

**Sentencing Council meeting:**  
**Paper number:**  
**Lead Council member:**  
**Lead official:**

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**SC(18)DEC06 – Firearms paper**  
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## **1 ISSUE**

1.1 This is the fourth meeting to consider the firearms guideline. This paper asks the Council to consider some outstanding issues in culpability, sentence levels, and guidance on the minimum sentence in the possession of a prohibited weapon guideline.

1.2 Currently, there are three further meetings scheduled to discuss the firearms guideline. The aim is to sign off the consultation version at the April 2019 meeting, if possible, with consultation planned for June to September 2019. These timelines will continue to be monitored and amended as required.

## **2 RECOMMENDATION**

- That the Council considers the type of weapon categorisation in culpability step A of the possession of prohibited weapon guideline at **Annex A** (paragraph 3.2-3.7);
- That the Council considers the sentence levels for this guideline and agrees to have two sentencing tables for this guideline, rather than one (paragraph 3.10-3.22)
- That the Council considers the revised guidance on the minimum term provisions and specific questions posed (paragraph 3.23-3.37);
- That the Council considers the text in steps four to nine (paragraph 3.38).

## **3 CONSIDERATION**

3.1 This paper focuses on the possession of a prohibited weapon guideline (**Annex A**). The remaining guidelines (possession of a prohibited weapon, possession without a certificate, possession by a person prohibited) will be considered separately due to time constraints. For information, section 5 of the Firearms Act 1968 is at **Annex B**, with subsections where the minimum term applies in bold.

### *Culpability step A – Type of weapon*

3.2 The Council previously considered the type of weapon table at the October meeting. The Council wanted further revision to the general wording in type 1 and for indicative categories to be set out for the different weapon types in each subsection of section 5. The

general wording for type 1 has been slightly revised, to read “Weapon that is capable of killing two or more people at the same time or in rapid succession”. There is also general wording for type 3 of “Weapon that is not designed to be lethal”.

3.3 The weapons under section 5 have been set out under each category in the table. Previously there had been some descriptive wording accompanying each subsection, but the statutory wording is too long and complex to include in full and it is difficult to summarise concisely, so now only the references to the statutory sections have been included. All of the weapons attracting the minimum term are at type 1, except for air weapons (section 5(1)(af)) and disguised firearms (section 5(1A)(a)),<sup>1</sup> which are at type 2. Type 1 also includes weapons under 5(1A)(c), another type of rocket launcher/projecting apparatus designed to be used with certain military ammunition; this item is not subject to the mandatory minimum but appears to be of a very serious type. The allocation of items to type 1 and type 2 are broadly consistent with the overall sentence levels and outcomes for those weapon types (see **Annex C** tables 5 and 6). The ammunition category (type 2 unless a very small quantity which is at type 3) covers all ammunition including 5(1)(c) ammunition which is subject to the minimum term.

3.4 There is a potential issue arising with the breadth of the weapons in type 1. As noted above, type 1 includes most items subject to the minimum term. Per the table below, the current proposal means that nearly one third of all section 5 cases (and more than 60% of cases subject to the minimum term) will fall into type 1. This is largely due to the inclusion of section 5(1)(aba), firearms with a barrel less than 30 cm or less than 60 cm overall. These (aba) cases comprise more than 25% of all section 5 cases, and more than half of cases subject to the minimum term (see **Annex C** table 4). Other items under type 1 are much lower in volume.

3.5 There is a possibility that the current settings could lead to too many cases falling in culpability A, although it is not straightforward to assess, due to the two-pronged culpability model. Cases can end up in culpability A either by being a type 1 weapon with medium or high other culpability factors, or a type 2 weapon with high other culpability factors. The following table illustrates the issue:

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<sup>1</sup> In practice the vast majority of section 5(1A)(a) cases are stun guns that are disguised, often as torches or mobile phones. The CPS have indicated that while they have seen a small number of pen guns, anything other than a disguised stun gun is rare. According to Home Office guidance, the section was originally brought in to cover potential items such as walking stick shotguns but these appear to be very uncommon.

Culpability A – Type of weapon	Section 5 subsection (in bold where minimum term applies)	Percentage of section 5 cases (approx. based on 2017 volumes)	Culpability category (depending on culpability step B level)
Type 1	<b>5(1)(a)</b> <b>5(1)(ab)</b> <b>5(1)(aba)</b> <b>5(1)(ac)</b> <b>5(1)(ad)</b> <b>5(1)(ae)</b> 5(1A)(c)	32%	A/B
Type 2	<b>5(1)(af)</b> <b>5(1A)(a)</b> Ammunition unless at Type 3 ( <b>5(1)(c)</b> , 5(1A)(b), (d)-(g))	21%	A/B/C
Type 3	5(1)(b) Ammunition in very small quantity	47%	B/C

3.6 If too many cases fall into culpability category A, this may have an inflationary effect on sentences. Therefore I wanted to confirm that the Council is content with the type of weapon categorisations, in terms of proportions of cases falling under each culpability category. If the Council is not content with the categorisations, it may be necessary to shift some other type 1 weapons into type 2 or consider adjusting the final culpability categories.

3.7 Another point to note is that the categorisation is indicative so the court can adjust the type of weapon where appropriate. For instance, while automatic weapons will “normally” fit under type 1, courts may encounter an air rifle that has an automatic firing mechanism but is particularly low-powered, so does not fit under the general definition in type 1. Conversely a weapon falling under section 5(1)(b) (a weapon designed or adapted for the discharge of noxious liquid, gas or other thing) would normally fall under type 3; the majority of these are stun guns properly falling under type 3, but could be a more serious weapon such as a flamethrower or tear gas projector. This could be put in a higher category (or the starting point adjusted, as flagged in the text sitting above the type of weapon table).

**Question 1: Is the Council content with the categorisation under each type of weapon, and the likely effect on culpability categories, given current volumes?**

*Other changes in culpability and harm*

3.8 There are several other points to note in step 1. These were highlighted in the draft circulated by email to Council in November but it is not proposed to discuss them further at this meeting unless there are any further queries:

- **Removal of ‘Firearm/ammunition not produced’ from lower culpability in Culpability step B** – this is covered under the other lower culpability factor ‘No use or intention to use’ so was considered unnecessary. A query was raised by email about whether removal of this factor left a gap in cases where the firearm is produced but there was no intention to use it. In such a case, there would be one medium culpability factor (firearm produced) and one lower culpability factor (no intention), so the court should balance these to reach a fair assessment of the offender’s culpability.
- **Removal of ‘Limited harm/distress caused’ from harm category 2** – it was agreed at the October meeting this factor was unnecessary as it was covered under the catch-all factor in category 2.
- **Addition of new balancing words to catch-all factor in harm category 2** – in October it was agreed to include some additional wording to provide more detail to the catch-all factor. The new wording is consistent with other guidelines including manslaughter and child cruelty. A query was raised about what was intended with this wording and whether it was sufficiently clear. Given this text has already been used in other guidelines it seems preferable to continue with the same wording.

*Aggravating and mitigating factors*

3.9 Minor revisions have also been made to the aggravating and mitigating factors in step two, across the four possession guidelines, following Council’s discussion in October. It is not proposed to discuss these further but they can be revisited if there are any queries.

**Question 2: Is the Council content with the other revisions to culpability, harm and aggravating and mitigating factors?**

*Possession of a prohibited weapon – sentence levels*

3.10 This offence has a maximum penalty of 10 years’ custody. In 2017 there were around 760 offenders sentenced across section 5(1) and (1A) Firearms Act 1968. Around 400 of these were subject to the minimum term (offences under section 5(1)(a)-(af), (c), and 5(1A)(a)). A further 360 offences were not subject to the minimum term (section 5(1)(b), and 5(1A)(b)-(g)), the vast majority of which were cases under section 5(1)(b), mainly stun guns.

3.11 In 2017, for section 5 cases where the minimum term applied, immediate custody formed 87% of offences, with a further 11% receiving suspended sentences (see **Annex C** table 2). One per cent received a community order, less than one per cent received a fine and none received a discharge. Minimum term cases as a whole had an estimated median pre-guilty plea length of 7 years 6 months, but the median for disguised firearms under section

5(1A)(a) was much lower at 5 years. The higher rates of section 5(1A)(a) cases receiving sentences below the minimum term is discussed further later in the paper. However, despite being lower than other minimum term weapons, the sentence levels for the section 5(1A)(a) disguised firearms remain significantly higher than the offences not covered by the minimum term.

3.12 Offences not covered by the minimum term had much lower rates of immediate custody, at 22%, and higher rates of suspended sentence (28%), community orders (27%), fines (13%) and conditional discharge (8%). The estimated median pre-guilty plea custodial length was 1 year 1 month overall for non-minimum term cases. However, there is a significant disparity in this group: the section 5(1)(b) cases, mainly stun guns, mostly received either non-custodial sentences or suspended sentence orders, and had a 10 month median sentence for custody cases, while the handful of cases involving military equipment (section 5(1A)(b)-(g)) mostly received immediate custody and attracted a median sentence of 3 years 5 months (see **Annex C** table 6). With the exception of one higher outlying case, the section 5(1)(b) custody lengths do not exceed 4 years and the majority are under 2 years.

3.13 The Council has previously expressed a preference for having separate sentencing tables for this guideline, one for offences with the minimum term, starting at 5 years, and one for other offences. However the Council had not come to a final view on this and wished to see the possible sentence levels before making a decision. Accordingly, two options have both been included in the guideline, either two separate tables (table 1 and table 2), or one single table (table 0) (see **Annex A** pages 5 and 6). The numbers in either table are fairly indicative at this stage, based on analysis of the sentence levels and outcomes (see **Annex C**) and testing against transcripts. Further testing against transcripts will be carried out to refine the detail of the tables once the Council has agreed its preferred option.

3.14 The sentence tables need to be considered in light of the final table in the culpability model (**Annex A** at page 3). This table allows for type 1 weapons with lower other culpability factors to fall into culpability category B. Type 3 weapons with high other culpability factors will also fall into culpability category B. Type 2 weapons may fall into culpability category A, B or C depending on whether the other culpability factors are high, medium or lower.

