting point** High level community order	**Starting point** Band C fine
	Category range 1 year 6 months' – 3 years' custody	**Category range** Medium level community order – 1 year's custody	**Category range** Band B fine – High level community order
Category 3	**Starting point** 1 year 6 months' custody	**Starting point** Low level community order	**Starting point** Band A fine
	Category range Medium level community order – 1 year 6 months' custody	**Category range** Band B fine – High level community order	**Category range** Discharge – Band B fine

The table is for single offences. Concurrent sentences reflecting the overall criminality of offending will ordinarily be appropriate where offences arise out of the same incident or facts: please refer to the Offences Taken Into Consideration and Totality guideline.

The court should then consider any adjustment for any aggravating or mitigating factors. On the next page is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

Factors increasing seriousness
Statutory aggravating factors:
Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
Offence committed whilst on bail
Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity.
Other aggravating factors:
Victim is a child or otherwise vulnerable because of personal circumstances
More than one dog involved
Location of the offence
Sustained or repeated attack
Significant ongoing effect on witness(es)
Serious injury caused to others (where not charged separately)
Significant practical and financial effects of offence on relatives/carers
Allowing person insufficiently experienced or trained, to be in charge of dog
Lack or loss of control of dog due to influence of alcohol or drugs
Offence committed against those working in the public sector or providing a service to the public
Injury to other animals
Established evidence of community/wider impact
Failure to comply with current court orders (other than any referenced in culpability A)
Offence committed on licence
Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation
No previous convictions **or** no relevant/recent convictions
Isolated incident
No previous complaints against, or incidents involving the dog
Evidence of responsible ownership
Remorse
Good character and/or exemplary conduct
Serious medical condition requiring urgent, intensive or long-term treatment
Age and/or lack of maturity where it affects the responsibility of the offender
Mental disorder or learning disability
Sole or primary carer for dependent relatives
Determination and/or demonstration of steps having been taken to address offending behaviour

STEP THREE

Consider any factors which indicate a reduction, for assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour.

STEP SIX

Compensation and ancillary orders

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:

Disqualification from having a dog

The court **may** disqualify the offender from having custody of a dog. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

If the dog is a **prohibited dog** refer to the guideline for possession of a prohibited dog in relation to destruction/contingent destruction orders.

The court **shall** make a destruction order unless the court is satisfied that the dog would not constitute a danger to public safety.

In reaching a decision, the court should consider the relevant circumstances which **must** include:
- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:
- other relevant circumstances.

If the court is satisfied that the dog would not constitute a danger to public safety and the dog is not prohibited, it **may** make a contingent destruction order requiring the dog be kept under proper control. A contingent destruction order may specify the measures to be taken by the owner for keeping the dog under proper control, which include:
- muzzling;
- keeping on a lead;
- neutering in appropriate cases; and
- excluding it from a specified place.

Where the court makes a destruction order, it **may appoint a person to undertake destruction and** order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where an assistance dog is injured or killed

Dangerous Dogs Act 1991 (section 3 (1))

Triable either way
Maximum: 3 years' custody

Offence range: Discharge – 2 years 6 months' custody

STEP ONE
Determining the offence category

In order to determine the category the court should assess **culpability** and **harm**. The court should determine the offence category with reference only to the factors in the tables below.

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability**.

CULPABILITY demonstrated by one or more of the following:
A – High culpability:
Dog used as a weapon or to intimidate people or dogs
Dog known to prohibited
Dog trained to be aggressive
Defendant was disqualified from owning a dog or failed to respond to official warnings or to comply with orders concerning the dog
Offence motivated by, or demonstrating, hostility to the victim based on the victim's disability (or presumed disability)
B – Medium culpability:
All other cases where characteristics for categories A or C are not present, and in particular:
Failure to respond to warnings or concerns expressed by others about the dog's behaviour
Failure to act on prior knowledge of the dog's aggressive behaviour
Lack of safety or control measures taken in situations where an incident could reasonably have been foreseen
Failure to intervene in the incident (where it would have been reasonable to do so)
Ill treatment or failure to ensure welfare needs of dog (where connected to the offence and where not charged separately)
C – Lesser culpability:
Attempts made to regain control of the dog and/or intervene
Provocation of dog without fault of the offender
Evidence of safety or control measures having been taken
Incident could not have reasonably been foreseen by the offender
Momentary lapse of control/attention

Harm The level of **harm** is assessed by weighing up all the factors of the case.	
Category 1	Fatality or serious injury to an assistance dog and/or
	Serious impact of the offence on the assisted person (whether psychological or other harm caused by the offence)
Category 2	Harm that falls between categories 1 and 3
Category 3	Minor injury to assistance dog and
	Impact of the offence on the assisted person is limited

