

Sentencing Council

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Lead Council member:
Lead official:

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SC(18)JUL05 - MCSG
TBC
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1 ISSUE

1.1 The Magistrates Court Sentencing Guidelines (MCSG) were updated in 2016 and all summary only offences are now in Sentencing Council format with the exception of those that are part of guidelines that are to be updated as part of ongoing projects (for example public order). Most either way offences that appear in the MCSG will also be updated in the same way. There remain eight guidelines in the MCSG which date from 2008 for either way offences that are not part of a current guideline project.

1.2 The Council has a stated aim of replacing all SGC guidelines with Sentencing Council guidelines by 2020. Although these guidelines appear only in the MCSG at present, once updated they would appear also in the online Crown Court guidelines. Currently the guidelines simply say 'Crown Court' for any sentence that is outside magistrates' courts sentencing powers; a fuller guideline would give sentences across the full range. This would be useful to the Crown Court but also importantly provide greater assistance to magistrates when making allocation decisions.

1.3 Some of these guidelines might be suitable for inclusion in forthcoming guidelines. If the remainder are to be retained they will need to be updated and consulted on separately. The Council will be asked to consider whether to prioritise either a driving offences guideline or an immigration and modern slavery offences guideline – both of which could incorporate some of the guideline(s) covered by this paper.

2 RECOMMENDATION

2.1 The Council is asked to:

- Decide which of the guidelines should be retained and updated
- Decide which of driving offences or immigration/ modern slavery offences to prioritise on the Council's work plan.
- Decide whether to proceed with work on any guideline that might later become part of a larger project.

3 CONSIDERATION

The offences

3.1 The guidelines under consideration (which are provided at Annex A) are:

1. Firearm, carrying in a public place
2. Vehicle licence/registration fraud
3. Aggravated vehicle-taking (damage caused to property other than the vehicle in accident or damage caused to vehicle)
4. Aggravated vehicle-taking (dangerous driving or accident causing injury)
5. Dangerous Driving
6. Identity documents – possess false/another's/improperly obtained
7. Trade mark, unauthorised use of etc.
8. Witness intimidation

Carrying a firearm

3.2 Carrying a firearm in a public place is likely to be included within the firearms guideline subject to decisions made at the July Council meeting. The recommendation is not to include this offence in the revision of the MCSG either way offences.

Question 1: Does the Council agree to consider this offence as part of the firearms guideline?

Vehicle registration fraud

3.3 Vehicle licence/registration fraud contrary to s44 of the Vehicle Excise and Registration Act 1994 is now rarely prosecuted presumably because of changes to the legislation in 2014 which reflected the removal of the requirement to display a 'tax disc' and less reliance being placed on paper documents generally. The offence now relates only to a number plate, trade plate or registration document and so should be described as 'Vehicle registration fraud'. The number of cases has dropped from 859 in 2006 to 38 in 2016 but appears to have increased slightly to 66 in 2017. Most cases (55 out of 66 in 2017) are sentenced in magistrates' courts where the only sentence available is a fine (the volumes for 2017 may be inaccurate as they show 10 sentences that would be unlawful). Historically, even when the number being dealt with overall was much higher only a few have been sentenced in the Crown Court where the maximum sentence is two years' imprisonment and of those only one or two a year are sentenced to immediate custody. The existing guideline is at Annex A page A3.

3.4 The options for this offence are to delete it from the MCSG as no longer required or to update it. The fact that this is an offence where the available sentence in magistrates' courts is different from that that in the Crown Court suggests that the guideline may continue to be useful. The relative rarity of this offence may also be a reason why sentencers would find a guideline helpful.

Question 2: Does the Council wish to retain and update the vehicle registration fraud guideline?

Aggravated vehicle taking

3.5 Aggravated vehicle taking where damage is caused under £5,000 is treated as summary only. There were 1,099 cases sentenced in 2017 (832 adults and 267 youths). Volumes have been falling from a high of 2,422 in 2009. The current guideline in the MCSG (at Annex A page A5) applies also to aggravated vehicle taking where damage is caused over £5,000 – but the guideline merely recommends committal to the Crown Court.

3.6 Aggravated vehicle taking where the vehicle was driven dangerously or injury was caused is always either way. There were 836 cases sentenced in 2017 (638 adults and 198 youths – these figures include cases of damage over £5,000). Volumes have been falling since 2005 when there were 2,962 cases. The current guideline is at Annex A page A7.

