Sentencing Council

Sentencing Council meeting:	**13 April 2018**
Paper number:	**SC(18)APR03 - Manslaughter**
Lead Council member:	**Tim Holroyde**
Lead official:	**Ruth Pope** **0207 071 5781**

1 ISSUE

1.1 This is the first consideration of the diminished responsibility manslaughter guideline post consultation; there will be a final consideration of all four guidelines including checking the sentence levels at the May meeting.

1.2 Dr Adrian Grounds will address the Council about mental health and sentencing and will take questions from Council members. He has been asked in particular to address the following questions:

- What is the relevance of treatability?
- How far can psychiatric evidence address the issue of the degree of responsibility retained by offenders with diminished responsibility?
- Mental health disposals: what are the implications of the approach taken in Vowles to the treatment and release of prisoners with mental disorders?
- What is the relevance of mental disorders on remorse?

1.3 The aim is to publish the guidelines early in September 2018 in time for training to be delivered at the Serious Crime Seminar in September which Sarah Munro has kindly offered to deliver.

2 RECOMMENDATION

2.1 The Council is asked to consider the amendments to diminished responsibility guideline as shown at **Annex A** (additions are underlined and deletions are struck through).

3 CONSIDERATION

General

3.1 Only ten of the 44 respondents to the consultation directly addressed the diminished responsibility guideline. Responses were received from the CPS, the Law Society, the Criminal Law Solicitors Association (CLSA), the London Criminal Courts Solicitors Association (LCCSA), the Criminal Bar Association (CBA), Council of HM Circuit Judges (CHMCJ), the Royal College of Psychiatrists (RCP), a clinical nurse specialist at the Central Criminal Court, an academic and a charity. The majority were broadly supportive of the approach taken by the guideline although some respondents had serious reservations.

3.2 The draft diminished responsibility guideline was 'road tested' with eight judges, seven of whom re-sentenced their own cases and one of whom sentenced a scenario based on a 2014 case. This research revealed some reluctance to consider alternatives where a hospital order had been recommended by doctors.

Assessing the degree of responsibility retained

3.3 The CHMCJ supported the approach:

> We think that this is a good way of distinguishing between the levels of responsibility. We think that this is a far better way of assessing responsibility than assessing the relevant sentence for murder had diminished responsibility not applied. As is recognised, manslaughter by reason of diminished responsibility arises in very many ways and is usually fact-specific.

3.4 Hundred Families (a charity supporting families who have lost loved ones as a result of killings by people with mental illness) supported the approach and suggested that 'all the relevant information' should include statements from the family of the offender who may have reported their concerns prior to the killing. The Law Society agreed with the approach but said it should be made clear that the judge must be <u>sure</u> of any factors that make the offender's responsibility greater.

3.5 In contrast the CLSA commented:

> The draft guideline gives no guidance as to when or in what general circumstances the level of responsibility retained is high medium or low. This is understandable given the fact sensitive nature of these sentencing exercises but the lack of guidance (and in addition the inclusion of step 5) renders the guideline of limited assistance either to sentencing judges or to those advising an offender as to what to expect in sentence. It is difficult to see how the guideline will achieve any consistency in sentencing.
>
> We take the view that there should be no guideline for this offence

3.6 The RCP stated that the psychiatrist should not be expected to comment on the degree of responsibility retained directly; rather that the assessment should be made by the judge based on the psychiatric evidence and the circumstances. It is hoped that Dr Grounds can assist the Council with the issue of the limitations of the psychiatric evidence in this regard.

3.7 Charles De Lacy, a clinical nurse specialist at the Central Criminal Court, suggested:

> It will be important that psychiatrists who are preparing reports are properly instructed so as to address the issues at the heart of any sentencing exercise and which also fall within their expertise, and that requires them to have a good grasp of any proposed guideline and the application of its principles to the case in hand. The Court may therefore need to be fairly prescriptive as to what is to be addressed.