3.15 Each option has its advantages and disadvantages. One table is simpler to use and avoids the risk that the incorrect table will be used. It is in keeping with the unified approach in the rest of the guideline, which covers all offences together, and the principle that the guideline should be applied and then the sentence checked to ensure it is at or above the minimum term, where applicable. Having two tables is more complex, particularly in the context of this guideline, with its two-pronged culpability model.

3.16 In the one table model, there is an issue arising with the ranges in the columns for culpability categories B and C. Under one table, the culpability category B column could include the various type 1 weapons, such as automatic weapons, with lower other culpability factors, and type 2 weapons including disguised stun guns, air weapons or ammunition with medium or lower other culpability factors, all subject to the minimum term, as well as undisguised stun guns with high other culpability factors (no minimum term). It is difficult to set ranges in this column that are suitable for these two groups of cases, one set of which needs to start at 5 years, and the other which usually only goes up to 4 years. A similar issue arises with the column for culpability category C in respect of minimum term cases falling in this column (being type 2, lower other culpability).

3.17 Providing wide ranges in these columns with a higher upper limit than would otherwise be needed, to cater for the minimum term cases, carries a risk of driving up sentence levels for section 5(1)(b) cases, which comprise nearly half of all section 5 cases overall. A wider range with a higher upper limit may also provide less guidance to magistrates in sentencing at the lower levels and cause more section 5(1)(b) cases to be allocated to the Crown Court (over half are currently sentenced in the magistrates' courts).

3.18 If one single table is the Council's preference, then it is likely these issues could be addressed through adjustments to the culpability model (for example by changing the table setting out final culpability categories, to avoid or reduce overlap between minimum term and non-minimum term cases) or by adding some qualifications to the single table. Alternatively, it could be possible to set the culpability B and C ranges with a lower limit, accepting that some sentences would come out below 5 years and need to be raised where the minimum applies. Options will be explored if the Council favours the single table option.

3.19 In comparison, having two separate tables avoids the potential issue of higher-end stun gun cases and lower-end minimum term cases falling into the same boxes/columns in the sentencing table. The two table option provides more nuance, both in table 1 for minimum term cases and at the lower levels in table 2, which would provide improved guidance for magistrates allocating and sentencing non-minimum term cases (particularly those under 5(1)(b) which are high-volume). However, with the range in table 1 being only 5-10 years, there is only a limited range in which to differentiate between the different levels of culpability and harm. This has led to some crowding at the lower end of table 1, with several boxes with 5 years as the bottom of the range.

3.20 In the two table model, there is a separate difficulty in table 2 (non-minimum term cases). Non-minimum term cases comprise mainly stun gun-type items under section 5(1)(b), but with a very small number of military equipment cases (section 5(1A)(b)-(g)),

which attract much higher sentence levels and fewer non-custodial dispositions. The section 5(1)(b) cases could come under culpability category B or C. The military equipment items are mainly ammunition, so would generally come under culpability category B or C, plus one type of military item currently under type 1, which could fall under culpability A or B. The military items are very low-volume offences (8 in 2017 compared with 347 stun guns etc under section 5(1)(b)). The top of box A1 has been set at 5 years rather than 4 to accommodate these higher ranges but there are risks of sentence inflation for the section 5(1)(b) cases if the ranges in the other boxes are also raised for these cases.

3.21 Overall, the two table option is recommended at this stage, given that it offers more helpful guidance for sentencers both at the higher and lower end, and is more workable with the current culpability model. It could be possible to consult on both options together, or only the one table option if that is preferred. That said, as outlined above, further work and testing would be required to make the one table option effective, because of the overlap of cases with incompatible sentencing ranges outlined above.

3.22 If the Council prefers the two table option, there is a further question about whether it will be necessary for consistency to have two tables for the other guidelines where the minimum term may apply (such as carrying a firearm in a public place). Rather than committing to separate tables for all of these guidelines, it is proposed that this be considered on a guideline-by-guideline basis depending on the data for each offence.

**Question 3: Does the Council agree to use two separate tables, or would it prefer to use one single table?**

*Minimum sentence guidance*

3.23 The minimum term guidance is included in the guideline on possession of a prohibited weapon at step three (**Annex A** at page 7). It will also be included in the guideline on carrying a firearm in a public place, and possession with intent offences and transfer/sale/manufacture of prohibited weapons, once drafted. Citations have been included in this draft for the Council's information but will not be included in the final guideline. The paragraphs have also been numbered to aid the Council's discussion.

3.24 This guidance is intended to:

- clarify for sentencers where the minimum term applies;
- clarify the general approach that should be taken to the minimum term in the context of the guideline; and
- set out relevant high-level principles relating to exceptional circumstances.

3.25 An initial draft was circulated to the Council in November. Several amendments have been made in response to comments and issues raised. The guidance has been shortened and repetition removed. The section on procedure has been removed and replaced with a short reference to Newton hearings and a link to the Criminal Practice Directions. Various paragraphs have been reworded for clarity, and type 2 weapons have been added to the second bullet in paragraph 12.

#### *General approach*

3.26 The section under 'General approach' has been slightly reworded to make it more concise. It also now clarifies that the sentence should be increased to 5 years where it would otherwise be lower and the minimum term applies. If the Council decides to proceed with two separate tables, with the minimum sentence table starting at 5 years, this point would not apply so the text should be removed.

#### **Question 4: Does the Council agree with the wording in the minimum term guidance under 'General approach'?**

#### *Exceptional circumstances – data and implications for aim of guideline*

3.27 Data has been provided on the outcomes in section 5 cases where the minimum term applies (see **Annex C** table 7). This data is intended to highlight differences between certain types of weapon, showing how many cases received below the minimum term, for each type of weapon. It should be noted that while the minimum term may also apply in other offences where specified prohibited weapons are possessed,<sup>2</sup> this data only covers section 5 possession cases, because it is not possible from the data to isolate the minimum term cases within those other offences. Table 7 indicates that when looking at all of the section 5 offences to which the minimum term applies, in 2017 around 33% of those cases received a sentence below the minimum, comprising 20% receiving immediate custody of less than 5 years, and 13% receiving a discharge, fine, community order or suspended sentence.

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<sup>2</sup> In addition to possession offences under section 5(1) and (1A), the minimum term provisions also apply to the following offences in respect of a firearm or ammunition specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or section 5(1A)(a):

- section 5(2A) (manufacture, sale or transfer of firearm, or possession etc for sale or transfer);
- section 16 (possession of firearm with intent to injure);
- section 16A (possession of firearm with intent to cause fear of violence);
- section 17 (use of firearm to resist arrest);
- section 18 (carrying firearm with criminal intent);
- section 19 (carrying a firearm in a public place);
- section 20(1) (trespassing in a building carrying a firearm).



3.28 A higher proportion of offenders sentenced for the section 5(1A)(a) offence (disguised firearms) receive a sentence below the minimum term compared with other offences: in 2017 63% of section 5(1A)(a) cases received below the minimum term (38% a shorter immediate custody sentence and 25% an alternative sentence), compared with 17% of other minimum term cases (10% shorter immediate custody sentences and 6% alternative sentences). A higher proportion of ammunition offences also received sentences under the minimum term (80%). The bar chart at **Annex C** figure 14 shows the proportion for each minimum term offence under section 5(1) and (1A) receiving a sentence below the minimum term, in 2017.

3.29 The chart in **Annex C** figure 15 shows all sentences falling below the minimum term in 2017, broken down by type of weapon. Nearly 70% of the sentences below the minimum are for section 5(1A)(a) (disguised firearms), with the next most common offence being section 5(1)(aba) (small firearms under 30cm), at nearly 25%.

3.30 The relatively high rate of sentences falling below the minimum term raises the question of whether the Council agrees with this approach, and would like the guidance to aim to maintain current practice in this respect, or would like the guidance to aim to change the current approach. If the aim is to change the current approach by seeking to ensure exceptional circumstances are found in fewer cases, this will have an inflationary effect on sentence levels, which will need to be taken into account in the resource assessment. It is also possible that even if not seeking to change current practice, there will be an impact on sentence levels merely by the introduction of any new guidance in this area.

**Question 5: Should the guideline aim to maintain or change current sentencing practice in respect of exceptional circumstances?**

*Exceptional circumstances – wording and scope of guidance*

3.31 The Council has previously indicated that it does not wish for the guidance to go into detail on particular matters that may or may not constitute exceptional circumstances. As previously noted, there is demand from conversations with judges and with stakeholders, in part due to frequent appeals and the perception of inconsistent approaches from the Court of Appeal.

3.32 It is acknowledged that ultimately whether exceptional circumstances are found is very fact-specific and findings about factors in individual cases cannot necessarily be applied to other cases. There may be difficulties with singling out only certain matters for discussion in the guideline. There is also a need to avoid encouraging claims of exceptional circumstances in unsuitable cases.

3.33 Nonetheless, the relatively high rate at which exceptional circumstances are being found (at around 33% overall) suggests greater guidance in this area could be beneficial, given that the absence of detailed guidance on exceptional circumstances has so far resulted in fairly wide application of the proviso. With only high-level guidance there is a greater risk of the high rate of sentences below the minimum term continuing, ongoing appeals and unduly lenient sentence applications, and inconsistent treatment of very similar cases.

3.34 Paragraph 12 of the current draft goes some way towards reducing exceptional circumstances claims based on the mere presence of one or more lower culpability or mitigating factors. There could still be merit in providing further guidance for some common factors that have given rise to frequent appeals. The guidance could be drafted to avoid suggesting that particular factors may or may not constitute exceptional circumstances, yet still help to discourage reliance on certain factors in unsuitable cases. For example, the guidance could highlight that the weapon being of limited power and/or is a disguised stun gun can be a common feature of the offending and does not *in itself* give rise to exceptional circumstances.<sup>3</sup> The same point could be made in respect of the fact that the offender stored the firearm under pressure or threats.<sup>4</sup>

3.35 There is some precedent for a guideline referring to specific factors in the context of a minimum term. The guideline for *Possession of an offensive weapon in a public place* includes wording at step three about circumstances relating to the offence and offender that may make it unjust to impose the minimum sentence. There is a risk that by taking a different approach compared with the offensive weapon guidance, against demand for more detailed guidance, the guidelines would appear inconsistent. The text in the offensive weapons guidance includes the following, as well as a broader paragraph about the offence:

**The offender**

The court should consider the following factors to determine whether it would be unjust to impose the statutory minimum sentence;

- any strong personal mitigation;
- whether there is a realistic prospect of rehabilitation;
- whether custody will result in significant impact on others.

