

Sentencing Council

Sentencing Council meeting: 20 November 2015
Paper number: SC(15)NOV06 – Dangerous Dogs
Lead Council member: Richard Williams
Lead officials: Mandy Banks
0207 071 5785

1 ISSUE

- 1.1 This is the final consideration of the guidelines before the publication of the definitive guideline in March 2016.
- 1.2 The Council is asked to note the summary of all the amendments made to the guidelines since the consultation, and to agree the approach to the consultation response paper. The Council is also asked to agree the rewording of one of the harm factors, the inclusion of an additional aggravating factor, and to agree to some small changes to the sentence levels within the injury to persons guideline.
- 1.3 **Annex A** to this paper is a version of the guidelines which illustrates all of the main changes made to the guidelines post consultation. **Annex B** to the paper is the guideline in the design format that it will appear in when published.

2 RECOMMENDATION

The Council is asked to:

- Agree to make some small changes to the sentence levels in the offence of injury to persons, as discussed in **para 3.2 page 2**
- Agree to the rewording of one of the harm factors regarding attacks on assistance dogs, as set out in **para 3.6, page 4**
- Agree to the inclusion of an additional aggravating factor in the offences causing injury guideline, (and the rewording of a similar factor in the offences causing death guideline) as set out in **para 3.8, page 4**
- Note the summary of the amendments to each guideline, as discussed in **para 3.9, page 5 and sign off the guidelines for publication;** and

- Agree the proposed approach to the consultation response paper, as outlined in **para 3.10, page 5**. Any further comments on the guidelines or the approach to the response paper should be sent to Mandy Banks by email by **4 December**.
- Note the recommended media handling approach at **para 3.13, page 6** and give views.

3 CONSIDERATION

3.1 All of the changes made at the last meeting have been made, and can be seen within the document at **Annex A**, namely:

- Changes to the sentence levels within the offences resulting in injury – **page 10**
- Changes to the sentence levels within the offences resulting in attacks on assistance dogs – **page 17**
- Revised wording regarding consecutive sentences within the offences causing injury - **page 10** (wording which now also appears in the offences causing death guideline- **page 3**)
- The placement of the new wording regarding fit and proper person within step six has been revised within the offence of possessing a prohibited dog – **pages 31 and 32**

Sentence levels

3.2 In preparation for the sign off of the guidelines, all of the sentences ranges across the guidelines were reviewed. As noted above, the changes to the sentence levels to the offences of injury caused to persons and attacks on assistance dogs discussed at the last meeting have been made. It was then noted that these changes, particularly the lowering of the ranges in categories 2B and 3B within the offences causing injury to persons (**page 10 of Annex A**) has had the unintended effect of making some of these ranges the same as some of the ranges in the offence of attacks on assistance dogs (**page 17 of Annex A**). As a principle in developing the ranges, we ensured that the ranges in the offences causing injury to persons were generally higher than the corresponding ranges in the attacks on assistance dogs, to reflect the greater statutory maximum (five years compared to three years), and to differentiate between the relative seriousness of an injury/attack on a person and a injury/attack to a dog.

3.3 If the Council still wishes to ensure that an attack on a person is treated more seriously than an attack on a dog, then either some of the changes in the injury to persons guideline discussed at the last meeting can be reversed back to the higher levels used in the consultation, or the ranges within the attacks on assistance dogs could be decreased. It is recommended that the most appropriate option is the former, to reverse some of the changes discussed last month, as follows:

- the starting point in 2B (injury to persons) reverts back to 6 months custody from high level community order:
- the range in 3B (injury to persons) reverts back to a band C fine from a band B fine, and:
- the high level community order (injury to persons) reverts back to 6 months custody.

3.4 Additionally, the starting point in 3B in attacks on assistance dogs could be lowered to a band C fine. The ranges within 3C in both guidelines are very similar, but at this very lowest point of the table it is difficult to have much difference between the two, although the starting point in 3C in injury to persons could be increased to a band B fine from a band A fine, to create a further point of difference between the two ranges.

3.5 As noted in last month's paper, a range of views were expressed on the proposed sentence ranges in the consultation, but the most commonly expressed view was that the ranges and suggested sentence levels for the case studies in the consultation were too low. This opinion has also recently been expressed in a letter in the November edition of the Criminal Law Review, following an earlier editorial on the draft guidelines, in which the writer states that '... the Sentencing Council has.....adopted an approach of undue leniency' (*in the draft guidelines*). Accordingly, increasing the ranges in the injury to persons guideline is recommended as the appropriate course of action, if the Council wish to maintain the differential between the sentence ranges for the two offences.

Question 1: Does the Council agree to the changes in the sentence ranges in the offence of injury to persons outlined above in order to maintain a differential between sentencing for attacks on persons and attacks on dogs?