Dangerous driving

3.7 Dangerous driving is a relatively high volume offence with 3,829 offenders sentenced in 2017 (3,592 adults and 237 youths). Most adults (2,613) were sentenced in the Crown Court, the vast majority receiving custodial sentences. The current guideline is at Annex A page A9.

3.8 There is also a definitive SGC guideline for offences of causing death by driving published in 2008. The Council planned to revise this guideline by 2020 to bring it into Sentencing Council format and to widen the scope to include newer offences (causing serious injury by dangerous driving and causing serious injury by disqualified driving) and to take account of the change to causing death by disqualified driving which has increased the statutory maximum from two years to ten years. The delay in tackling this has been caused by uncertainty around plans to change legislation.

3.9 In 2017 following a public consultation the Government announced plans to:

- introduce life sentences for causing death by dangerous driving, and for careless driving while under the influence of drink or drugs; and
- create a new offence of causing serious injury through careless driving.

3.10 No such legislation has been introduced and had it appeared unlikely that there would be an opportunity to do so in the foreseeable future. Officials had been preparing to recommend to the Council that now would be a good time to start work on a driving guideline. However, we have learnt that the Department for Transport is about to consult on a review of legislation around cycling safety and it seems likely that this will include plans for legislative change to introduce offences of dangerous and careless cycling causing death or injury in

order to bring cycling into line with driving offences. If there is a consultation in the next few months, any legislation following from that consultation could potentially be introduced from April next year. More details may be available by the time of the meeting, but if a Bill were to be introduced next year, it is likely that consideration would be given to making the planned changes to driving offences at the same time as introducing cycling offences.

3.11 It is difficult to predict how wide any legislative changes would be, as this is an area where individual Members of Parliament may seek to introduce amendments to Government legislation which could attract widespread support. The effect of this uncertainty is that if the Council were to commence work on a guideline for driving offences at this time there is a distinct possibility that relevant new offences could be introduced and the statutory maxima for others could change during the development of the guideline. However, it should be stressed that there is no certainty that any legislation that impacts on a driving offences guideline will actually be introduced next year.

Identity documents – possess false/another's/improperly obtained

3.12 Identity document offences in the MCSG (Annex A page A11) relate to the Identity Cards Act 2006 which is no longer in force. There is an equivalent offence contrary to the Identity Documents Act 2010 (IDA) and it seems likely that the MCSG guideline is referred to when sentencing these cases. In 2017 there were 133 offenders (including two youths) sentenced for offences of possessing or controlling a false or improperly obtained identity document (s6 IDA) which carries a maximum sentence of 2 years. There were also 627 offenders (including two youths) sentenced for offences of possessing or controlling identity documents with intent (s4 IDA) which carries a statutory maximum sentence of 10 years.

3.13 The next guideline on the current work plan is immigration and modern slavery offences. The Council has received requests to produce guidelines on various offences within this area ranging from providing unauthorised immigration advice to human trafficking offences. It is envisaged that the revision of the guideline for identity document offences could be included in the scope of this project.

3.14 The volumes of offending involved are smaller than for driving offences but there are no known plans to legislate in this area (further enquiries will be made to confirm this and an update will be provided at the meeting). It is likely that a scoping paper for the next project will be put before the Council late in 2019.

3.15 To summarise, the benefits of prioritising driving offences are:

- these are high volume, high profile offences
- there is an existing SGC guideline that requires updating

- courts would be assisted by a guideline in sentencing offences that can be technically difficult and which raise difficult issues such as the proportionality of sentencing in an area where high harm can be combined with low culpability
- the guideline has been on the Council's work plan for many years albeit always subject to confirmation of the legislative plans.
- there is no certainty that if the guideline were to be delayed that any legislative changes will in fact be made and the Council could be in the same situation in a year's time.

3.16 The benefits of prioritising an immigration/ modern slavery guideline are:

- It is on the current work plan
- There is a demand for guidelines in this area
- The legislation is more settled
- The relatively low volumes mean that sentencers will not be familiar with the offences and so would benefit from guidance.
- Modern slavery is a high profile area.

Question 3: Does the Council wish to proceed as planned with an immigration and modern slavery guideline or should work commence on a driving offences guideline?

Question 4: Depending on the answer to 3 above:

- Should aggravated vehicle taking and/or dangerous driving be revised independently of a wider driving guideline?**
- Should the Identity document guideline be revised independently of a wider immigration offences guideline?**

Unauthorised use of trade mark

3.17 Unauthorised use of a trade mark is sentenced chiefly in magistrates' courts (273 cases in 2017 against 106 cases sentenced in the Crown Court). Overall the volume of cases has been steadily decreasing from 928 in 2006 to 379 in 2017. The statutory maximum is 10 years but sentences in excess of three years are unusual with the majority of offenders in 2017 receiving non-custodial sentences. The current guideline is at Annex A page A13.