**Question 6: Is the Council content that it can justify including only high-level principles on exceptional circumstances in this guidance and does not wish to provide any guidance on specific factors relating to the offending or offender?**

<sup>3</sup> R v McCarthy [2013] EWCA Crim 2500; R v Manders [2017] EWCA Crim 1474.

<sup>4</sup> Attorney General's Reference No 37 of 2013 (R v Culpeper) [2013] EWCA Crim 1466.

*Guidance on determining sentence where exceptional circumstances are found*

3.36 The Council is also asked to consider whether the draft provides sufficient guidance on the appropriate sentence when exceptional circumstances are found. Currently the guidance provides the following at paragraph 13:

Where exceptional circumstances are found

13. If there are exceptional circumstances that justify not imposing the statutory minimum sentence then the court **must impose either a shorter custodial sentence than the statutory minimum provides or an alternative sentence.**

3.37 The above wording leaves open the level and type of sentence, save that it must be below the minimum or be an alternative sentence. This depends in part on the decision that is taken in respect of the sentencing tables. If there is only one sentence table, in most instances the court will have reached a sentence below the minimum term through application of the guideline or will have determined that a sentence below the category range is appropriate, but this point is not currently highlighted in this section of the guideline. If there are two separate tables, it may be helpful to clarify whether to refer to the non-minimum term table instead or whether the sentence is simply at large. The Council may consider the current wording is sufficient or may wish to include further detail about the approach to be taken, to the level of sentence and/or determining whether a non-custodial sentence or suspended sentence is appropriate.

**Question 7: Should further guidance be provided about the approach to determining sentence where exceptional circumstances are found?**

*Wording – steps four to nine*

3.38 The Council is also asked to consider the wording for step four onwards in **Annex A**. The text is consistent across the four possession guidelines and adopts wording from previous guidelines. The wording in step five (reduction for guilty pleas) highlights that any guilty plea reduction where the minimum sentence has been imposed cannot reduce the sentence to less than the minimum term, consistent with the *Guilty Plea* guideline. There is some additional wording in step seven (ancillary orders) covering forfeiture and destruction of firearms, cancellation of any firearms or shotgun certificates, and Serious Crime Prevention Orders.

**Question 8: Does the Council agree the wording for steps four to nine in the possession of prohibited weapon guideline?**

## **4 IMPACT**

4.1 A draft resource assessment will be considered in due course. The resource assessment will be developed in line with the Council's decision at the September meeting that the guideline should aim to replicate current sentencing practice (subject to consideration of the sentencing tables and any decisions from this paper at Question 5 regarding practice around exceptional circumstances). The impact on resources within the system is likely to be negligible if the guideline continues to be developed in line with the aim of replicating current practice.

## **5 RISK**

5.1 As outlined above, there are risks in the Council deciding to take a 'light touch' principles-based approach on guidance in respect of exceptional circumstances, in terms of providing inadequate direction to sentencers, not meeting stakeholder expectations, and relatively high rates of sentencing below the minimum term continuing. To mitigate these risks, road-testing will be carried out to get sentencers' feedback on the minimum term guidance. The feasibility of pre-consultation road-testing will be explored but there may not be the capacity to carry this out until the launch of the consultation.

5.2 Firearms offending continues to be an area of media interest, with the screening of BBC2 documentary *Gun No. 6* on 2 December and coverage given to the air gun shooting of swans in Kent. Policy and communications colleagues are working on a communications brief on developing thinking.

5.3 The Offensive Weapons Bill had its first reading in the House of Lords on 29 November. The second reading is yet to be scheduled. The Bill will prohibit two further items: rapid firing rifles<sup>5</sup> and bump stock devices.<sup>6</sup> Both items will be subject to the minimum sentence. I will come back to the Council for confirmation once the legislation is passed, but in light of the nature of the items and the minimum term applying, it is provisionally intended to include them both under type 1. It is understood that bump stocks are not currently in circulation in the United Kingdom and the rapid firing rifles are infrequently used, if at all, in criminal activity. Therefore it is anticipated adding these two items to type 1 will not have a significant impact on overall volumes.

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<sup>5</sup> Certain chambered weapons from which cartridge cases are extracted by propellant gas. According to the Home Office, these fire at a rate that is significantly greater than a conventional bolt-action rifle, making them closer to self-loading rifles, which are already prohibited.

<sup>6</sup> A bump stock is an attachment that increases the rate of fire, so that a semi-automatic weapon can fire almost as quickly as an automatic weapon.

# Firearms – Possession of prohibited weapon

## **Possession, purchase or acquisition of a prohibited weapon or ammunition**

Firearms Act 1968 (section 5(1), 5(1A))

Indictable only:

Section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af), (c)  
Section 5(1A)(a)

Triable either way:

Section 5(1)(b)  
Section 5(1A)(b), (c), (d), (e), (f), (g)

Maximum: 10 years' custody

Offence range: Discharge – 9 years 6 months' custody

This offence is subject to statutory minimum sentencing provisions.  
See STEPS TWO AND THREE for further details.

**STEP ONE**  
**Determining the offence category**

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

**Culpability A – Type of weapon**

Use the table below to identify an initial culpability category based on the **type of weapon** only. This assessment focuses on the nature of the weapon itself only, not whether the weapon was loaded or in working order.

Where the weapon or ammunition does not fall squarely in one category, the court may need to adjust the starting point in STEP TWO.

References to weapon below include a component part of such a weapon.

<b>Type 1</b>	Weapon that is capable of killing two or more people at the same time or in rapid succession <ul style="list-style-type: none"> <li>• This would <b>normally</b> include a weapon under:               <ul style="list-style-type: none"> <li>○ section 5(1)(a)</li> <li>○ section 5(1)(ab)</li> <li>○ section 5(1)(aba)</li> <li>○ section 5(1)(ac)</li> <li>○ section 5(1)(ad)</li> <li>○ section 5(1)(ae)</li> <li>○ section 5(1A)(c)</li> </ul> </li> </ul>
<b>Type 2</b>	All other weapons falling between Type 1 and Type 3 <ul style="list-style-type: none"> <li>• This would <b>normally</b> include a weapon under:               <ul style="list-style-type: none"> <li>○ section 5(1)(af)</li> <li>○ section 5(1A)(a)</li> </ul> </li> </ul> Ammunition under section 5(1)(c), 5(1A)(b) and (d)-(g) (where not at Type 3)
<b>Type 3</b>	Weapon that is not designed to be lethal <ul style="list-style-type: none"> <li>• This would <b>normally</b> include a weapon under section 5(1)(b)</li> </ul> Very small quantity of ammunition

### Culpability B – Other culpability factors

The court should weigh all the factors set out below in determining the offender's culpability.

**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.**

<b>Culpability</b> demonstrated by one or more of the following:
<b>High culpability:</b> <ul style="list-style-type: none"> <li>• Firearm discharged</li> <li>• Firearm loaded</li> <li>• Firearm/ammunition used or intended for use for criminal purpose</li> </ul>
<b>Medium culpability:</b> <ul style="list-style-type: none"> <li>• Firearm/ammunition produced (where not at High culpability)</li> <li>• Firearm held with compatible ammunition</li> <li>• Firearm/ammunition intended for use (where not at High culpability)</li> </ul>
<b>Lower culpability:</b> <ul style="list-style-type: none"> <li>• No use or intention to use</li> </ul>

### Culpability category

Identify the final culpability category in the table below, considering both **A – Type of weapon** and **B – Other culpability factors**.

		<b>A – Type of weapon</b>		
		<b>1</b>	<b>2</b>	<b>3</b>
<b>B – Other culpability factors</b>	<b>High</b>	Culpability category A	Culpability category A	Culpability category B
	<b>Medium</b>	Culpability category A	Culpability category B	Culpability category C
	<b>Lower</b>	Culpability category B	Culpability category C	Culpability category C

<b>Harm</b>	
The court should consider the steps set out below to determine the level of harm that has been <b>caused or was risked</b> .	
This step is assessed by reference to the <b>risk of injury/death or disorder</b> occurring and/or <b>actual alarm/distress</b> caused.	
When considering the risk of harm, relevant considerations may include the number and vulnerability of people exposed, especially children, accessibility and visibility of the weapon, and the location of the offence.	
<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Serious alarm/distress caused</li> <li>• Offence committed in circumstances where others put at high risk of serious injury or death</li> <li>• Offence committed in circumstances where there is a high risk of serious disorder</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• All other cases falling between category 1 and category 3 because: <ul style="list-style-type: none"> <li>○ Factors in both 1 and 3 are present which balance each other out; and/or</li> <li>○ The harm falls between the factors as described in 1 and 3</li> </ul> </li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• No/minimal alarm/distress caused</li> <li>• Offence committed in circumstances where others put at no/minimal risk of serious injury or death</li> <li>• Offence committed in circumstances where there is no/minimal risk of serious disorder</li> </ul>

**Where there are characteristics present which fall under different levels of harm, the court should balance these characteristics to reach a fair assessment of the harm.**