Offence of attacks on assistance dogs

3.6 The Council is asked to confirm that it is content with the rewording of one of the harm factors for this offence, as was set out in last month's Council paper (the issue was not discussed at the last meeting). The factor in category one has been reworded due to concerns that sentencers found the wording proposed in consultation ambiguous and confusing, and so it is recommended that the wording is clarified. The new wording suggested is '*Serious impact on the assisted person (whether psychological or other harm caused by the offence)*'. This can be seen on page 16 of **Annex A**.

3.7 Additionally, it is also suggested that the two harm factors separately listed in category 3 form one bullet point, rather than two as previously, as can be seen on page 16. This is to provide further clarity that if there is only a minor injury to the dog **and** a limited impact on the person, then this should be assessed as category 3, low harm.

Question 2: Does the Council agree to the rewording of the category one harm factor for this offence, and the category three harm factor being amalgamated into one bullet point?

Additional aggravating factor in the offences causing injury guideline

3.8 The Council is also asked to agree to the inclusion of an additional aggravating factor in the offences causing injury guideline (this was also outlined in last month's Council paper but not discussed). It is proposed that '*serious injury caused to others (where not charged separately)*' is added for cases where there are additional injuries caused from the same incident, which do not form a charge before the court, this wording can be seen on page 11 of **Annex A**. For consistency, the similar aggravating factor in the offences causing death guideline, '*serious injury caused to others who attempted to intervene in the incident*' has been reworded to the same proposed format of '*serious injury caused to others (where not charged separately)*' (page 4 of **Annex A**)

Question 3: Does the Council agree to the addition of a new aggravating factor for this offence (and the rewording of the similar factor in the offences causing death guideline)?

Summary of changes

3.9 All of the changes that have been made to the guidelines post consultation can be seen in the document at **Annex A**. New wording that has been added post consultation has been highlighted and wording that has been removed post consultation has been struck through with a line. The document at **Annex B** is how the designed version of the Crown Court guidelines will look ready for publication, to give Council members an idea of the proposed style and layout only, (not all of the recent or proposed changes to the guidelines have been reflected in this version). It should also be noted that that magistrates will not be using these versions, but instead will use guidelines in the new digital format.

Question 4: Is the Council content with the overall changes that have been made to the guidelines?

Approach to the response paper

3.10 As can be seen within **Annex A**, the changes to the guidelines post consultation have been relatively minor: some small adjustments to sentence levels, minor changes to some culpability factors, some rewording of harm factors, and some new wording at step six within the offence of possession of a prohibited dog.

3.11 It is therefore proposed that the consultation response paper should be a fairly brief 'light touch' document. There were not substantive changes made to this guideline, unlike other recent guidelines, nor are there particularly controversial points to be explained, therefore it is suggested that a lengthy response paper is unnecessary. Instead, the paper will briefly outline that the general approach proposed in the consultation has been maintained, that the reaction to the proposals was generally favourable, and so on. The main changes to the culpability/harm factors and the minor changes to the sentence levels can be briefly outlined and explained. There will be some brief narrative to explain the Council's reasoning for not making some of the changes suggested by consultation respondents, for example the suggestion

that there should be three levels of culpability/harm for the offences not causing injury and the requests for additional aggravating and mitigating factors.

- 3.12 The draft response paper will be circulated to Council members for comments in due course. A revised resource impact statement will also be prepared to be published alongside the definitive guideline and consultation response paper, and this will set out some of the issues regarding the lack of sentencing data that were discussed last month.

Question 5: Is the Council content with the proposed approach to the consultation response paper?

Communications Strategy for launch of the definitive guideline

- 3.13 This will be the fourth time we have taken the subject of a dangerous dogs guideline to the media after the first dogs consultation (Dec 2011), the first dogs definitive (March 2012) and the second dogs consultation (March 2015). This could lead to an assumption that interest might be lower than for some other guidelines. However, we anticipate that the very significant legislative changes might attract unwanted headlines for the Council if not carefully managed.
- 3.14 Our intention is to undertake a low key launch focussing on the new guidance for sentencers which reflects the will of Parliament for these offences. We would explain the new offence of attacks on assistance dogs and would aim to discourage headlines emphasising the increase in sentences from two to 14 years for offences resulting in death, given that the guidelines reflect the recent changes to the law increasing the maximum for these offences (it is not the Council driving up sentences).
- 3.15 Primary audiences will be within the legal community, criminal justice practitioners and those with an interest in dogs – either owners or those using or providing assistance dogs. We will undertake targeted communications activities with these groups whilst also providing factual information and offering spokespeople to the media.