3.8 The Criminal Procedure Rules (at 19.4) specify what an expert's report must contain (in terms of setting out the expert's qualifications, the information relied on, giving reasons for

opinions etc) and (at 28.8 (2)) what a court must serve on the person from whom a report is sought:

> a note that—
> (a) specifies the power exercised by the court;
> (b) explains why the court seeks a report or information from that person; and
> (c) sets out or summarises any relevant information available to the court.

3.9 The Council may wish to consider whether it would be helpful for either the guideline or the Rules to require that the attention of the expert be drawn to the guideline in diminished responsibility cases.

The offender exacerbating the mental disorder

3.10 The draft guideline states:

- where an offender exacerbates the mental disorder by voluntarily abusing drugs or alcohol or by voluntarily failing to follow medical advice this will increase responsibility.

3.11 The LCCSA suggests that those with a mental illness cannot necessarily be expected to know what is in their best interests and allowance should be made for this. The Council has already considered this issue in relation to other manslaughter guidelines and as part of the 'seriousness' guideline. This suggested additional wording is provided at Annex A:

- In considering the extent to which the offender's actions were voluntary, the extent to which a mental disorder has an impact on the offender's ability to exercise self-control or to engage with medical services will be a relevant consideration.

3.12 De Lacy suggests that psychiatrists could be asked to comment on the extent to which the offender's mental disorder will have impacted upon their ability to make informed judgments and to exercise the necessary self-control. See also comments from the RCP at 3.17 below.

3.13 The Law Society suggested two additional mitigating factors:

- Undiagnosed or untreated medical or mental health issues;
- Prior request for help that was unheeded by professionals or others who could have acted.

3.14 Both of these suggestions would be taken into account in the assessment of responsibility at step one (and there is a mitigating factor of 'the offender made genuine and sustained attempts to seek help for the mental disorder). There could be an argument for covering these factors more explicitly at step one, for example:

- The degree to which the mental disorder was undiagnosed and/or untreated will be a relevant consideration. For example:
  - Where an offender has sought help but not received appropriate treatment this could be a factor which would reduce responsibility.

3.15 In road testing judges were generally happy with the structure of step one and most judges felt able to assess the degree of responsibility retained by the offender by considering the level of mental illness with reference to the medical evidence.

3.16 One judge suggested that additional information would be useful to help with assessing the level of responsibility retained and another commented that where psychiatrists differed in their opinions, the level of responsibility would be difficult to determine.

Question 1: Does the Council wish to retain the current model for assessing responsibility?

Question 2: Does the Council agree to add the suggested additional wording at 3.11 and 3.14?

Question 3: Does the Council wish to include any guidance on which issues experts should address?

Aggravating factors

3.17 The RCP query the aggravating factor of 'Commission of offence whilst under the influence of alcohol or drugs' stating that it will need to be reviewed within the psychiatric evidence:

> drugs can sometimes be used to 'self-medicate' to try and reduce symptoms. It should also be noted that patients with serious mental illness may have little insight into their disorder which leads them into behaviour that can exacerbate their condition. They may stop their treatment as a consequence of symptoms such as auditory hallucinations or paranoid beliefs leading them to believe they are being poisoned.
> Although the Court may wish to consider the role of drugs and alcohol before sentencing, we advocate against enshrining this as an aggravating factor in these circumstances.

3.18 Additional wording is proposed to deal with this concern:

> Commission of offence whilst under the influence of alcohol or drugs (the extent to which a mental disorder has an effect on offender's ability to make informed judgments or exercise self-control will be a relevant consideration in deciding how much weight to attach to this factor).

3.19 The Law Society repeated the suggestion made for other guidelines that there should be 'significant impairment' for this factor to apply. The Council has not changed the factor for other guidelines, but it will be possible to include additional information for this factor in the digital version of the guideline.

3.20 In common with the other manslaughter guidelines it is proposed to remove the word 'significant' in the factor 'History of significant violence or abuse towards victim by offender'. The LCCSA criticised the factor, 'Death occurred in the context of dishonesty or the pursuit of financial gain. It was agreed to remove this factor from the loss of control guideline as unlikely

to apply. As aggravating factors are non-exhaustive, it may be preferable to remove the factor from this guideline for the same reason.