3.18 This is an offence that sentencers are unlikely to have much experience of sentencing and a more comprehensive guideline could assist magistrates to retain more cases.

Question 5: Does the Council agree to revise the guideline for unauthorised use of a trademark?

Witness intimidation

3.19 Witness intimidation numbers fluctuate but volumes are generally decreasing. In 2017 402 offenders (including 30 youths) were sentenced for either intimidating or threatening a witness or juror; 243 of these were sentenced in the Crown Court. In addition in 2017 there were approximately 245 offenders sentenced for witness intimidation as a secondary offence. The statutory maximum is five years and around half of offenders were sentenced to immediate custody. The current guideline is at Annex A page A15. This is a serious offence which has factors in common with breach of bail, harassment, threats to kill, public order offences and common assault but does not neatly fit within any of those guideline groupings.

Question 6: Does the Council agree to revise the guideline for witness intimidation?

4 IMPACT AND RISKS

4.1 The offences being considered in this paper are diverse and the risks of revising or not revising each of them varies. One risk of leaving any of these guidelines in the 'old' format is that it is confusing to sentencers and it over complicates the online MCSG as it necessitates providing user guides for two types of guideline.

4.2 There are reputational risks of leaving any guidelines that date from 2008 unrevised and it is difficult to justify providing a guideline for magistrates' courts but not the Crown Court.

4.3 Conversely there are risks in terms of wasting resources of commencing work on a project that may need to be suspended or revised in the light of legislative changes.

Question 7: Are there any other risks that the Council wishes to highlight?

Firearm, carrying in a public place

Firearms Act 1968, s.19

Effective from: 04 August 2008

Triable either way (but triable only summarily if the firearm is an air weapon)

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 7 years (12 months for imitation firearms)

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Carrying an unloaded air weapon	Low level community order	Band B fine to medium level community order
Carrying loaded air weapon/imitation firearm/unloaded shot gun without ammunition	High level community order	Medium level community order to 26 weeks custody (air weapon) Medium level community order to Crown Court (imitation firearm, unloaded shot gun)
<i>Carrying loaded shotgun/carrying shot gun or any other firearm together with ammunition for it</i>	<i>Crown Court</i>	<i>Crown Court</i>

B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

Factors indicating higher culpability

1. Brandishing the firearm
2. Carrying firearm in a busy place
3. Planned illegal use

Factors indicating greater degree of harm

1. Person or people put in fear
2. Offender participating in violent incident

Factors indicating lower culpability

1. Firearm not in sight
2. No intention to use firearm
3. Firearm to be used for lawful purpose (not amounting to a defence)

Form a preliminary view of the appropriate sentence, then consider offender mitigation

Offender mitigation

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

Consider a reduction for a guilty plea

Consider ancillary orders, including compensation, forfeiture or suspension of personal liquor licence and football banning order (where appropriate)

Decide sentence

Give reasons

Vehicle licence/registration fraud

Vehicle Excise and Registration Act 1994, s.44

Effective from: 04 August 2008

Triable either way

Maximum when tried summarily: Level 5 fine

Maximum when tried on indictment: 2 years

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Use of unaltered licence from another vehicle	Band B fine	Band B fine
Forged licence bought for own use, or forged/ altered for own use	Band C fine	Band C fine
Use of number plates from another vehicle; or Licence/number plates forged or altered for sale to another	High level community order (in Crown Court)	Medium level community order to Crown Court Note: community order and custody available only in Crown Court

B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

Factors indicating higher culpability

1. LGV, PSV, taxi etc.
2. Long-term fraudulent use

Factors indicating greater degree of harm

1. High financial gain
2. Innocent victim deceived
3. Legitimate owner inconvenienced

Factors indicating lower culpability

1. Licence/registration mark from another vehicle owned by defendant
2. Short-term use

Form a preliminary view of the appropriate sentence, then consider offender mitigation

Offender mitigation

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

Consider a reduction for a guilty plea

Consider ancillary orders, including compensation

Consider disqualification from driving and deprivation of property (including vehicle)

Decide sentence

Give reasons

Vehicle taking (aggravated). Damage caused to property other than the vehicle in accident or damage caused to vehicle