- 3.16 We would anticipate being asked why we have revised these guidelines whilst not producing new guidelines on other areas of new legislation such as drug driving. Our response would be that the existing guideline sets out incorrect ranges for sentencers so this was a priority to put right. We would also anticipate the risk of being associated with criticism of the dangerous dog legislation generally, with clear lines setting out our role and remit. We would also have a clear rationale for why there is no headroom within the offence causing death, unlike most other guidelines (and the other offences within the guideline).

Question 6: Is the Council content with the proposed approach to the communications handling for the launch of the definitive guideline?

4 Risks/Impact

- 4.1 As set out in last month's paper, there is very little sentencing data to assist in the development of the sentence ranges for these offences. However, the risks posed by this are reasonably low, given the low number of offenders who receive custodial sentences for these offences. Once the definitive guideline is in force an assessment of whether to evaluate the guideline will be taken, although any evaluation would be limited in scope due to the lack of time series data for this offence. It also remains the case that it would be very challenging to distinguish any changes to sentences as a result of the guideline from those attributable to the introduction of the legislation and the Council will need to bear this in mind when deciding whether to evaluate the guideline.

Question 7: Is the Council content that the impact and risks have been adequately considered for this guideline? If not, are there any other actions or considerations that should be undertaken at this stage?

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Dangerous dog offences

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 bred or 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. 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
- 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) who attempted to intervene in the incident
- Offence motivated by, or demonstrating hostility based on, but not limited to, the victim's age, sex, or disability
- Failing to take adequate precautions to prevent dog from escaping
- Allowing person insufficiently experienced or trained, to be in charge of dog
- Dog known to be prohibited
- 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 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
- 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, such as 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.

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 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.

Dangerous dog offences

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 bred or 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 been reasonably foreseen by 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

- Factors in categories 1 or 3 not present. 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

Harm	Culpability		
	A	B	C
Category 1	<p>Starting point 3 years' custody</p> <p>Category range 2 years 6 months' – 4 years' custody</p>	<p>Starting point 1 year 6 months' custody</p> <p>Category range 6 months' – 2 years 6 months' custody</p>	<p>Starting point High level community order</p> <p>Category range Medium level community order – 6 months' custody</p>
Category 2	<p>Starting point 2 years' custody</p> <p>Category range 1 year 6 months' – 3 years' custody</p>	<p>Starting point High level community order 6 months' custody</p> <p>Category range Medium level community order High level community order – 1 year 6 months' custody</p>	<p>Starting point Band C fine</p> <p>Category range Band B fine – High level community order</p>
Category 3	<p>Starting point 6 months, 1 year, 6 months custody</p> <p>Category range High level community order 6 months – 12 year 6 months custody</p>	<p>Starting point Low level community order</p> <p>Category range Band C, B fine – High level community order 6 months' custody</p>	<p>Starting point Band A fine</p> <p>Category range Discharge – Band C fine</p>

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. 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
- 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 1 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
- ~~Offence motivated by, or demonstrating hostility based on, but not limited to, the victim's age, sex, or disability~~
- ~~Failing to take adequate precautions to prevent dog from escaping~~
- ~~Dog known to be prohibited~~
- 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 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, such as 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.

Dangerous dog offences

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 be prohibited**
- Dog ~~bred~~ or 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 the 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 reasonably have 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 on the assisted person (whether psychological or other harm caused by the offence). Impact of the offence on the assisted person is severe.

Category 2

- Harm that falls between categories 1 and 3 Factors in categories 1 or 3 not present

Category 3

- Minor injury to assistance dog and or 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 three years' custody

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

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
- 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 1 dog involved
- Location of the offence
- Sustained or repeated attack
- Significant ongoing effect on witness(es)
- ~~• Offence motivated by, or demonstrating hostility based on, but not limited to, the victim's age, sex, or disability~~
- ~~• Failing to take adequate precautions to prevent dog from escaping~~
- ~~• Dog known to be prohibited~~
- 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 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, such as 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 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.

Dangerous dog offences

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 bred or 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

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

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
- 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
- ~~Offence motivated by, or demonstrating hostility based on, but not limited to, the victim's age, sex, or disability~~
- 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)
- ~~Dog known to be prohibited~~
- 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, such as 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 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.

Dangerous dog offences

Possession of a prohibited dog

Dangerous Dogs Act 1991 (section 1 (3))

Breeding, selling, exchanging or advertising a prohibited dog

Dangerous Dogs Act 1991 (section 1 (2))

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:

- 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

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

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, such as 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 police; and
- any relevant previous breaches of court orders by the 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.

**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

Harm	Culpability		
	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

Harm	Culpability		
	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

Harm	Culpability	
	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

Harm	Culpability	
	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.