<b>STEP TWO</b>			
<b>Starting point and category range</b>			
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.			
Table 1 should be used if the offence is subject to statutory minimum sentencing provisions, unless there are exceptional circumstances. Table 2 should be used for all other cases. See STEP THREE for further details on the minimum sentencing provisions and exceptional circumstances.			
<b>TABLE 1</b>	<b>Offences subject to the statutory minimum sentence (Section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af), (c), section 5(1A)(a))</b>		
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 8 years' 6 months custody <b>Category range</b> 7-9 years' 6 months custody	<b>Starting point</b> 7 years' 6 months' custody <b>Category range</b> 6-8 years 6 months' custody	<b>Starting point</b> 6 years' custody <b>Category range</b> 5-7 years' custody
<b>Category 2</b>	<b>Starting point</b> 7 years 6 months' custody <b>Category range</b> 6-8 years' 6 months' custody	<b>Starting point</b> 6 years' custody <b>Category range</b> 5-7 years' custody	<b>Starting point</b> 5 years 6 months' custody <b>Category range</b> 5-7 years' custody
<b>Category 3</b>	<b>Starting point</b> 6 years' custody <b>Category range</b> 5-7 years' custody	<b>Starting point</b> 5 years 6 months' custody <b>Category range</b> 5-7 years' custody	<b>Starting point</b> 5 years' custody <b>Category range</b> 5 – 6 years' custody
<b>TABLE 2</b>	<b>Offences not subject to the statutory minimum sentence</b>		
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 3 years' custody <b>Category range</b> 2 years' 6 months – 5 years' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 3 years 6 months' custody	<b>Starting point</b> 1 year's custody <b>Category range</b> 26 weeks – 2 years' custody
<b>Category 2</b>	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 3 years 6 months' custody	<b>Starting point</b> 1 years' custody <b>Category range</b> 26 weeks – 2 years' custody	<b>Starting point</b> Medium level community order <b>Category range</b> Low level – High level community order
<b>Category 3</b>	<b>Starting point</b> 1 years' custody <b>Category range</b> 26 weeks – 2 years' custody	<b>Starting point</b> Medium level community order <b>Category range</b> Low level – High level community order	<b>Starting point</b> Band B fine <b>Category range</b> Discharge – Low level community order

[Note: The following table is an alternative option to tables 1 and 2 above:]

<b>TABLE 0</b>	<b>All offences</b>		
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 8 years 6 months' custody <b>Category range</b> 7 – 9 years 6 months' custody	<b>Starting point</b> 7 years' 6 months' custody <b>Category range</b> 6 – 8 years 6 months' custody	<b>Starting point</b> 4 years' custody <b>Category range</b> 2 – 6 years' custody
<b>Category 2</b>	<b>Starting point</b> 7 years 6 months' custody <b>Category range</b> 6 – 8 years 6 months' custody	<b>Starting point</b> 4 years' custody <b>Category range</b> 2 – 6 years' custody	<b>Starting point</b> 1 year 6 months' custody <b>Category range</b> High level community order – 2 years 6 months' custody
<b>Category 3</b>	<b>Starting point</b> 5 years' custody <b>Category range</b> 3 – 7 years' custody	<b>Starting point</b> 1 year 6 months' custody <b>Category range</b> High level community order – 2 years 6 months' custody	<b>Starting point</b> Low level community order <b>Category range</b> Discharge – High level community order

The table below contains 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 sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

### **Factors increasing seriousness**

#### **Statutory aggravating factors:**

- A1. 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
- A2. Offence committed whilst on bail

#### **Other aggravating factors:**

- A3. Offence was committed as part of a group (except where already taken into account at step one)
- A4. Offender has contact with criminal associates, including through the purchase or supply of drugs (except where already taken into account at step one)
- A5. Commission of offence whilst under the influence of alcohol or drugs

- A6. Firearm/ammunition kept with multiple weapons
- A7. Firearm modified to make it more lethal
- A8. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A9. Abuse of position as registered firearms dealer
- A10. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)
- A11. Offences taken into consideration
- A12. Failure to comply with current court orders
- A13. Offence committed on licence or post sentence supervision

**Factors reducing seriousness or reflecting personal mitigation**

- M1. No previous convictions **or** no relevant/recent convictions
- M2. Good character and/or exemplary conduct
- M3. Firearm incomplete or incapable of being discharged
- M4. Voluntary surrender of firearm/ammunition
- M5. No knowledge or suspicion that item possessed was firearm/ammunition
- M6. Unaware firearm/ammunition is prohibited
- M7. Held on behalf of another through coercion, intimidation, or exploitation
- M8. Serious medical condition requiring urgent, intensive or long-term treatment
- M9. Age and/or lack of maturity
- M10. Mental disorder or learning disability
- M11. Sole or primary carer for dependent relatives
- M12. Co-operation with the police

**STEP THREE****Minimum Term**

1. Where the minimum term provisions under section 51A of the Firearms Act 1968 apply, a court must impose a sentence of at least 5 years' custody **unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.**

Applicability

2. The minimum terms provisions apply when sentencing:
  - an offence under section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or section 5(1A)(a); or
  - certain other offences committed in respect of a firearm or ammunition specified in the provisions above.<sup>1</sup>
3. The minimum term applies to *all* such offences including the first offence, and regardless of plea.
4. The minimum term of 5 years applies to offenders aged 18 or over at the date of conviction. Where the offender is aged 16 or 17, the minimum term is 3 years' custody.

General approach

5. The court should follow STEP ONE and STEP TWO to arrive at a sentence. The court should then ensure that the sentence is not less than the minimum sentence required by section 51A.<sup>2</sup> Where the sentence reached by application of the guideline would be lower than the minimum term, it should be increased to 5 years, unless there are exceptional circumstances.
6. Where the minimum term applies, this should be stated expressly.

**Exceptional circumstances**

7. In considering whether there are 'exceptional circumstances' that would justify not imposing the statutory minimum sentence, the court must have regard to the particular circumstances of the offence and the offender.
8. Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing:<sup>3</sup> see Sentencing B in [Criminal Practice Directions](#) VII: Sentencing. Where the offender has sought to rely on exceptional circumstances, a clear justification should be given for why exceptional circumstances are found or not found.

<sup>1</sup> s51A(1)-(1A) Firearms Act 1968: The minimum term provisions also apply to the following offences in respect of a firearm or ammunition specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or section 5(1A)(a):

- section 5(2A) (manufacture, sale or transfer of firearm, or possession etc for sale or transfer);
- section 16 (possession of firearm with intent to injure);
- section 16A (possession of firearm with intent to cause fear of violence);
- section 17 (use of firearm to resist arrest);
- section 18 (carrying firearm with criminal intent);
- section 19 (carrying a firearm in a public place);
- section 20(1) (trespassing in a building carrying a firearm).

<sup>2</sup> R v Silvera [2013] EWCA Crim 1764.

<sup>3</sup> R v Rogers Re B 2016 EWCA Crim 801.

Principles

9. Cases where exceptional circumstances arise will be rare. The circumstances must be truly exceptional.<sup>4</sup> It is important that courts do not undermine the intention of Parliament and the deterrent purpose of the minimum term by too readily accepting exceptional circumstances.<sup>5</sup> The court should consider whether the imposition of the minimum term would result in an arbitrary and disproportionate sentence.<sup>6</sup>
10. The court should look at all of the circumstances as a whole. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.<sup>7</sup>
11. The fact that, absent the minimum term, the sentence reached by application of the guideline would be less than 5 years does not *in itself* give rise to exceptional circumstances.
12. The mere presence of one or more of the following should not *in itself* be regarded as exceptional:
- One or more lower culpability factors;
  - The type of weapon or ammunition falling under type 2 or 3;
  - One or more mitigating factors;
  - A plea of guilty.<sup>8</sup>

Where exceptional circumstances are found

13. If there are exceptional circumstances that justify not imposing the statutory minimum sentence then the court **must impose either a shorter custodial sentence than the statutory minimum provides or an alternative sentence.**

**STEP FOUR****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 FIVE****Reduction for guilty pleas**

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

Where a **minimum sentence** has been imposed under section 51A of the Firearms Act 1968, the court must ensure that any reduction for a guilty plea does not reduce the sentence to less than the required minimum term.

<sup>4</sup> R Wilkinson [2009] EWCA Crim 1925.

<sup>5</sup> R v Dawson 2017 EWCA Crim 2244.

<sup>6</sup> R v Rehman and Wood 2005 EWCA Crim 2056, 2006 1 Cr App R (S).

<sup>7</sup> R v Rehman and Wood 2005 EWCA Crim 2056, 2006 1 Cr App R (S).

<sup>8</sup> R v Shaw 2011 EWCA Crim 167.

**STEP SIX**

**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 SEVEN**

**Ancillary orders**

In all cases the court should consider whether to make ancillary orders.

**Forfeiture and destruction of firearms and cancellation of certificate**

The court should consider ordering forfeiture or disposal of any firearm or ammunition and the cancellation of any firearms certificate. Section 52 Firearms Act 1968 provides for the forfeiture and disposal of firearms and the cancellation of firearms and shotgun certificates where a person is convicted of one or more offence under the Firearms Act 1968 (other than an offence relating to an air weapon) and is given a custodial sentence or a community order containing a requirement not to possess, use or carry a firearm. The court may order the forfeiture or disposal of air weapons under paragraphs 7 and 8 Part II to Schedule Six Firearms Act 1968.

**Serious Crime Prevention Order**

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 EIGHT**

**Reasons**

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

**STEP NINE**

**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.

## Firearms Act 1968 Section 5

Note: Offences subject to the minimum term are in **bold**.