3.21 Hundred Families suggested adding 'a failure to comply with treatment or take medication' as an aggravating factor. The Law Society also suggest a similar aggravating factor, but as this is already specifically taken into account at step one, this is not recommended.

3.22 In road testing judges were content with the aggravating factors.

Question 4: Does the Council wish to make any changes to the aggravating factors?

Mitigating factors

3.23 The RCP challenged the inclusion of remorse as a mitigating factor:

> [Remorse] is commonly shown to have no relationship with reoffending and is impossible to determine reliably. Psychotic patients may not show remorse due to their mental disorder and should not be penalised for this. For example, it is quite common, on the contrary, for a person has been driven to the offence by a delusion, for example that s/he is saving someone from a worse catastrophe than death or has been taken over by an alien force, to feel relief after the killing.

3.24 If the objection is that those who do not express remorse will be penalised, this is not a legitimate concern, as the absence of remorse (or any other mitigating factor) would not increase the sentence. There are cases of diminished responsibility manslaughter where the offender (having recovered sufficiently from the mental disorder to understand what occurred) is genuinely remorseful, and this can significantly reduce sentences in some cases.

3.25 In road testing judges were content with the mitigating factors.

Question 5: Does the Council wish to make any changes to the mitigating factors?

Dangerousness

3.26 The CPS commented that there may be a rationale for considering dangerousness at an earlier stage than in other guidelines but without explanation it risked a perception of inequity when looking at manslaughter offences in the round.

3.27 The Council has a duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination on the grounds of protected characteristics (which include disability). A mental illness which has a long-term effect on a person's normal day-to-day activity would be considered a disability. It is important that the guideline is not seen to be treating mentally disordered offenders less favourably than others. The rationale for moving this step forward in the guideline is a purely practical one; it will have a bearing on the consideration of mental health disposals that follow it. Although in practice dangerousness is addressed by the court at an early stage of the sentencing process in all cases, it appears after the reduction for guilty

plea step in the other guidelines to which it applies because the Council took the view that the other steps in the guideline would still need to be followed to arrive at the appropriate extended sentence or minimum term of a life sentence.

3.28 If the Council thought it would be helpful, the following text could be added to step three to make it clear that the later steps still apply:

- Any life or extended sentence will be subject to any considerations, adjustments or reductions required by subsequent steps in this guideline.

3.29 De Lacy comments on the difficulty of asking psychiatrists to comment on the issue of dangerousness:

> Psychiatrists tend to think in terms of risk rather than dangerousness. Psychiatrists do not think in terms so much of absence of risk but ranges that run from High Risk through to Low Risk. Dangerousness in terms of the CJA 2003 may well apply in cases on the grounds of the mental disorder alone that the offender suffers from. There is a risk of confusion when evidence is taken because of the difference of language the one being legal the other psychiatric.

Question 6: Does the Council wish to make any changes to step three?

Mental health disposals

3.30 There were mixed reactions to step four. The Law Society and CHMCJ welcomed the guidance as being helpful, whereas the CLSA commented that judges would apply the steps anyway without being prompted by the guideline. The RCP had more fundamental concerns:

> Step 4 is of serious concern. The threshold for a hospital order with restrictions (section 37/41) is so high that this will be unavailable to most mentally disordered offenders. There is a risk, with the increasing use of a section 45A that mentally disordered offenders will not have the mandated psychiatric treatment that is presently directed by the use of a restriction order. In the longer term if a mentally disordered offender is released into the community and their mental health deteriorates, they will not be able to be recalled to a hospital setting. This approach to the supervision, care and treatment of a person whose mental disorder has in some way been associated with the homicide will pose substantial risks to public safety and the health and safety of the offender.
>
> There are concerns about psychiatrists recommending a section 45A because this is essentially a custodial sentence and psychiatrists have generally considered recommending a prison sentence to be ethically prohibited.
>
> In this situation it seems inherently unjust as well as unsafe. Is it thought that the person should first serve time in prison until the tariff for punishment is satisfied– because it would obviously be safer to ensure that treatment was provided as close as possible to the return to the community so that the individual could be as well as possible on release, having been 'tested out' appropriately first on short, supervised leaves? Or is it envisaged that the person should be made well in hospital – essentially fit for punishment for a crime committed when ill – so that the period of imprisonment is safer, albeit risking deterioration before release?

