

## SC(15)OCT08 MCSG - Annex A ( Conversion example)

### Drunk and disorderly in a public place

Criminal Justice Act 1967, s.91  
Effective from: 04 August 2008

**Triable only summarily:**  
**Maximum: Level 3 fine**

[User guide for this offence](#)

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### *Offence seriousness (culpability and harm)*

#### *A. Identify the appropriate starting point*

*Starting points based on first time offender pleading not guilty*

<i>Examples of nature of activity</i>	<i>Starting point</i>	<i>Range</i>
<i>Shouting, causing disturbance for some minutes</i>	<i>Band A fine</i>	<i>Conditional discharge to Band B fine</i>
<i>Substantial disturbance caused</i>	<i>Band B fine</i>	<i>Band A fine to band C fine</i>

The above is how this guideline looks now. It uses examples of activity because it is a legacy guideline. Below is an attempt to convert these assessments of seriousness, into standard SC guideline format.

#### Step One

##### **Determining the offence category**

The court should determine culpability and harm caused or intended, by reference **only** to the factors below, which comprise the principal factual elements of the offence. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category.

Category 1 Greater harm and higher culpability

Category 2 Greater harm and lower culpability or lesser harm and higher culpability

Category 3 **Neither** greater harm **nor** higher culpability

### **Factors indicating greater harm:**

- Substantial disturbance caused
- Offence committed at school, hospital or other place where vulnerable persons may be present
- Offence committed on public transport
- Victim providing public service
- Offence ties up disproportionate police/emergency service/local authority resource - **new**

### **Factors indicating greater culpability:**

#### *Statutory aggravating factors:*

- Offence motivated by, or demonstrating, hostility to the victim based on his or her sexual orientation (or presumed sexual orientation)
- Offence motivated by, or demonstrating, hostility to the victim based on the victim's disability (or presumed disability)

#### *Other aggravating factors:*

- Lengthy incident
- Group action
- Disregard of earlier warning regarding conduct - **new**
- Offence during currency of related controls e.g. street drinking controls - **new**
- Swearing and/or abusive language - **new**

## Step Two

### **Starting point and category range**

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of

culpability in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.

Category 1 Band B fine Range: Band B fine to Band C fine

Category 2 Band A 75% Range: Band A fine to Band B fine

Category 3 Band A fine Range: Discharge to Band A fine

[NOTE – having 3 categories is new, and arguably splitting hairs for this offence given the maximum available penalty. But it set out the structure.]

### **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 include:*

- Location of the offence ( if not incorporated above)
- Timing of the offence (if not incorporated above)
- Offence committed against those working in the public sector or providing a service to the public ( if not incorporated above)
- Presence of others including, especially children or vulnerable people
- Failure to comply with current court orders
- Offence committed whilst on licence
- Established evidence of community impact

### **Factors reducing seriousness or reflecting personal mitigation**

- Isolated incident
- No previous convictions **or** no relevant/recent convictions
- Good character and/or exemplary conduct
- Remorse
- Determination and/or demonstration of steps taken to address addiction or offending behaviour
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Lapse of time since the offence where this is not the fault of the offender
- Mental disorder or learning disability, where **not** linked to the commission of the offence
- Sole or primary carer for dependent relatives

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