

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

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**SC(18)JUL06 – Firearms**  
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## **1 ISSUE**

1.1 This paper presents the first consideration of the firearms guideline, and asks the Council to consider the scope of the project.

1.2 There are four further meetings scheduled to discuss these guidelines, including sign off of the consultation version to be agreed at the January 2019 Council meeting. The consultation is scheduled to run from April to July 2019, and the definitive guideline to be published in April 2020.

1.3 Evidence to support the development of the new guideline is at **Annex A**. This annex contains volumes over time, sentence outcomes, and ACSLs for adult offenders, and volumes of offenders under 18, for the most common offences.

## **2 RECOMMENDATION**

- That the Council agrees the scope of the guideline
- That the Council agrees the groupings of the guidelines
- That the Council agrees not to produce a separate guideline for children and young people
- That the Council agrees to develop guidance on the statutory minimum sentence for firearms offences and exceptional circumstances proviso

## **3 CONSIDERATION**

3.1 The Council previously decided to include the development of guidelines on firearms offences on its work plan for 2018-19. Currently there is one existing guideline within the MCSG covering the offence of carrying a firearm in a public place (see **Annex B**). This guideline was not updated as part of the MCSG project. There are no guidelines for any other firearms offences.

3.2 Although relatively low volume, firearms is an area of serious offending with several offences carrying statutory maxima of 10 years or life. Firearms legislation is complex with 35 statutes governing the use of firearms as well as numerous pieces of secondary legislation.

A further complexity is introduced by the five year minimum sentence that applies to certain firearms offences, unless there are exceptional circumstances.

3.3 The Law Commission reviewed firearms legislation in 2015 and recommended codification, due to the complexity, volume and incoherence of the legislative provisions. The CPS noted in their submission to the Law Commission that “firearms law is an area of law that consistently, possibly more than any other area of law, causes difficulties for charging lawyers”. The Policing and Crime Act 2017 made some clarifying amendments to the main legislation. According to the Home Office, the Government supports the principle of codification but has no present plans to pursue it due to other priorities. In the absence of steps to codify the law, stakeholders consider that sentencing guidelines would provide some helpful clarification in this area.

3.4 There are no other upcoming legislative changes that would preclude the development of a guideline. The Offensive Weapons Bill, which had its second reading on 27 June, will reclassify two further types of firearm (high energy and rapid firing rifles) and bump stock devices as prohibited weapons under s5 of the Firearms Act 1968. The Home Office is also planning to lay regulations this year which will prohibit certain antique firearms. It is expected the new guideline can be drafted to accommodate any future changes to prohibited weapons.

3.5 To inform the proposals in this paper, I have reviewed offence volumes and held discussions with stakeholders, including the CPS, Home Office, National Police Chiefs’ Council Criminal Use of Firearms group, National Crime Agency, Law Commission, and the National Ballistics Intelligence Service. Colleagues have also had an informal discussion with judges at the Birmingham Crown Court.

3.6 The leading firearms sentencing case is *R v Avis* (1998).<sup>1</sup> *Avis* gives guidance on which offences will generally merit a custodial sentence and sets out a series of questions to consider in determining the appropriate level of sentence (see **Annex C**). Subsequent guideline decisions have covered possession with intent to endanger life<sup>2</sup> in 2009 and transfer of prohibited weapons and ammunition<sup>3</sup> in 2016. Anecdotally, sentencers have commented that these authorities are helpful but do not cover all types of cases, such as possession by a person acting as a custodian, and further guidance on sentence levels would be useful.

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<sup>1</sup> *R v Avis* (1998) 1 Cr. App. R. 420

<sup>2</sup> *R v Wilkinson* (2009) EWCA Crim 1925 (16 October 2009)

<sup>3</sup> *Attorney-General’s Reference (Nos. 128-141 and 8-10 of 2015) (R v Stephenson)* [2016] 2 Cr. App. R. (S.) 12

*Proposed scope of the guideline*

3.7 There are numerous firearms offences, more than 400 in total, although many are very low volume or appear not to be used at all. The offences are mainly contained within the Firearms Act 1968 with some in other legislation. Broadly, firearms offences can be divided into two categories:

- offences involving the criminal use of firearms, generally prohibited firearms listed in section 5, and
- more minor offences within the licensing regime governing lawful firearms use.