### 5.— Weapons subject to general prohibition.

(1) A person commits an offence if, [without authority]<sup>1</sup>, he has in his possession, or purchases or acquires [...] <sup>2</sup> —

**[(a) any firearm which is so designed or adapted that two or more missiles can be successively discharged without repeated pressure on the trigger;**

**(ab) any self-loading or pump-action [rifled gun]<sup>4</sup> other than one which is chambered for .22 rim-fire cartridges;**

**[(aba) any firearm which either has a barrel less than 30 centimetres in length or is less than 60 centimetres in length overall, other than an air weapon, [...] <sup>6</sup> a muzzle-loading gun or a firearm designed as signalling apparatus;]<sup>5</sup>**

**(ac) any self-loading or pump-action smooth-bore gun which is not [an air weapon or ]<sup>7</sup> chambered for .22 rim-fire cartridges and either has a barrel less than 24 inches in length or [...] <sup>8</sup> is less than 40 inches in length overall;**

**(ad) any smooth-bore revolver gun other than one which is chambered for 9mm. rim-fire cartridges or [a muzzle-loading gun]<sup>9</sup> ;**

**(ae) any rocket launcher, or any mortar, for projecting a stabilised missile, other than a launcher or mortar designed for line-throwing or pyrotechnic purposes or as signalling apparatus;]<sup>3</sup>**

**[(af) any air rifle, air gun or air pistol which uses, or is designed or adapted for use with, a self-contained gas cartridge system;]<sup>10</sup>**

(b) any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing; and

**[(c) any cartridge with a bullet designed to explode on or immediately before impact, any ammunition containing or designed or adapted to contain any such noxious thing as is mentioned in paragraph (b) above and, if capable of being used with a firearm of any description, any grenade, bomb (or other like missile), or rocket or shell designed to explode as aforesaid.]<sup>11</sup>**

[(1A) Subject to section 5A of this Act, a person commits an offence if, [without authority]<sup>1</sup>, he has in his possession, or purchases or acquires [...] <sup>13</sup> -

**(a) any firearm which is disguised as another object;**

(b) any rocket or ammunition not falling within paragraph (c) of subsection (1) of this section which consists in or incorporates a missile designed to explode on or immediately before impact and is for military use;

(c) any launcher or other projecting apparatus not falling within paragraph (ae) of that subsection which is designed to be used with any rocket or ammunition falling within paragraph (b) above or with ammunition which would fall within that paragraph but for its being ammunition falling within paragraph (c) of that subsection;

(d) any ammunition for military use which consists in or incorporates a missile designed so that a substance contained in the missile will ignite on or immediately before impact;

(e) any ammunition for military use which consists in or incorporates a missile designed, on account of its having a jacket and hard-core, to penetrate armour plating, armour screening or body armour;

[(f) any ammunition which is designed to be used with a pistol and incorporates a missile designed or adapted to expand on impact;] <sup>14</sup>

(g) anything which is designed to be projected as a missile from any weapon and is designed to be, or has been, incorporated in-

(i) any ammunition falling within any of the preceding paragraphs; or

(ii) any ammunition which would fall within any of those paragraphs but for its being specified in subsection (1) of this section.] <sup>12</sup>

(2) The weapons and ammunition specified in [subsections (1) and (1A) of this section (including, in the case of ammunition, any missiles falling within subsection (1A)(g) of this section)] <sup>15</sup> are referred to in this Act as “*prohibited weapons*” and “*prohibited ammunition*” respectively.

[(2A) A person commits an offence if without authority—

(a) he manufactures any weapon or ammunition specified in subsection (1) of this section,

(b) he sells or transfers any prohibited weapon or prohibited ammunition,

(c) he has in his possession for sale or transfer any prohibited weapon or prohibited ammunition, or

(d) he purchases or acquires for sale or transfer any prohibited weapon or prohibited ammunition.] <sup>16</sup>

[(3) In this section “*authority*” means an authority given in writing by—

(a) the Secretary of State (in or as regards England and Wales), or

(b) the Scottish Ministers (in or as regards Scotland).] <sup>17</sup>

(4) [An authority shall be subject to conditions specified in it, including such as the Secretary of State or the Scottish Ministers (as appropriate)] <sup>18</sup> having regard to the circumstances of each particular case, [thinks] <sup>19</sup> fit to impose for the purpose of securing that the prohibited weapon or ammunition to which the authority relates will not endanger the public safety or the peace.

(5) It is an offence for a person to whom an authority is given under this section to fail to comply with any condition of the authority.

(6) [The Secretary of State or the Scottish Ministers (as appropriate) may at any time, if they think fit,] <sup>20</sup> revoke an authority given to a person under this section by notice in writing requiring him to deliver up the authority to such person as may be specified in the notice within twenty-one days from the date of the notice; and it is an offence for him to fail to comply with that requirement.

[(7) For the purposes of this section and section 5A of this Act-

(a) any rocket or ammunition which is designed to be capable of being used with a military weapon shall be taken to be for military use;

(b) references to a missile designed so that a substance contained in the missile will ignite on or immediately before impact include references to any missile containing a substance that ignites on exposure to air; and

(c) references to a missile's expanding on impact include references to its deforming in any



predictable manner on or immediately after impact.] <sup>21</sup>

[(8) For the purposes of subsection (1)(aba) and (ac) above, any detachable, folding, retractable or other movable butt-stock shall be disregarded in measuring the length of any firearm.

(9) Any reference in this section to a muzzle-loading gun is a reference to a gun which is designed to be loaded at the muzzle end of the barrel or chamber with a loose charge and a separate ball (or other missile).] <sup>22</sup>

## Notes

- [1.](#) Words substituted by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Pt 8 s.109(1)(a) (July 14, 2014)
- [2.](#) Words repealed by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Pt 8 s.108(2)(a) (July 14, 2014)
- [3.](#) S. 5(1)(a)-(ae) substituted for s. 5(1)(a) by Firearms (Amendment) Act 1988 (c.45), s. 1(2)
- [4.](#) Words substituted subject to savings specified in SI 1997/1535 art.5 by Firearms (Amendment) Act 1997 c. 5 Pt I s.1(3) (July 1, 1997: substitution has effect subject to savings specified in SI 1997/1535 art.5)
- [5.](#) Added by Firearms (Amendment) Act 1997 c. 5 Pt I s.1(2) (July 1, 1997: insertion has effect from July 1, 1997 for purposes specified in SI 1997/1535 art.4; October 1, 1997 otherwise)
- [6.](#) Words repealed by Firearms (Amendment) (No. 2) Act 1997 c. 64 Sch.1 para.1 (February 1, 1998 as SI 1997/3114)
- [7.](#) Words added by Firearms (Amendment) Act 1997 c. 5 Pt I s.1(4) (July 1, 1997)
- [8.](#) Words repealed by Firearms (Amendment) Act 1997 c. 5 Sch.3 para.1 (July 1, 1997 as SI 1997/1535)
- [9.](#) Words substituted by Firearms (Amendment) Act 1997 c. 5 Pt I s.1(5) (July 1, 1997)
- [10.](#) Inserted subject to transitional provisions specified in SI 2003/3300 art.5 by Anti-social Behaviour Act 2003 c. 38 Pt 5 s.39(3) (January 20, 2004: insertion has effect from January 20, 2004 for purposes specified in SI 2003/3300 art.2(c)(iii); April 30, 2004 subject to transitional provisions specified in SI 2003/3300 art.5 otherwise)
- [11.](#) S. 5(1)(c) substituted by Firearms (Amendment) Act 1988 (c.45), s. 1(3)
- [12.](#) Added by Firearms Acts (Amendment) Regulations 1992/2823 reg.3(1) (January 1, 1993)
- [13.](#) Words repealed by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Pt 8 s.108(2)(b) (July 14, 2014)
- [14.](#) Substituted by Policing and Crime Act 2017 c. 3 Pt 6 s.129(2) (May 2, 2017)
- [15.](#) Words substituted by Firearms Acts (Amendment) Regulations 1992/2823 reg.3(2) (January 1, 1993)
- [16.](#) Added by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Pt 8 s.108(3) (July 14, 2014)
- [17.](#) Substituted by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Pt 8 s.108(4) (July 14, 2014)
- [18.](#) Words substituted by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Pt 8 s.109(1)(b) (July 14, 2014)
- [19.](#) Words substituted by virtue of S.I. 1968/1200, arts. 2, 3
- [20.](#) Words substituted by Anti-social Behaviour, Crime and Policing Act 2014 c. 12 Pt 8 s.109(1)(c) (July 14, 2014)
- [21.](#) Added by Firearms Acts (Amendment) Regulations 1992/2823 reg.3(3) (January 1, 1993)
- [22.](#) Added by Firearms (Amendment) Act 1997 c. 5 Pt I s.1(6) (July 1, 1997)

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Table 1: Number of adult offenders sentenced for offences under the Firearms Act 1968, by court type, 2007-2017

Annex C

Guideline group	Legislation	Section	Offence	Court type	Number of adult offenders sentenced												
					2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017		
Group 1	Firearms Act 1968	Minimum term applies 5(1)(a)-(af), (c) 5(1A)(a)	Possess/purchase/acquire a prohibited weapon (automatic)/ammunition/ smooth-bore revolver/ rocket launcher/ mortar/pump action rifle	MC	4	4	11	7	3	2	1	0	0	3	0		
				CC	245	336	349	301	204	170	205	253	364	460	402		
			<b>Total</b>	<b>249</b>	<b>340</b>	<b>360</b>	<b>308</b>	<b>207</b>	<b>172</b>	<b>206</b>	<b>253</b>	<b>364</b>	<b>463</b>	<b>402</b>			
		Minimum term does not apply 5(1)(b) 5(1A)(b)-(g)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	MC	654	635	647	613	537	436	411	314	304	293	205		
			Possess/ purchase/ sell or transfer military equipment	CC	181	254	249	227	234	198	170	171	165	189	153		
			<b>Total</b>	<b>835</b>	<b>889</b>	<b>896</b>	<b>840</b>	<b>771</b>	<b>634</b>	<b>581</b>	<b>485</b>	<b>469</b>	<b>482</b>	<b>358</b>			
		<b>TOTAL SECTION 5 OFFENCES</b>				MC	658	639	658	620	540	438	412	314	304	296	205
				CC	426	590	598	528	438	368	375	424	529	649	555		
				<b>Total</b>	<b>1,084</b>	<b>1,229</b>	<b>1,256</b>	<b>1,148</b>	<b>978</b>	<b>806</b>	<b>787</b>	<b>738</b>	<b>833</b>	<b>945</b>	<b>760</b>		
		Group 2	Firearms Act 1968	1(1)	Possess a firearm/ammunition without a certificate <sup>1</sup>	MC	-	-	-	-	68	59	50	56	31	49	29
	CC				-	-	-	-	95	80	78	70	70	79	68		
<b>Total</b>	<b>-</b>				<b>-</b>	<b>-</b>	<b>-</b>	<b>163</b>	<b>139</b>	<b>128</b>	<b>126</b>	<b>101</b>	<b>128</b>	<b>97</b>			
2(1)	Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form) <sup>†</sup>			MC	-	-	-	-	0	1	0	2	0	0	0		
				CC	-	-	-	-	13	12	6	13	8	6	14		
	<b>Total</b>			<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>13</b>	<b>13</b>	<b>6</b>	<b>15</b>	<b>8</b>	<b>6</b>	<b>14</b>			
TOTAL 1(1) & 2(1)				MC	133	123	108	103	87	83	71	80	45	65	51		
				CC	113	117	122	148	129	111	93	98	100	103	101		
	<b>Total</b>			<b>246</b>	<b>240</b>	<b>230</b>	<b>251</b>	<b>216</b>	<b>194</b>	<b>164</b>	<b>178</b>	<b>145</b>	<b>168</b>	<b>152</b>			
Group 3	Firearms Act 1968			21(1) & (4) 21(2) & (4) & Sch 6	Possess a firearm/ shotgun/ air weapon/ ammunition when prohibited for life/ five years	MC	54	34	43	33	41	29	27	26	21	24	20
			CC		48	55	68	62	48	45	35	27	28	36	28		
		<b>Total</b>	<b>102</b>		<b>89</b>	<b>111</b>	<b>95</b>	<b>89</b>	<b>74</b>	<b>62</b>	<b>53</b>	<b>49</b>	<b>60</b>	<b>48</b>			
Group 4	Firearms Act 1968	19	Possess loaded/unloaded firearm and suitable ammunition in public place	MC	76	38	17	15	10	6	9	5	7	6	2		
				CC	20	15	14	8	11	6	7	5	7	6	5		
			<b>Total</b>	<b>96</b>	<b>53</b>	<b>31</b>	<b>23</b>	<b>21</b>	<b>12</b>	<b>16</b>	<b>10</b>	<b>14</b>	<b>12</b>	<b>7</b>			
		Possess a loaded shotgun in a public place		MC	16	12	4	0	2	1	0	0	0	0	0		
				CC	8	9	7	7	1	5	4	2	1	2	2		
			<b>Total</b>	<b>24</b>	<b>21</b>	<b>11</b>	<b>7</b>	<b>3</b>	<b>6</b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>2</b>			
		Possess a loaded / unloaded air weapon in a public place		MC	340	243	218	178	123	117	95	87	96	62	68		
				CC	26	31	32	43	28	10	6	5	7	7	6		
			<b>Total</b>	<b>366</b>	<b>274</b>	<b>250</b>	<b>221</b>	<b>151</b>	<b>127</b>	<b>101</b>	<b>92</b>	<b>103</b>	<b>69</b>	<b>74</b>			
		Possess an imitation firearm in a public place		MC	0	32	70	60	61	55	43	53	55	60	85		
	CC		0	15	26	24	23	32	46	50	43	52	35				
<b>Total</b>	<b>0</b>		<b>47</b>	<b>96</b>	<b>84</b>	<b>84</b>	<b>87</b>	<b>89</b>	<b>103</b>	<b>98</b>	<b>112</b>	<b>120</b>					