Theft Act 1968, ss.12A(2)(c) and (d)

Effective from: 04 August 2008

Triable either way (triable only summarily if damage under £5,000)

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 2 years

- Must endorse and disqualify for **at least** 12 months
- Must disqualify for **at least** 2 years if offender has had two or more disqualifications for periods of 56 days or more in preceding 3 years – see explanatory material on [obligatory disqualification](#) and consult your legal adviser for further guidance

If there is a delay in sentencing after conviction, consider interim disqualification

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Exceeding authorised use of e.g. employer's or relative's vehicle; retention of hire car beyond return date; minor damage to taken vehicle	Medium level community order	Low level community order to high level community order
Greater damage to taken vehicle and/or moderate damage to another vehicle and/or property	High level community order	Medium level community order to 12 weeks custody
Vehicle taken as part of burglary or from private premises; severe damage	18 weeks custody	12 to 26 weeks custody (Crown Court if damage over £5,000)

B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

Factors indicating higher culpability

1. Vehicle deliberately damaged/destroyed
2. Offender under influence of alcohol/drugs

Factors indicating greater degree of harm

1. Passenger(s) carried
2. Vehicle belonging to elderly or disabled person
3. Emergency services vehicle
4. Medium to large goods vehicle
5. Damage caused in moving traffic accident

Factors indicating lower culpability

1. Misunderstanding with owner
2. Damage resulting from actions of another (where this does not provide a defence)

Common aggravating and mitigating factors

Form a preliminary view of the appropriate sentence, then consider offender mitigation

Offender mitigation

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

Consider a reduction for a guilty plea

Consider ancillary orders, including compensation

Decide sentence

Give reasons

Vehicle taking (aggravated). Dangerous driving or accident causing injury

Theft Act 1968, ss.12A(2)(a) and (b)

Effective from: 04 August 2008

Triable either way

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 2 years; 14 years if accident caused death

- Must endorse and disqualify for **at least** 12 months
- Must disqualify for **at least** 2 years if offender has had two or more disqualifications for periods of 56 days or more in preceding 3 years – refer to explanatory material on [obligatory disqualification](#) and consult your legal adviser for further guidance

If there is a delay in sentencing after conviction, consider interim disqualification

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Taken vehicle involved in single incident of bad driving where little or no damage or risk of personal injury	High level community order	Medium level community order to 12 weeks custody
Taken vehicle involved in incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area	18 weeks custody	12 to 26 weeks custody
Taken vehicle involved in prolonged bad driving involving deliberate disregard for safety of others	<i>Crown Court</i>	<i>Crown Court</i>

B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant **but these lists are not exhaustive**

Factors indicating higher culpability

1. Disregarding warnings of others
2. Evidence of alcohol or drugs
3. Carrying out other tasks while driving
4. Carrying passengers or heavy load
5. Tiredness
6. Trying to avoid arrest

7. Aggressive driving, such as driving much too close to vehicle in front, inappropriate attempts to overtake, or cutting in after overtaking

Factors indicating greater degree of harm

1. Injury to others
2. Damage to other vehicles or property

Form a preliminary view of the appropriate sentence, then consider offender mitigation

Offender mitigation

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

Consider a reduction for a guilty plea

Consider ancillary orders, including compensation

Decide sentence

Give reasons

Dangerous driving

Road Traffic Act 1988, s.2

Effective from: 04 August 2008

Triable either way

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 2 years

- Must endorse and disqualify for at least 12 months. Must order extended re-test
- Must disqualify for at least 2 years if offender has had two or more disqualifications for periods of 56 days or more in preceding 3 years – refer to [disqualification guidance](#) and consult your legal adviser for further guidance

If there is a delay in sentencing after conviction, consider interim disqualification

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Single incident where little or no damage or risk of personal injury	Medium level community order	Low level community order to high level community order Disqualify 12 – 15 months
Incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area;		
OR	12 weeks custody	High level community order to 26 weeks custody Disqualify 15 – 24 months
Single incident where little or no damage or risk of personal injury but offender was disqualified driver		
<i>Prolonged bad driving involving deliberate disregard for safety of others;</i>		
OR		
<i>Incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area, by disqualified driver;</i>	Crown Court	Crown Court
OR		
<i>Driving as described in box above while being pursued by police</i>		