3.8 This section sets out the proposed scope of the guideline. The high number of individual offences mean that it is not feasible to produce a comprehensive guideline covering all offences. It is proposed that the guideline should focus on the higher volume offences, criminal rather than licensing offences, offences with the highest maximum penalties, and on those where stakeholders have indicated sentencing guidance would be particularly helpful. Accordingly, offences have been divided below into three categories: offences recommended to be in scope; additional offences that the Council may wish to be in scope, where considerations point either way; and offences recommended to be out of scope.

*Offences recommended to be in scope*

3.9 Table 1 below sets out the main firearms offences. Guidance does not currently exist for these offences, except the MCSG guideline for the s19 offence, which requires updating.

<b>TABLE 1</b>					
<b>Guide-line group</b>	<b>Legislation</b>	<b>Section</b>	<b>Offence description</b>	<b>Statutory maximum</b>	<b>Volumes (2017)<sup>4</sup></b>
1	Firearms Act 1968	5(1) (a)-(af), (c)	Possess / purchase / acquire a prohibited weapon / ammunition	10 years (Indictable only)	MC: 0 CC: 54 <b>Total: 54</b>
	Firearms Act 1968	5(1)(b)	Possess / purchase / acquire a weapon for the discharge of a noxious liquid / gas / other thing (includes electrical incapacitation devices / stun guns)	10 years (Either way)	MC: 204 CC: 143 <b>Total: 347</b>
	Firearms Act 1968	5(1A)(a)	Possess / purchase firearm disguised as other object	10 years (Indictable only)	MC: 0 CC: 138 <b>Total: 138</b>
	Firearms Act 1968	5(1A)(b)-(g)	Possess / purchase / sell or transfer military equipment	10 years (Either way)	MC: 1 CC: 220 <b>Total: 221</b>

<sup>4</sup> Number of adult offenders sentenced in 2017 (principal offences).

TABLE 1					
Guide-line group	Legislation	Section	Offence description	Statutory maximum	Volumes (2017) <sup>4</sup>
2	Firearms Act 1968	16	Possess firearm or ammunition with intent to endanger life / enable another to do so	Life (Indictable only)	MC: 0 CC: 77 <b>Total: 77</b>
3	Firearms Act 1968	16A	Possess firearm with intent to cause fear of violence	10 years (Indictable only)	MC: 3 CC: 261 <b>Total: 264</b>
4	Firearms Act 1968	19	Carry firearm in a public place	7 years  12 months for imitation firearm  (Summary except if the firearm is a specified prohibited firearm; summary if firearm is an air weapon)	MC: 155 CC: 48 <b>Total: 203</b>

3.10 **Possession of prohibited weapons (Guideline group 1):** Sections 5(1) and (1A) set out the types of weapons that are prohibited such as automatic-firing weapons, pump action rifles and rocket launchers. These are offences of strict liability. They span a range of offending from large-scale possession of highly dangerous firearms as part of organised crime, through to a younger or vulnerable person storing a weapon on behalf of another through fear. Possession under s5 forms a large proportion of firearms offences as a whole. While many of these are Crown Court cases, around half are for s5(1)(b) (possession of weapon for discharge of noxious substance), generally used for possession of stun guns. The majority of s5(1)(b) offences are sentenced in the magistrates' courts.

3.11 Sentencing is made more complex by the fact that the five year minimum sentence applies to certain offences under s5 but not others, e.g. possession of a stun gun will attract the mandatory minimum when sentencing for s5(1A)(a) (possession of a disguised firearm), but not for s5(1)(b) (possession of weapon for discharge of noxious substance). Where the minimum applies, the sentencing range is narrow, i.e. 5 to 10 years.