STEP TWO
Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

Maximum: 3 years' custody

	Culpability		
Harm	**A**	**B**	**C**
Category 1	**Starting point** 2 years' custody	**Starting point** 9 months' custody	**Starting point** Medium level community order
	Category range 1 year – 2 years 6 months' custody	**Category range** Medium level community order – 1 year's custody	**Category range** Low level community order – High level community order
Category 2	**Starting point** 1 years' custody	**Starting point** High level community order	**Starting point** Band B fine
	Category range 6 months' – 1 year 6 months' custody	**Category range** Low level community order – 6 months' custody	**Category range** Band A fine – Low level community order
Category 3	**Starting point** High level community order	**Starting point** Low level community order	**Starting point** Band A fine
	Category range Medium level community order – 6 months' custody	**Category range** Band B fine – High level community order	**Category range** Discharge – Band B fine

The court should then consider any adjustment for any aggravating or mitigating factors. On the next page is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

Factors increasing seriousness
Statutory aggravating factors:
Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
Offence committed whilst on bail
Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, sexual orientation or transgender identity
Other aggravating factors:
More than one dog involved
Location of the offence
Sustained or repeated attack
Significant ongoing effect on witness(es)
Allowing person insufficiently experienced or trained, to be in charge of dog
Lack or loss of control of dog due to influence of alcohol or drugs
Offence committed against those working in the public sector or providing a service to the public
Injury to other animals
Cost of retraining an assistance dog
Established evidence of community/wider impact
Failure to comply with current court orders (other than any referenced in culpability A)
Offence committed on licence
Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation
No previous convictions **or** no relevant/recent convictions
Isolated incident
No previous complaints against, or incidents involving the dog
Evidence of responsible ownership
Remorse
Good character and/or exemplary conduct
Serious medical condition requiring urgent, intensive or long-term treatment
Age and/or lack of maturity where it affects the responsibility of the offender
Mental disorder or learning disability
Sole or primary carer for dependent relatives
Determination and/or demonstration of steps having been taken to address offending behaviour

STEP THREE

Consider any factors which indicate a reduction, for assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour.

STEP SIX

Compensation and ancillary orders

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:

Disqualification from having a dog

The court **may** disqualify the offender from having custody of a dog. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

If the dog is a **prohibited dog** refer to the guideline for possession of a prohibited dog in relation to destruction/contingent destruction orders.

The court **shall** make a destruction order unless the court is satisfied that the dog would not constitute a danger to public safety.

In reaching a decision, the court should consider the relevant circumstances which **must** include:
- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:
- other relevant circumstances.

If the court is satisfied that the dog would not constitute a danger to public safety and the dog is not prohibited, it **may** make a contingent destruction order requiring the dog be kept under proper control. A contingent destruction order may specify the measures to be taken by the owner for keeping the dog under proper control, which include:
- muzzling;
- keeping on a lead;
- neutering in appropriate cases; and
- excluding it from a specified place.

Where the court makes a destruction order, it **may appoint a person to undertake destruction and** order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place)

Dangerous Dogs Act 1991 (section 3 (1))

Triable only summarily
Maximum: 6 months' custody

Offence range: Discharge – 6 months' custody

STEP ONE
Determining the offence category

In order to determine the category the court should assess **culpability** and **harm**. The court should determine the offence category with reference only to the factors in the tables below.

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability**.

CULPABILITY demonstrated by one or more of the following:
A – Higher culpability:
Dog used as a weapon or to intimidate people
Dog known to be prohibited
Dog trained to be aggressive
Offender disqualified from owning a dog, or failed to respond to official warnings, or to comply with orders concerning the dog
B – Lower culpability:
Attempts made to regain control of dog and/or intervene
Provocation of dog without fault of the offender
Evidence of safety or control measures having been taken
Incident could not have reasonably been foreseen by the offender
Momentary lapse of control/attention

Harm The level of harm is assessed by weighing up all the factors of the case.	
Greater harm	Presence of children or others who are vulnerable because of personal circumstances
	Injury to other animals
Lesser harm	Low risk to the public

STEP TWO
Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

Maximum: 6 months' custody

	Culpability	
Harm	**A**	**B**
Greater harm	**Starting point** Medium level community order	**Starting point** Band B fine
	Category range Band C fine – 6 months' custody	**Category range** Band A fine – Band C fine
Lesser harm	**Starting point** Band C fine	**Starting point** Band A fine
	Category range Band B fine – Low level community order	**Category range** Discharge – Band B fine

The court should then consider any adjustment for any aggravating or mitigating factors. On the next page is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

Factors increasing seriousness
Statutory aggravating factors:
Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
Offence committed whilst on bail
Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity
Other aggravating factors:
Location of the offence
Significant ongoing effect on the victim and/or others
Failing to take adequate precautions to prevent dog from escaping
Allowing person insufficiently experienced or trained, to be in charge of dog
Ill treatment or failure to ensure welfare needs of dog (where connected to the offence and where not charged separately)
Lack or loss of control of dog due to influence of alcohol or drugs
Offence committed against those working in the public sector or providing a service to the public
Established evidence of community/wider impact
Failure to comply with current court orders (other than any referred to at step one)
Offence committed on licence
Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation
No previous convictions **or** no relevant/recent convictions
Isolated incident
No previous complaints against, or incidents involving the dog
Evidence of responsible ownership
Remorse
Good character and/or exemplary conduct
Serious medical condition requiring urgent, intensive or long-term treatment
Age and/or lack of maturity where it affects the responsibility of the offender
Mental disorder or learning disability
Sole or primary carer for dependent relatives
Determination and/or demonstration of steps having been taken to address offending behaviour

STEP THREE

Consider any factors which indicate a reduction, for assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour.