Source: Court Proceedings Database, Ministry of Justice

Note

1) Data for these offences not available prior to 2011.

Table 2: Sentence outcomes for adult offenders sentenced for offences under the Firearms Act 1968, 2017

Guideline group	Section	Offence	Absolute Discharge	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with <sup>1</sup>	Total
Group 1	Minimum term applies 5(1)(a)-(af), (c) 5(1A)(a)	Possess/purchase/acquire a prohibited weapon (automatic)/ ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle Possess/ purchase disguised firearm	0	0	1	5	46	348	2	402
	Minimum term does not apply 5(1)(b) 5(1A)(b)-(g)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing Possess/ purchase/ sell or transfer military equipment	1	30	47	96	99	78	7	358
	<b>TOTAL SECTION 5 OFFENCES</b>		<b>1</b>	<b>30</b>	<b>48</b>	<b>101</b>	<b>145</b>	<b>426</b>	<b>9</b>	<b>760</b>
Group 2		Possess a firearm/ammunition without a certificate	2	11	12	5	27	39	1	97
	1(1)	Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form)	0	0	0	0	2	12	0	14
	2(1)	Possess shotgun without a certificate	0	8	9	1	9	13	1	41
	<b>TOTAL 1(1) &amp; 2(1)</b>		<b>2</b>	<b>19</b>	<b>21</b>	<b>6</b>	<b>38</b>	<b>64</b>	<b>2</b>	<b>152</b>
Group 3	21	Possess a firearm when prohibited for life / five years due to previous conviction	0	4	6	5	9	24	0	48
Group 4	19	Possess loaded/unloaded firearm and suitable ammunition/shotgun/ airweapon/ imitation firearm in public place	0	10	25	75	48	43	2	203

Source: Court Proceedings Database, Ministry of Justice

Guideline group	Section	Offence	Absolute Discharge	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with <sup>1</sup>	Total
Group 1	Minimum term applies 5(1)(a)-(af), (c) 5(1A)(a)	Possess/purchase/acquire a prohibited weapon (automatic)/ ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle Possess/ purchase disguised firearm	0%	0%	<0.5%	1%	11%	87%	<0.5%	100%
	Minimum term does not apply 5(1)(b) 5(1A)(b)-(g)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing Possess/ purchase/ sell or transfer military equipment	<0.5%	8%	13%	27%	28%	22%	2%	100%
	<b>TOTAL SECTION 5 OFFENCES</b>		<b>&lt;0.5%</b>	<b>4%</b>	<b>6%</b>	<b>13%</b>	<b>19%</b>	<b>56%</b>	<b>1%</b>	<b>100%</b>
Group 2		Possess a firearm/ammunition without a certificate	2%	11%	12%	5%	28%	40%	1%	100%
	1(1)	Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form)	0%	0%	0%	0%	14%	86%	0%	100%
	2(1)	Possess shotgun without a certificate	0%	20%	22%	2%	22%	32%	2%	100%
	<b>TOTAL 1(1) &amp; 2(1)</b>		<b>1%</b>	<b>13%</b>	<b>14%</b>	<b>4%</b>	<b>25%</b>	<b>42%</b>	<b>1%</b>	<b>100%</b>
Group 3	21	Possess a firearm when prohibited for life / five years due to previous conviction	0%	8%	13%	10%	19%	50%	0%	100%
Group 4	19	Possess loaded/unloaded firearm and suitable ammunition/shotgun/ airweapon/ imitation firearm in public place	0%	5%	12%	37%	24%	21%	1%	100%

Source: Court Proceedings Database, Ministry of Justice

## Note

1) Includes a number of orders, for example hospital orders, confiscation orders and compensation orders.

**Table 3: Estimated average custodial sentence lengths (pre guilty plea) for adult offenders sentenced to immediate custody, and sentence ranges for offences under the Firearms Act 1968, 2017**

Guideline group	Section	Offence	Mean sentence length <sup>1,3</sup>	Median sentence length <sup>2,3</sup>	Sentence range (using estimated pre GP sentence lengths)
Group 1	<b>Minimum term applies</b> 5(1)(a)-(af), (c) 5(1A)(a)	Possess/purchase/acquire a prohibited weapon (automatic)/ ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle Possess/ purchase disguised firearm	6 years 6 months	7 years 6 months	Fine - 10 years' custody
	<b>Minimum term does not apply</b> 5(1)(b) 5(1A)(b)-(g)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing Possess/ purchase/ sell or transfer military equipment	1 year 7 months	1 year 1 month	Discharge - 8 year's custody
	<b>TOTAL SECTION 5 OFFENCES</b>		<b>5 years 7 months</b>	<b>6 years 5 months</b>	<b>Discharge - 10 year's custody</b>
Group 2	1(1)	Possess a firearm/ammunition without a certificate Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form) <sup>4</sup>	3 years 1 month 2 years 5 months	3 years 1 year 11 months	Discharge - 5 years' custody SSO - 4 years' custody
	2(1)	Possess shotgun without a certificate <sup>4</sup>	2 years 10 months	2 years 3 months	Discharge - 5 years' custody
	<b>TOTAL 1(1) &amp; 2(1)</b>		<b>2 years 11 months</b>	<b>3 years</b>	<b>Discharge - 5 years' custody</b>
Group 3	21	Possess a firearm when prohibited for life / five years due to previous conviction	1 year 8 months	1 year 3 months	Discharge - 4.5 years' custody
Group 4	19	Possess loaded/unloaded firearm and suitable ammunition/shotgun/ airweapon/ imitation firearm in public place	10 months	6 months	Discharge - 4.5 years' custody

Source: Court Proceedings Database, Ministry of Justice

## Notes

- 1) The mean is calculated by taking the sum of all values and then dividing by the number of values.
- 2) The median is the value which lies in the middle of a set of numbers when those numbers are placed in ascending or descending order.
- 3) Excludes life and indeterminate sentences.
- 4) These figures should be treated with caution, due to the low number of offenders sentenced to immediate custody for this offence.

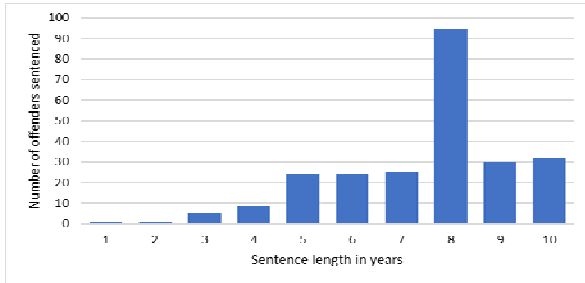
**Estimated distribution of custodial sentence lengths for adult offenders sentenced to immediate custody for offences under the Firearms Act 1968, before any reduction for guilty plea, 2017**

Note: Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category “1” includes sentence lengths less than, and equal to, 1 year, and “2” includes sentence lengths over 1 year, and up to and including 2 years.