3.12 **Possession with intent (Guideline groups 2 and 3):** There are several possession with intent offences. The most common are s16 (possession with intent to endanger life) and s16A (possession with intent to cause fear of violence). The latter is one of the highest volume firearms offences. The remaining possession with intent offences are much lower in volume (see table 2 below). These offences carry high statutory maxima, of life for s16 and 10 years for s16A. The five year minimum will apply where the firearm is one of a specified type from section 5(1) or 5(1A). The s16 offence is sometimes charged in possession involving larger scale organised criminal offending instead of a trafficking/distribution offence.

3.13 **Carrying in a public place (Guideline group 4):** This offence under s19 covers possession in a public place of a loaded shotgun, an air weapon (whether loaded or not), any other firearm together with ammunition, or an imitation firearm. There is a defence of lawful authority or reasonable excuse. The offence is relatively high volume and is often sentenced in the magistrates' courts, particularly where an air weapon or imitation firearm is involved. Again the five year minimum sentence will apply where the firearm is one of a specified type from section 5(1) or (1A).

3.14 It is recommended to include all of the offences in table 1 above within the new firearms guideline. There is currently no guidance for any of these offences except the outdated MCSG guideline for the s19 offence. Stakeholders including the Home Office, law enforcement and CPS support improved guidance in these areas. Including these offences will ensure that guidance is available to sentencers for the highest volume offences.

**Question 1: Does the Council agree to include all of the offences in table 1 within the guideline?**

*Additional offences that could fall within scope*

3.15 There are several other offences the Council may wish to include within the firearms guideline. Table 2 below sets out the details for these offences. Overall, the offences in table 2 are all of significantly lower volume than the offences in table 1, aside from possession without a firearms certificate, but carry high maximum penalties. If the Council prefers a narrower guideline focused on higher volume firearms offences, the offences in table 1 only could be included. Alternatively, some or all of the offences in table 2 could be added if a broader, more comprehensive guideline is preferred.

TABLE 2					
Guide-line group	Legislation	Section	Offence description	Statutory maximum	Volumes (2017) <sup>5</sup>
5	Firearms Act 1968	1(1)(a), (b)	Possess a firearm / ammunition without a certificate  Aggravated form: Possess shortened shotgun; or thing converted into a firearm	5 years  7 years for aggravated form (Either way)	MC: 29 CC: 82 <b>Total: 111</b>
	Firearms Act 1968	2(1)	Possess shotgun without a certificate	5 years (Either way)	MC: 22 CC: 19 <b>Total: 41</b>
6	Firearms Act 1968	4(1)	Shorten shotgun barrel - less than 60.96 cm / 24 ins	7 years (Either way)	MC: 0 CC: 1 <b>Total: 1</b>
	Firearms (Amendment) Act 1988	6(1)	Shorten smooth-bore gun barrel of section 1 firearm	5 years (Either way)	
	Firearms Act 1968	4(3)	Convert thing / imitation firearm into a firearm	7 years (Either way)	MC: 0 CC: 0 <b>Total: 0</b>
7	Firearms Act 1968	4A(1) <sup>6</sup>	Possession of articles for conversion of imitation firearms	5 years (Either way)	[New in 2018]
8	Firearms Act 1968	5(2A)(a)	Manufacture weapon / ammunition in section 5(1)	Life (Indictable only)	MC: 0 CC: 0 <b>Total: 0</b>
9	Firearms Act 1968	5(2A)(b)	Sell / transfer prohibited weapon	Life (Indictable only)	MC: 0 CC: 19 <b>Total: 19</b>
	Firearms Act 1968	5(2A)(c)	Possess prohibited weapon for sale / transfer	Life (Indictable only)	MC: 0 CC: 5 <b>Total: 5</b>
	Firearms Act 1968	5(2A)(d)	Purchase / acquire for sale / transfer	Life (Indictable only)	MC: 0 CC: 1 <b>Total: 1</b>
10	Customs and Excise Management Act 1979	50(3), (4) and (5A)(a)	Import prohibited weapons / ammunition with intent to evade a prohibition / restriction	Life (Either way)	MC: 3 CC: 2 <b>Total: 5</b>
	Customs and Excise Management Act 1979	170(1)(b) and (3), (3), and (4A)(a)	Fraudulent evasion of prohibition / restriction	Life (Either way)	MC: 0 CC: 3 <b>Total: 3</b>

<sup>5</sup> Number of adult offenders sentenced in 2017 (principal offences).