STEP SIX

Compensation and ancillary orders

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:

Disqualification from having a dog

The court **may** disqualify the offender from having custody of a dog. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

If the dog is a **prohibited dog** refer to the guideline for possession of a prohibited dog in relation to destruction/contingent destruction orders.

If the dog is not prohibited and the court is satisfied that the dog would constitute a danger to public safety the court **may** make a destruction order.

In reaching a decision, the court should consider the relevant circumstances which **must** include:
- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:
- other relevant circumstances.

Where the dog is not a prohibited dog the court **may** make a contingent destruction order requiring the dog be kept under proper control. A contingent destruction order may specify the measures to be taken by the owner for keeping the dog under proper control, which include:
- muzzling;
- keeping on a lead;
- neutering in appropriate cases; and
- excluding it from a specified place.

Where the court makes a destruction order, it **may** order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

Possession of a prohibited dog

Dangerous Dogs Act 1991 (section 1 (7))

Breeding, selling, exchanging or advertising a prohibited dog

Dangerous Dogs Act 1991 (section 1 (7))

Triable only summarily
Maximum: 6 months' custody

Offence range: Discharge – 6 months' custody

STEP ONE
Determining the offence category

In order to determine the category the court should assess **culpability** and **harm**. The court should determine the offence category with reference only to the factors in the tables below.

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability**.

CULPABILITY demonstrated by one or more of the following:
A – High culpability:
Possessing a dog known to be prohibited
Breeding from a dog known to be prohibited
Selling, exchanging or advertising a dog known to be prohibited
Offence committed for gain
Dog used to threaten or intimidate
Permitting fighting
Training and/or possession of paraphernalia for dog fighting
B – Lower culpability:
All other offences

Harm The level of harm is assessed by weighing up all the factors of the case.	
Greater harm	High risk to the public and/or other animals
Lesser harm	Low risk to the public and/or other animals

STEP TWO
Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

Maximum: 6 months' custody

	Culpability	
Harm	**A**	**B**
Greater harm	**Starting point** Medium level community order	**Starting point** Band B fine
	Category range Band C fine – 6 months' custody	**Category range** Band A fine – Low level community order
Lesser harm	**Starting point** Band C fine	**Starting point** Band A fine
	Category range Band B fine – medium level community order	**Category range** Discharge – Band B fine

See page 92.

The court should then consider any adjustment for any aggravating or mitigating factors. Below is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

Factors increasing seriousness
Statutory aggravating factors:
Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
Offence committed whilst on bail
Other aggravating factors:
Presence of children or others who are vulnerable because of personal circumstances
Ill treatment or failure to ensure welfare needs of dog (where connected to the offence and where not charged separately)
Established evidence of community/wider impact
Failure to comply with current court orders
Offence committed on licence
Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation
No previous convictions **or** no relevant/recent convictions
Unaware that dog was prohibited type despite reasonable efforts to identify type
Evidence of safety or control measures having been taken by owner
Prosecution results from owner notification
Evidence of responsible ownership
Remorse
Good character and/or exemplary conduct
Serious medical condition requiring urgent, intensive or long-term treatment
Age and/or lack of maturity where it affects the responsibility of the offender
Mental disorder or learning disability
Sole or primary carer for dependent relatives
Determination and/or demonstration of steps having been taken to address offending behaviour
Lapse of time since the offence where this is not the fault of the offender

STEP THREE

Consider any factors which indicate a reduction, for assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour.

STEP SIX

Compensation and ancillary orders

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:

Disqualification from having a dog

The court **may** disqualify the offender from having custody of a dog for such period as it thinks fit. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

The court **shall** make a destruction order unless the court is satisfied that the dog would not constitute a danger to public safety.

In reaching a decision, the court should consider the relevant circumstances which **must** include:
- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:
- other relevant circumstances.

If the court is satisfied that the dog would not constitute a danger to public safety, it **shall** make a contingent destruction order requiring that the dog be exempted from the prohibition on possession or custody within the requisite period.

Where the court makes a destruction order, it **may appoint a person to undertake destruction and** order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

Fit and proper person
In determining whether a person is a fit and proper person to be in charge of a dog the following non-exhaustive factors may be relevant:

- any relevant previous convictions, cautions or penalty notices;
- the nature and suitability of the premises that the dog is to be kept at by the person;
- where the police have released the dog pending the court's decision whether the person has breached conditions imposed by the police; and
- any relevant previous breaches of court orders by the same person.

Note: the court must be satisfied that the person who is assessed by the court as a fit and proper person can demonstrate that they are the owner or the person ordinarily in charge of that dog at the time the court is considering whether the dog is a danger to public safety. Someone who has previously not been in charge of the dog should not be considered for this assessment because it is an offence under the Dangerous Dogs Act 1991 to gift a prohibited dog.

STEP SEVEN

Reasons
Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail
The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.