> The review should include in their considerations the rising suicide rate in prisons, the risk elevated by mental disorder and nature of crime as well as inappropriate levels of care for the potentially suicidal. If somehow hospital care can be delivered appropriately and the individual is also appropriately in hospital when ready for release, the costs of fulfilling that through both Mental Health Review Tribunal and parole Board hearings, and the longer period in hospital to facilitate that will be substantial.

3.31 The CHMCJ noted that there is 'a divergence of opinion as to whether in practice psychiatrists will recommend a s45A disposal. It has been suggested that both that successful treatment of a mental health condition is made more difficult by the threat of prison, and that psychiatrists use the stick of prison to enforce compliance with treatment. Time will tell.'

3.32 Hundred Families questioned how courts can know at the outset whether an offender will be dangerous or not once treated. They are concerned that judges will accept optimistic assessments that assume compliance with treatment. They comment:

> It appears to us however that the sentence of a section 37/41 Hospital order with restrictions does not meet any objective of punishment. Under this order the offender becomes a 'patient,' with many of the privileges that entails, and is not a prisoner.
>
> Our understanding is that the current official guidance for patients detained under the mental health act, is that they should be subject to the least restrictive form of detention and treatment, and that successful treatment always involves regular amounts of escorted and unescorted leave outside the hospital.
>
> It appears that to us that a sentence to a hospital order effectively means that the responsibility for the killing is extinguished, and not just diminished. We struggle to see that any form of punishment is met by a hospital order, with or without restrictions.

3.33 Hundred Families also noted that the guideline gives no guidance as to when a section 41 restriction order may or may not be required.

3.34 De Lacy notes:

> It is common in the light of Vowles for Psychiatrists to be requested to comment on Parole Board and licence processes as well as First Tier Tribunal processes. They will be very familiar with the latter. Their knowledge of the Parole Board and the Licence arrangements may be less informed and therefore there may need to some education with regard to that issue so that any comparisons psychiatrists make in their evidence are knowledge based. Is there a role for the Probation Service in this process might be a question that needs asking? For example does there need to be a report/information from the Probation Service on the issue of managing on licence previously dangerous offenders who suffer from mental illnesses? This would be a departure from the current process where the Court might normally only have psychiatric reports as opposed to any formal input from Probation

3.35 If the Council thought that there was merit in this suggestion reference could be made in the guideline to obtaining input from the National Probation Service.

3.36 In road testing most judges were content with the position and content of step four; some considered it to be a helpful checklist. However, no judge who 'resentenced' a case under the draft guideline reconsidered imposing a section 37/41 order. It is, of course, a very

artificial situation, but it would appear that the requirement to consider a section 45A order first, may not change outcomes where the psychiatric reports recommend a section 37/41 order.

3.37 Some judges expressed a lack of familiarity with s45A orders and thought more information would be helpful. One suggested moving the final bullet point ('There must always be sound reasons for departing from the usual course of imposing a custodial sentence and where a custodial sentence is not imposed, the judge must set out these reasons.') to the front.

3.38 The CACD has recently handed down a judgment[1] which considers the guidance on mental health disposals in Vowles. In the light of that judgment some changes are proposed to step four as shown in Annex A.

Question 7: Does the Council wish to make any changes to step four?

Adjustment to the sentence and case studies

3.39 There were few specific references to step five in consultation responses. Applying the draft guideline to the case studies in the consultation the CHMCJ felt that the guideline worked well, taking the sentencer through all of the steps; the CLSA in contrast considered that the flexibility in the guideline meant that the guideline was of little assistance.

3.40 In road testing because all of the cases resulted in mental health disposals, judges did not employ step five, but when asked about it, most considered it to be useful and appropriately worded. One judge felt it was unnecessary for experienced judges.