**Group 1**

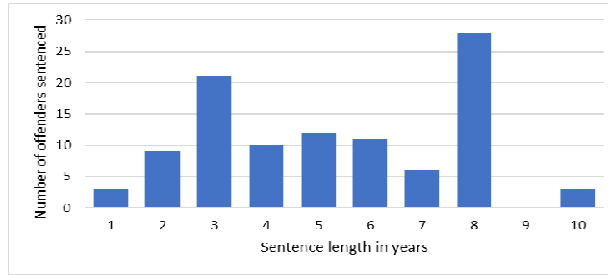
**Minimum term applies**

**Figure 1:** 5(1)(a)-(af), (c) - Possess/purchase/acquire a prohibited weapon (automatic)/ ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle, 2017



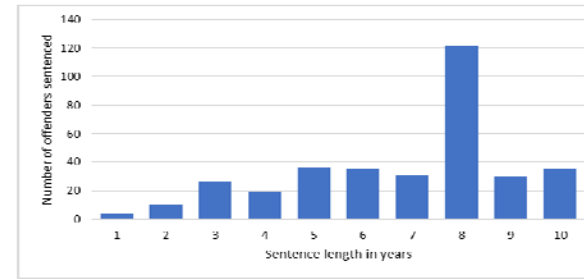
**Minimum term applies**

**Figure 2:** 5(1A)(a) - Possess/ purchase prohibited weapon (disguised firearm), 2017



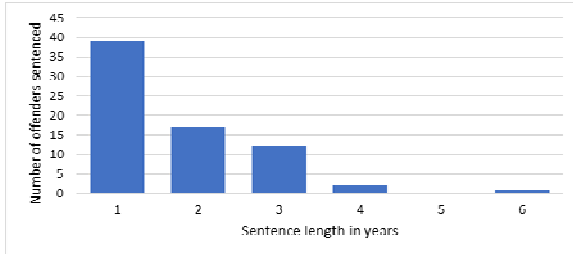
**Minimum term applies (all)**

**Figure 3:** 5(1)(a)-(af),(c) & 5(1A)(a) combined, 2017



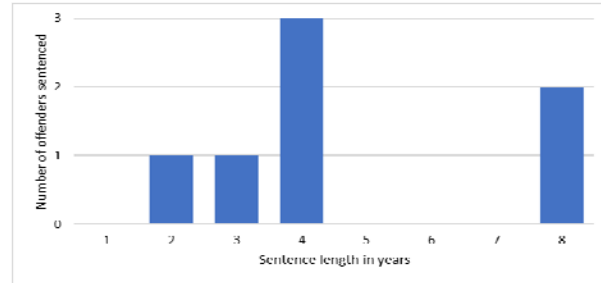
**Minimum term does not apply**

**Figure 4:** 5(1)(b) - Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing, 2017



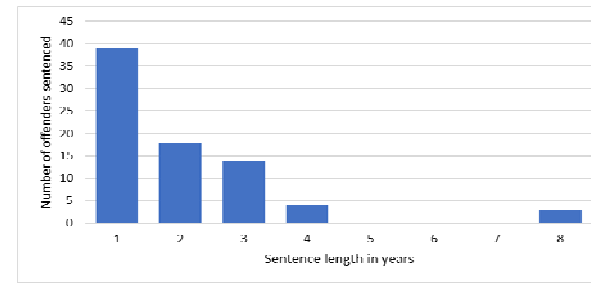
**Minimum term does not apply**

**Figure 5:** 5(1A)(b)-(g) - Possess/ purchase/ sell or transfer military equipment, 2017



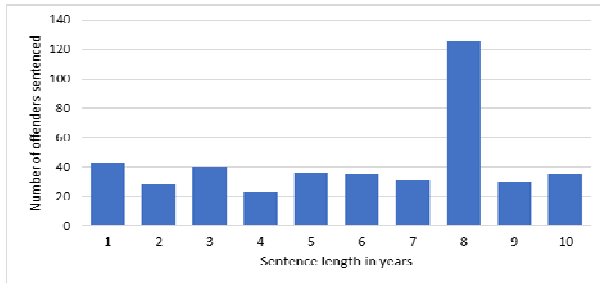
**Minimum term does not apply (all)**

**Figure 6:** 5(1)(b) & 5(1A)(b)-(g) combined, 2017



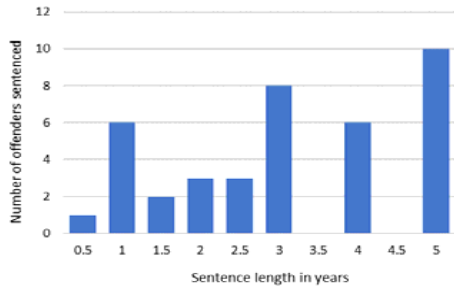
**All Group 1 offences**

**Figure 7:** 5(1)(a)-(af),(c), 5(1A)(a), 5(1)(b) & 5(1A)(b)-(g) combined, 2017

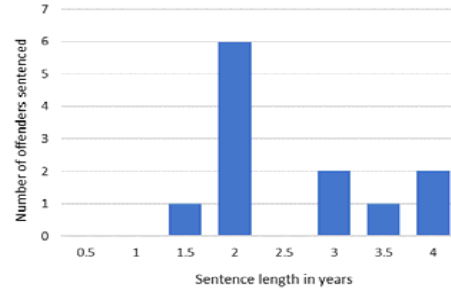


**Group 2**

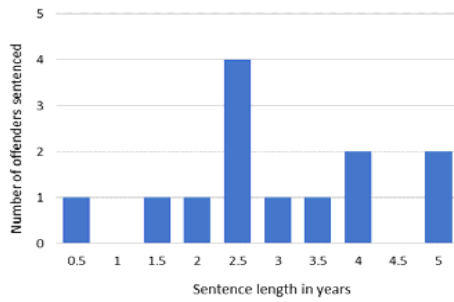
**Figure 8:** 1(1) - Possess a firearm/ammunition without a certificate, 2017



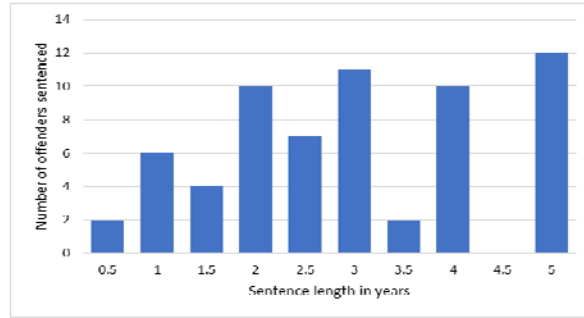
**Figure 9:** 1(1) & 2(1) - Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form), 2017



**Figure 10:** 2(1) - Possess shotgun without a certificate, 2017

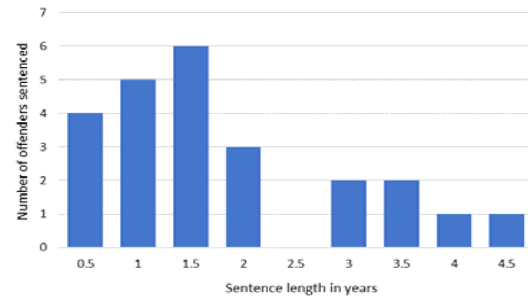


**Figure 11:** 1(1) & 2(1) combined - Possess a firearm/ ammunition/ shortened shotgun/ shotgun without a certificate, 2017



**Group 3**

**Figure 12:** 21 - Possess a firearm when prohibited for life / five years due to previous conviction, 2017



**Group 4**

**Figure 13:** 19 - Possess loaded/unloaded firearm and suitable ammunition/shotgun/ airweapon/ imitation firearm in public place, 2017

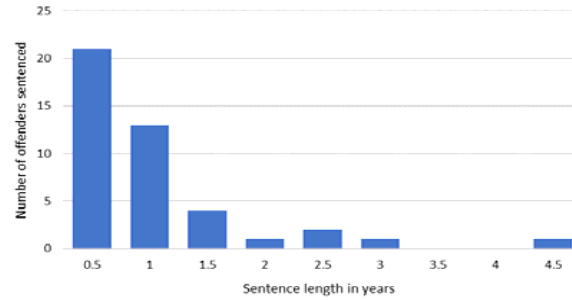


Table 4: Number of adult offenders sentenced for section 5 offences, by type of weapon, 2017

## Offences under 5(1), 5(1A) where minimum term applies

Section	Sub-section	Offence	Number of offenders sentenced	Proportion of all offences where minimum term applies	Proportion of all 5(1) & 5(1A) offences
5(1)	(a)	Possess/sell/transfer an automatic prohibited weapon	26	7%	4%
	(ab)	Possess prohibited weapon - self loading/pump action rifle	0	0%	0%
	(aba)	Possess a small firearm (less than 30cm)	200	52%	27%
	(ac)	Possess prohibited weapon - smooth bore gun	8	2%	1%
	(ad)	Possess prohibited weapon - smooth bore revolver	2	1%	0%
	(ae)	Possess prohibited weapon - mortar/rocket launcher	0	0%	0%
	(af)	Possess an air weapon using self contained gas cartridge system	4	1%	1%
	(c)	Possess prohibited ammunition	5	1%	1%
5(1A)	(a)	Possess/ purchase prohibited weapon (disguised firearm)	138	36%	19%
		<b>Total</b>	<b>383</b>	<b>100%</b>	<b>52%</b>

## Offences under 5(1), 5(1A) where minimum term does not apply

Section	Sub-section	Offence	Number of offenders sentenced	Proportion of all offences where minimum term does not apply	Proportion of all 5(1) & 5(1A) offences
5(1)	(b)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	347	98%	47%
5(1A)	(b)	Possess prohibited weapon - rocket/ exploding ammunition	0	0%	0%
	(c)	Possess prohibited weapon - launcher	0	0%	0%
	(d)	Possess prohibited ammunition - incendiary	0	0%	0%
	(e)	Possess prohibited ammunition (armour- piercing)	0	0%	0%
	(f)	Possess prohibited ammunition - expanding	7	2%	1%
	(g)	Possess prohibited ammunition - a missile	1	0%	0%
		<b>Total</b>	<b>355</b>	<b>100%</b>	<b>48%</b>

Source: Court Proceedings Database, Ministry of Justice



**Table 5: Estimated average custodial sentence lengths (pre guilty plea) for adult offenders sentenced to immediate custody, and sentence ranges for section 5 offences, by type of weapon<sup>1</sup>**