<sup>6</sup> New offence under the Policing and Crime Act 2017; came into force 2 May 2018.

TABLE 2					
Guide-line group	Legislation	Section	Offence description	Statutory maximum	Volumes (2017) <sup>5</sup>
2 (with s16 offence – see table 1)	Firearms Act 1968	17(1)	Use of firearms to resist arrest	Life (Indictable only)	MC: 0 CC: 1 <b>Total: 1</b>
	Firearms Act 1968	17(2)	Possess firearm while committing a Schedule 1 offence	Life (Indictable only)	MC: 0 CC: 16 <b>Total: 16</b>
	Firearms Act 1968	18(1)	Carry firearm or imitation firearm with intent to commit indictable offence	Life (Indictable only)	MC: 1 CC: 16 <b>Total: 17</b>
11	Firearms Act 1968	21	Possess a firearm when prohibited for life / five years due to previous conviction	5 years (Indictable only)	MC: 20 CC: 28 <b>Total: 48</b>

3.16 **Possession without a certificate:** This applies when the firearm concerned is not prohibited under s5 but requires a firearms certificate to hold it lawfully. It is a strict liability offence. It could be committed in the context of criminal activity, or by a person who is otherwise engaged in lawful, licensed use of firearms but fails to have the required certificate for this particular weapon. The aggravated form of the offence (for converted firearms still falling within s1) attracts a statutory maximum of seven rather than five years. This is the only firearms licensing offence it is suggested the Council may wish to include, due to its slightly higher volumes; the other licensing offences are extremely low volume. It appears that possession without a certificate is often charged as a secondary offence.<sup>7</sup> Around a third of these offences are sentenced in the magistrates' courts. There is lower demand from stakeholders for a guideline here, as their primary concern is prohibited firearms under s5 rather than firearms that require a certificate. If the firearms offence under s1(1) is included then it is logical also to include the corresponding shotgun offence under s2(1). The Council may feel there is a fairly strong case for including these offences, given the relatively high volumes. It may also be desirable to include them in order to cover possession offences for both prohibited and non-prohibited firearms.

3.17 **Manufacture and distribution of prohibited firearms:** There are four types of offence under s5(2A): (a) manufacturing a weapon or ammunition specified in s5(1); (b) selling or transferring a prohibited weapon or ammunition; (c) possession for sale or transfer; and (d) purchasing or acquiring for sale or transfer. This provision was effectively introduced in 2014

<sup>7</sup> When secondary and principal offences are combined, possession without a certificate under s1(1) is the second-highest volume firearms offence after s5(1)(b): in 2017 there were around 500 principal and secondary offences sentenced, compared with around 110 offenders sentenced with this as the principal offence.

when the “transfer” offence was shifted from s5(1) to the new (2A) and offences of possession for sale/transfer were added. It carries a maximum sentence of life imprisonment and attracts the five year minimum sentence where the firearm is one of a specified type from section 5(1) or (1A). Although prosecutions under this section are rare, they are among the most serious types of firearms offending and can attract very high sentences. The Home Office supports the development of guidelines in this area.

3.18 A Court of Appeal decision in 2016<sup>8</sup> on an Attorney General’s reference significantly raised sentences for transferring prohibited weapons and ammunition. It could be beneficial to put this guideline judgment on a stronger footing through sentencing guidelines. Again, the Council may consider there is a fairly strong case for including these offences, along with importation below, given the high statutory maxima of life imprisonment, and the fact that these offences are encountered only rarely but attract high sentences. However, developing a guideline would be quite challenging, given the lack of evidence available from transcripts for these offences.