4 IMPACT AND RISKS

4.1 Several respondents have commented on the very wide range of sentences available under this guideline and the consequent difficulty in achieving consistency. The results from the road testing exercise suggest that the flexibility in the guideline will result in judges imposing similar sentences under the guideline as would have been passed without it.

4.2 The chief risk from this guideline is that it may enshrine in a guideline an approach to mental health disposals that subsequently needs to be reviewed. One mechanism for reviewing the mental health steps (if needed) would be through the mental health overarching principles guideline which the Council will be commencing work on later this year.

4.3 A review of cases sentenced in 2016 is being carried out to enable an accurate assessment of current sentencing practice and the Council will be asked to consider sentence levels at the May Council meeting.

[1] R v Edwards and ors [2018] EWCA Crim 595

MANSLAUGHTER BY REASON OF DIMINISHED RESPONSIBILITY

Common law and Homicide Act 1957 (section 2)

Triable only on indictment
Maximum: Life imprisonment

Offence range: 3 – 40 years' custody

This is a serious specified offence for the purposes of sections 224 and 225(2) (life sentences for serious offences) of the Criminal Justice Act 2003.

This is an offence listed in Part 1 of Schedule 15B for the purposes of section 224A (life sentence for a second listed offence) and section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

The type of manslaughter (and thereby the appropriate guideline) should have been identified prior to sentence. If there is any dispute or uncertainty about the type of manslaughter that applies the judge should give clear reasons for the basis of sentence.

STEP ONE

Assessing the degree of responsibility retained: high, medium or lower

- A conviction for manslaughter by reason of diminished responsibility necessarily means that the offender's ability to understand the nature of the conduct, form a rational judgment and/or exercise self control was substantially impaired.
- The court should reach a determination as to the level of responsibility the offender **retained**:
    - High;
    - Medium; or
    - Lower
- The court should consider the extent to which the offender's responsibility was diminished by the mental disorder **at the time of the offence** with reference to the medical evidence and all the relevant information available to the court.
- The degree to which the offender's actions or omissions contributed to the seriousness of the mental disorder at the time of the offence will be a relevant consideration. For example:
    - where an offender exacerbates the mental disorder by voluntarily abusing drugs or alcohol or by voluntarily failing to follow medical advice this will increase responsibility.
    - In considering the extent to which the offender's actions were voluntary, the extent to which a mental disorder has an impact on the offender's ability to exercise self-control or to engage with medical services will be a relevant consideration.
- The degree to which the mental disorder was undiagnosed and/or untreated will be a relevant consideration. For example:
    - Where an offender has sought help but not received appropriate treatment this could be a factor which would reduce responsibility.

HARM

For all cases of manslaughter the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two

STEP TWO

Starting point and category range

Having determined the level of responsibility retained 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.

Level of responsibility retained		
High	**Medium**	**Lower**
Starting Point 24 years' custody **Category Range** 15 - 40 years' custody	**Starting Point** 15 years' custody **Category Range** 10 - 25 years' custody	**Starting Point** 7 years' custody **Category Range** 3 - 12 years' custody

Note: The table is for a single offence of manslaughter resulting in a single fatality. Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Offences Taken into Consideration and Totality* guideline and step eight of this guideline.

Below is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account in assessing the level of responsibility retained

Aggravating factors

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

  (See step three for a consideration of dangerousness)

- 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:

- A significant degree of planning or premeditation
- Victim particularly vulnerable due to age or disability
- Significant mental or physical suffering caused to the deceased