B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

Factors indicating higher culpability

1. Disregarding warnings of others
2. Evidence of alcohol or drugs
3. Carrying out other tasks while driving
4. Carrying passengers or heavy load
5. Tiredness
6. Aggressive driving, such as driving much too close to vehicle in front, racing, inappropriate attempts to overtake, or cutting in after overtaking
7. Driving when knowingly suffering from a medical condition which significantly impairs the offender's driving skills
8. Driving a poorly maintained or dangerously loaded vehicle, especially where motivated by commercial concerns

Factors indicating greater degree of harm

1. Injury to others
2. Damage to other vehicles or property

Factors indicating lower culpability

1. Genuine emergency
2. Speed not excessive
3. Offence due to inexperience rather than irresponsibility of driver

Form a preliminary view of the appropriate sentence, then consider offender mitigation

Offender mitigation

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

Consider a reduction for a guilty plea

Consider ancillary orders, including compensation and deprivation of property

Decide sentence

Give reasons

Identity documents – possess false/ another's/ improperly obtained

Identity Cards Act 2006, s.25(5) (possession of a false identity document (as defined in s.26 - includes a passport))

Effective from: 04 August 2008

Triable either way

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 2 years (s.25(5))

Note: possession of a false identity document with the intention of using it is an indictable-only offence (Identity Cards Act 2006, s.25(1)). The maximum penalty is 10 years imprisonment.

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Single document possessed	Medium level community order	Band C fine to high level community order
Small number of documents, no evidence of dealing	12 weeks custody	6 weeks custody to Crown Court
Considerable number of documents possessed, evidence of involvement in larger operation	Crown Court	Crown Court

B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

Factors indicating higher culpability

1. Clear knowledge that documents false
2. Number of documents possessed (where not in offence descriptions above)

Factors indicating greater degree of harm

1. Group activity
2. Potential impact of use (where not in offence descriptions above)

Factor indicating lower culpability

1. Genuine mistake or ignorance

Form a preliminary view of the appropriate sentence, then consider offender mitigation

Offender mitigation

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

Consider a reduction for a guilty plea

Decide sentence

Give reasons

Trade mark, unauthorised use of etc.

Trade Marks Act 1994, s.92

Effective from: 04 August 2008

Triable either way

Maximum when tried summarily: Level 5 fine and/or 6 months

Maximum when tried on indictment: 10 years

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Small number of counterfeit items	Band C fine	Band B fine to low level community order
Larger number of counterfeit items but no involvement in wider operation	Medium level community order, plus fine*	Low level community order to 12 weeks custody, plus fine*
High number of counterfeit items or involvement in wider operation e.g. manufacture or distribution	12 weeks custody	6 weeks custody to Crown Court
Central role in large-scale operation	<i>Crown Court</i>	<i>Crown Court</i>

***This may be an offence for which it is appropriate to combine a fine with a community order. Consult your legal adviser for further guidance.**

B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

Factors indicating higher culpability

1. High degree of professionalism
2. High level of profit

Factor indicating greater degree of harm

1. Purchasers at risk of harm e.g. from counterfeit drugs

Factor indicating lower culpability

1. Mistake or ignorance about provenance of goods

Common aggravating and mitigating factors

Form a preliminary view of the appropriate sentence, then consider offender mitigation

Offender mitigation

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

Consider a reduction for a guilty plea

Consider ancillary orders, including compensation

Decide sentence

Give reasons

Witness intimidation

Criminal Justice and Public Order Act 1994, s.51

Effective from: 04 August 2008

Triable either way

Maximum when tried summarily: 6 months or level 5 fine

Maximum when tried on indictment: 5 years

Where offence committed in domestic context, [refer to guidance](#)

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Sudden outburst in chance encounter	6 weeks custody	Medium level community order to 18 weeks custody
Conduct amounting to a threat; staring at, approaching or following witnesses; talking about the case; trying to alter or stop evidence	18 weeks custody	12 weeks custody to Crown Court
Threats of violence to witnesses and/or their families; deliberately seeking out witnesses	<i>Crown Court</i>	<i>Crown Court</i>

B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

The following may be particularly relevant but **these lists are not exhaustive**

Factors indicating higher culpability

1. Breach of bail conditions
2. Offender involves others

Factors indicating greater degree of harm

1. Detrimental impact on administration of justice
2. Contact made at or in vicinity of victim's home

Form a preliminary view of the appropriate sentence, then consider offender mitigation

Offender mitigation

- Genuine remorse
- Admissions to police in interview
- Ready co-operation with authorities

Consider a reduction for a guilty plea

Consider ancillary orders, including compensation

Decide sentence

Give reasons