3.19 **Importation offences:** If the Council favours including the manufacture and distribution offences under s5(2A), it may wish also to include the two main importation offences under the Customs and Excise Management Act 1979, so that the entire chain of offending is covered. These offences similarly carry a maximum of life imprisonment; the penalty was increased from seven years to life in 2014. The Home Office and law enforcement stakeholders would support guidance covering these offences.

3.20 **Conversion:** These offences involve modifying a firearm, either by shortening the barrel of a shotgun to less than 24 inches, or modifying an item that was incapable of being fired into a live firing weapon. A new offence of possessing articles for conversion was introduced in 2017. There is law enforcement concern about increasing conversion of firearms. Stakeholders including law enforcement agencies and the Law Commission consider there would be value in developing a conversion guideline to address any growing offending in this area. However, the offences are currently extremely low volume. There have only been around 20 barrel shortening and conversion offences sentenced since 2007, with none for conversion since 2012. Often firearms are located before or after conversion, so the charge is more often one of possession or transfer. The very low volumes of conversion sentences may make it more difficult to obtain evidence from transcripts to discern the relevant factors and sentencing levels, but it is likely to have similarities to the manufacturing offence so would not be impossible to develop at this time.

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<sup>8</sup> *R v Stephenson* [2016] 2 Cr. App. R. (S.) 12



3.21 The Council may wish to include conversion given the stakeholder support and concern about the growing use of converted firearms; alternatively, the Council may consider the volumes to be too low to make the development of a guideline worthwhile. It may be possible to consider if any conversion offences could be included as analogous offences. This could be explored during the development of the guideline.

3.22 **Other possession with intent offences:** It was recommended above that the guideline cover the higher volume offences of possession with intent to endanger life (s16) and possession with intent to cause fear of violence (s16A). The remaining possession with intent offences are:

- use of firearms to resist arrest (s17(1));
- possess firearm while committing a Schedule 1 offence (s17(2));
- carry firearm with intent to commit indictable offence (s18(1)).

3.23 These three offences all carry a maximum of life imprisonment and the five year minimum will apply for certain prohibited firearms. They are relatively low volume when principal offences are considered, but are higher in volume when considering both principal and secondary offences together, as would be expected given the nature of the offences.<sup>9</sup> It is not recommended to include these offences.

3.24 If the Council does wish to include them, they could be grouped together with the possession with intent to endanger life offence in group 2, as they share the statutory maximum of life, or perhaps could be covered as analogous offences.

3.25 **Possession by person with previous conviction:** Upon conviction, persons are prohibited from possessing firearms for either five years or life depending on the length of the sentence.<sup>10</sup> This offence applies when the prohibition is contravened. It is reasonably low volume and would appear to be relatively straightforward. It is not recommended to include it in the guideline.

**Question 2: Does the Council wish to include any of the offences in table 2 within the guideline?**

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<sup>9</sup> For example, in 2017 there were around 20 offenders sentenced under s17(2) (possession while committing a Sch 1 offence) where this was the principal offence, however there were 130 sentences when counting both principal and secondary offences.

<sup>10</sup> A person who has been sentenced to life or imprisonment for three years or more is permanently prohibited from possessing a firearm or ammunition. A person sentenced to imprisonment for three months or more but less than three years is prohibited for five years from the date of release, or from the date of sentence in the case of a suspended sentence.

*Offences recommended to be out of scope*

3.26 It is recommended that all remaining firearms offences are not covered in the guideline. These are the more obscure firearms licensing and criminal offences spread across the Firearms Act 1968, Violent Crime Reduction Act 2006, several Firearms (Amendment) Acts, Customs and Excise Management Act 1979 and other legislation.

3.27 It is also proposed not to cover offences that concern use of a firearm to kill or take particular wildlife, such as offences under the Deer Act 1991 or Wildlife and Countryside Act 1981. These could be considered as part of a separate guideline for wildlife offences in future.