- History of ~~significant~~ violence or abuse towards victim by offender
- Commission of offence whilst under the influence of alcohol or drugs (the extent to which a mental disorder has an effect on offender's ability to make informed judgments or exercise self-control will be a relevant consideration in deciding how much weight to attach to this factor).
- Other(s) put at risk of harm by the offending
- ~~Death occurred in the context of dishonesty or the pursuit of financial gain~~
- Actions after the event (including but not limited to attempts to cover up/ conceal evidence)
- Involvement of other(s) through coercion, intimidation or exploitation
- Victim was providing a public service or performing a public duty
- Concealment, destruction or dismemberment of the body.
- Offence involved use of a weapon
- Blame wrongly placed on other(s)
- Offence committed on licence or post sentence supervision or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse
- Intention to cause serious bodily harm rather than to kill
- Lack of premeditation
- History of significant violence or abuse towards the offender by the victim
- The offender acted in self-defence or in fear of violence (where not amounting to a defence)
- The offender made genuine and sustained attempts to seek help for the mental disorder
- Belief by the offender that the killing was an act of mercy
- Good character and/or exemplary conduct
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Sole or primary carer for dependent relatives

STEP THREE

Consideration of dangerousness

- The court should then go on to consider whether having regard to the criteria contained in Chapter 5 of part 12 of the Criminal Justice Act 2003 it would be appropriate to impose a **life sentence** (section 224A or section 225) or an **extended sentence** (section 226A).
- When sentencing to a life sentence the notional determinate term (identified at step two above) should be used as the basis for setting the minimum term.

STEP FOUR

Consideration of mental health disposals

Where:

(i) the evidence of medical practitioners suggests that the offender is currently suffering from a mental disorder,

(ii) treatment is available, and

(iii) the court considers that a hospital order (with or without a restriction) may be an appropriate way of dealing with the case,

the court should consider **all sentencing options** including a section 45A direction and consider the importance of a penal element in the sentence taking into account the level of responsibility assessed at step one.

Section 45A hospital and limitation direction

a. Before a hospital order is made under s.37 MHA (with or without a restriction order under s.41), consider whether the mental disorder can appropriately be dealt with by custody with a hospital and limitation direction under s.45A MHA. In deciding whether a s.45A direction is appropriate the court should bear in mind that the direction will cease to have effect at the end of a determinate sentence.

b. If a penal element is appropriate and the mental disorder can appropriately be dealt with by a direction under s.45A MHA, then the judge should make such a direction. (Not available for a person under the age of 21 at the time of conviction).

Section 37 hospital order and s41 restriction order

c. If a s.45A direction is not appropriate the court must then consider ~~before going further, whether: (1) the mental disorder is treatable, (2) once treated there is no evidence the offender would be dangerous, and (3) the offending is due to that mental disorder. If these conditions are met a hospital order under s.37/41 is likely to be the correct disposal~~ whether, (assuming the conditions in s.37(2) (a) are satisfied), the matters referred to in s. 37(2)(b) would make a hospital order the most suitable disposal. The court should explain why a penal element is not appropriate.

Section 47 transfer to hospital

d. The court must also have regard to the question of whether other methods of dealing with the offender are available including consideration of whether the powers under s47 MHA for transfer from custody to hospital for treatment would, taking in to consideration all of the circumstances, be appropriate.

- ~~There must always be sound reasons for departing from the usual course of imposing a custodial sentence and where a custodial sentence is not imposed, the judge must set out these reasons.~~

STEP FIVE

IN ALL CASES consider factors that may warrant an adjustment to the sentence

Cases of manslaughter by reason of diminished responsibility vary considerably on the facts of the offence and on the circumstances of the offender.

- The court should review whether the sentence as a whole meets the objectives of punishment, rehabilitation and protection of the public in a fair and proportionate way.
- Relevant factors will include the psychiatric evidence and the regime on release.
- An adjustment may require a departure from the sentence range identified at step two above.

STEP SIX
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 SEVEN
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. Note: the limitations on reductions for murder do not apply to manslaughter.

STEP EIGHT
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 in accordance with the Offences Taken into Consideration and Totality guideline.

STEP NINE
Compensation and ancillary orders
In all cases the court should consider whether to make compensation and/or other ancillary orders.
Where the offence involves a firearm, an imitation firearm or an offensive weapon the court may consider the criteria in section 19 of the Serious Crime Act 2007 for the imposition of a Serious Crime Prevention Order.

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

STEP ELEVEN
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.