Section	Sub-section	Offence	No. sentenced to immediate custody	Mean sentence length <sup>2,4</sup>	Median sentence length <sup>3,4</sup>	Custodial sentence range (using estimated pre GP sentence lengths)
Minimum term applies	(a)	Possess/sell/transfer an automatic prohibited weapon	24	7 years 11 months	7 years 9 months	2 years 3 months - 10 years
	(ab)	Possess prohibited weapon - self loading/pump action rifle <sup>5</sup>	23	6 years 8 months	7 years 1 month	1 year 8 months - 9 years 9 months
	(aba)	Possess a small firearm (less than 30cm)	188	7 years	7 years 6 months	11 months - 10 years
	(ac)	Possess prohibited weapon - smooth bore gun <sup>5</sup>	68	6 years 10 months	7 years 6 months	11 months - 10 years
	(ad)	Possess prohibited weapon - smooth bore revolver <sup>5</sup>	25	6 years	5 years 11 months	1 year 4 months - 10 years
	(ae)	Possess prohibited weapon - mortar/rocket launcher <sup>5</sup>	1	*	*	3 years
	(af)	Possess an air weapon using self contained gas cartridge system <sup>5</sup>	24	6 years	7 years 1 month	1 year 4 months - 9 years
	(c)	Possess prohibited ammunition <sup>5</sup>	15	4 years 3 months	4 years 6 months	1 month - 7 years 6 months
5(1A)	(a)	Possess/ purchase prohibited weapon (disguised firearm)	103	4 years 11 months	5 years	9 months - 10 years
Minimum term does not apply	5(1)	(b) Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	71	1 year 4 months	10 months	1 month - 5 years 7 months
	(b)	Possess prohibited weapon - rocket/ exploding ammunition	0	-	-	-
	(c)	Possess prohibited weapon - launcher <sup>5</sup>	1	*	*	7 years 6 months
	(d)	Possess prohibited ammunition - incendiary <sup>5</sup>	1	*	*	4 months
	(e)	Possess prohibited ammunition (armour- piercing)	0	-	-	-
	(f)	Possess prohibited ammunition - expanding <sup>5</sup>	46	3 years 4 months	2 years 4 months	1 month - 10 years
	(g)	Possess prohibited ammunition - a missile <sup>5</sup>	3	*	*	1 year 6 months - 7 years 6 months

Source: Court Proceedings Database, Ministry of Justice

**Table 6: Estimated average custodial sentence lengths (pre guilty plea) for adult offenders sentenced to immediate custody, and sentence ranges for section 5 offences, 2017**

Section	Sub-section	Offence	No. sentenced to immediate custody	Mean sentence length <sup>2,4</sup>	Median sentence length <sup>3,4</sup>	Custodial sentence range
Minimum term applies	5(1)	(a)-(af),(c) Possess/sell/transfer a prohibited weapon	245	7 years 2 months	7 years 6 months	11 months - 10 years
	5(1A)	(a) Possess/ purchase prohibited weapon (disguised firearm)	103	4 years 11 months	5 years	9 months - 10 years
Minimum term does not apply	5(1)	(b) Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	71	1 year 4 months	10 months	1 month - 5 years 7 months
	5(1A)	(b)-(g) Possess prohibited weapon (military equipment)	7	4 years 3 months	3 years 5 months	1 year 9 months - 8 years

Source: Court Proceedings Database, Ministry of Justice

**Notes**

- 1) Where possible, the most recent data available (relating to 2017) has been provided. For some offences, however, figures shown cover the period 2011-2017 due to low volumes.
- 2) The mean is calculated by taking the sum of all values and then dividing by the number of values.
- 3) The median is the value which lies in the middle of a set of numbers when those numbers are placed in ascending or descending order.
- 4) Excludes life and indeterminate sentences.
- 5) Figures for this offence cover the period 2011-2017 due to low volumes.

\* ACSLs have not been shown due to the extremely low number of offenders sentenced to immediate custody for this offence.

- No offenders sentenced to immediate custody for this offence.

### Analysis on adult offenders sentenced for section 5 offences where the minimum term applies

Table 7: Proportion of adult offenders receiving a sentence below the minimum term, 2007-2017<sup>1</sup>

All section 5 offences sentenced below the minimum term

Type of disposal	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Discharge, fine, CO or SSO	18%	14%	16%	17%	14%	13%	12%	16%	22%	16%	13%
Immediate custodial sentence of less than 5 years	25%	20%	25%	24%	24%	22%	28%	21%	20%	22%	20%
<b>Total</b>	<b>43%</b>	<b>34%</b>	<b>41%</b>	<b>41%</b>	<b>38%</b>	<b>35%</b>	<b>40%</b>	<b>37%</b>	<b>42%</b>	<b>39%</b>	<b>33%</b>

5(1)(a)-(af), (c) - Possess/ purchase prohibited weapon

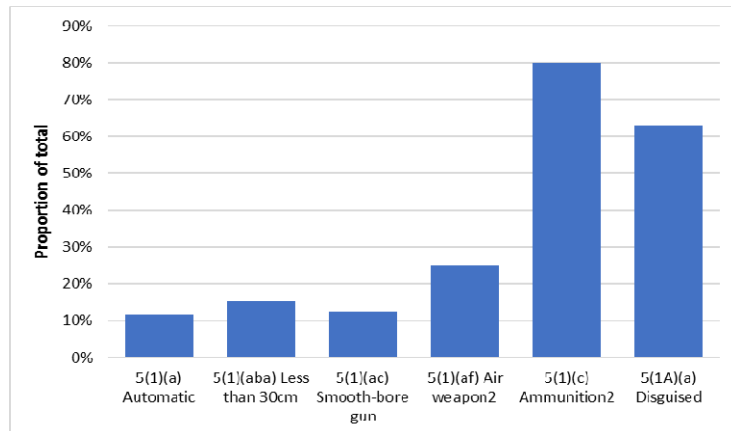
Type of disposal	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Discharge, fine, CO or SSO	17%	14%	16%	16%	13%	13%	10%	9%	10%	5%	6%
Immediate custodial sentence of less than 5 years	25%	20%	25%	24%	23%	16%	23%	14%	12%	14%	10%
<b>Total</b>	<b>42%</b>	<b>34%</b>	<b>41%</b>	<b>40%</b>	<b>36%</b>	<b>28%</b>	<b>32%</b>	<b>23%</b>	<b>22%</b>	<b>19%</b>	<b>17%</b>

5(1A)(a) - Possess/ purchase prohibited weapon (disguised firearm)

Type of disposal	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Discharge, fine, CO or SSO	*	*	*	*	*	18%	17%	30%	41%	32%	25%
Immediate custodial sentence of less than 5 years	*	*	*	*	*	54%	44%	33%	34%	34%	38%
<b>Total</b>						<b>71%</b>	<b>62%</b>	<b>63%</b>	<b>75%</b>	<b>66%</b>	<b>63%</b>

\* Proportions not shown due to very low volumes

Figure 14: Proportion of adult offenders receiving a sentence below the minimum term, for each type of weapon, 2017



**Table 8: Adult offenders receiving a sentence below the minimum term, as a proportion of the total number sentenced for each type of weapon, 2011-2017**

Offence	2011	2012	2013	2014	2015	2016	2017
5(1)(a) Automatic	30%	44%	29%	20%	30%	33%	12%
5(1)(ab) Pump action rifle	50%	18%	*	*	*	*	*
5(1)(aba) Less than 30cm	37%	27%	31%	20%	17%	14%	16%
5(1)(ac) Smooth-bore gun	31%	0%	8%	23%	17%	30%	13%
5(1)(ad) Smooth-bore revolver	27%	*	*	*	*	*	*
5(1)(ae) Mortar/ rocket launcher	*	*	*	*	*	*	*
5(1)(af) Air weapon <sup>2</sup>	0%	60%	40%	50%	64%	75%	25%
5(1)(c) Ammunition <sup>2</sup>	67%	100%	83%	100%	75%	60%	80%
5(1A)(a) Disguised	52%	71%	62%	63%	75%	66%	63%

\* Proportions not shown due to very low volumes

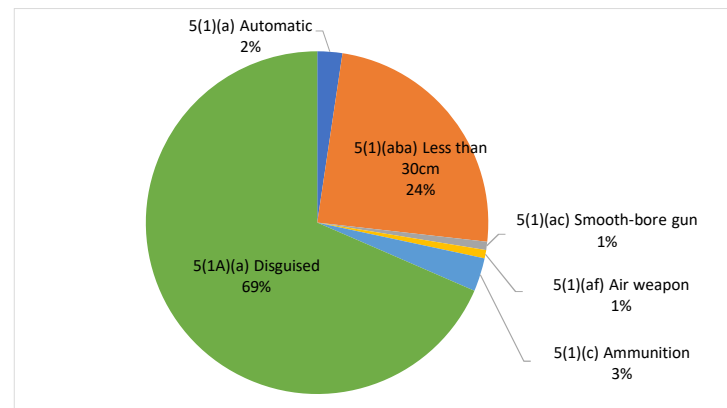
**Table 9: Number of adult offenders receiving a sentence below the minimum term, 2011-2017**

Offence	2011	2012	2013	2014	2015	2016	2017
5(1)(a) Automatic	47	9	7	5	10	21	26
5(1)(ab) Pump action rifle	4	2	0	1	0	0	0
5(1)(aba) Less than 30cm	75	93	103	127	173	189	200
5(1)(ac) Smooth-bore gun	16	9	12	13	6	10	8
5(1)(ad) Smooth-bore revolver	3	0	1	1	1	0	0
5(1)(ae) Mortar/ rocket launcher	1	0	1	0	0	0	0
5(1)(af) Air weapon	2	5	5	6	11	8	4
5(1)(c) Ammunition	6	2	6	1	4	5	5
5(1A)(a) Disguised	23	28	52	86	138	191	138

**Table 10 and figure 15: Number and proportion of adult offenders receiving a sentence below the minimum term in 2017, by type of weapon<sup>3</sup>**

Type of weapon	Number	Proportion
5(1)(a) Automatic	3	2%
5(1)(aba) Less than 30cm	31	24%
5(1)(ac) Smooth-bore gun	1	1%
5(1)(af) Air weapon	1	1%
5(1)(c) Ammunition	4	3%
5(1A)(a) Disguised	87	69%
<b>Total</b>	<b>127</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice



#### Notes

- 1) Cases sentenced below the minimum term are those where the sentence outcome was either a discharge, fine, community order or suspended sentence order, along with cases where the offender was sentenced to an immediate custodial sentence length of less than 5 years (after any reduction for guilty plea).
- 2) Percentages should be treated with caution due to low volumes.
- 3) Excludes 5(1)(ab) & (ae) as no offenders were sentenced for these offences in 2017. Excludes 5(1)(ad) as no offenders received a sentence below the minimum term for this offence in 2017.

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