**Question 3: Are there any other offences not mentioned that the Council thinks should be included within this guideline?**

*Proposed groupings for the guidelines*

3.28 The proposed groupings of offences for each guideline are provided in the left-hand column of table 1. For the offences in table 1, four guidelines are suggested:

- Guideline 1 – Possession of prohibited weapon
- Guideline 2 – Possession with intent to endanger life
- Guideline 3 – Possession with intent to cause fear of violence
- Guideline 4 – Carrying in a public place

3.29 Although the two possession with intent offences are likely to involve similar factors, the sentencing levels are very different and the different statutory maxima of life versus 10 years mean that it would be difficult to accommodate sentencing levels for both offences in the same guideline, without using multiple tables. A separate guideline for each offence is preferable.

3.30 Should the Council wish to cover any of the offences in table 2 above, provisional groupings are provided in the left-hand column of the table.

**Question 4: Does the Council agree with the proposed groupings for the guidelines?**

*Sentencing of children and young people*

3.31 There is a question of whether a separate offence-specific guideline is needed for sentencing children and young people for firearms offences. The definitive guideline *Sentencing Children and Young People – Overarching Principles* already applies. This guideline contains some brief references to firearms to highlight the mandatory minimum sentence of three years for 16- and 17-year-olds for certain firearms offences.

3.32 The Council does not ordinarily produce separate offence-specific guidelines for children and young people, unless there is a strong reason to do so. There are offence-specific guidelines for a limited number of offences only, including bladed article possession/threats and robbery offences, which under-18s commit in high volumes, and sexual offences, an area that is complex and has distinct characteristics. Compared with these offences, the firearms volumes are not high, nor is there the same high level of public concern about young people's involvement.

3.33 The volumes of children and young people being sentenced for firearms offences are very low. Generally offending by under-18s forms less than 10% of total offending. For example, in 2017 for possession of a disguised firearm (s5(1A)(a)), there were around 10 under-18s sentenced, and 140 adults. **Annex A** shows volumes of under-18s compared with adults for the offences in table 1.

3.34 On the other hand, the Home Office and law enforcement stakeholders do support having separate guidance for children and young people. In context of 'county lines', some Police areas have observed young people being used to store and transport firearms which are used to reinforce debts or control turf, due to perceptions that young people will attract less law enforcement scrutiny and lower sentences. That said, any increased incidence of youth involvement in firearms possession through county lines is not currently translating into convictions for firearms offences in any significant numbers. Aside from involvement in county lines, no other youth-specific features of firearms offending have been raised.

3.35 It is difficult to see what a separate guideline would add beyond what is already contained in *Sentencing Children and Young People – Overarching Principles*. This guideline directs sentencers to consider factors that may be relevant in county lines cases, such as participation due to peer pressure, coercion or manipulation, and the offender's role if part of a group. It is also worth noting that the exploitation and coercion involved in county lines extends to vulnerable adults such as the elderly and disabled as well as children and young people. Any firearms guideline will need to address this type of case in any event, which will assist sentencers consulting the adult guideline when sentencing a child or young person.

3.36 On balance, it is recommended that the guideline focuses on adult offending and does not include specific guidance for children and young people at this time, given the low volumes. The Council will separately be considering changes to the drug offences guideline to respond to issues raised by county lines. Sentencers can continue to rely on the children and young people guideline to assist with sentencing for a firearms offence.

**Question 5: Does the Council agree not to include separate sentencing guidance for children and young people within the firearms guideline?**

*Guidance on minimum sentence provisions and 'exceptional circumstances'*

3.37 As already highlighted above, under s51A of the Firearms Act 1968, a minimum sentence applies to certain firearms offences (at **Annex D**), unless there are exceptional circumstances relating to the offence or to the offender. It applies to *all* relevant offences, including on first conviction, rather than to repeat offences. The minimum sentence is five years for offenders aged 18 years or over, and three years for offenders aged 16 or 17.

3.38 The 'exceptional circumstances' proviso in s51A is worded differently from the 'particular circumstances' proviso applicable to repeat drug trafficking and bladed article offences. There have been a number of appeals about the scope and effect of s51A and the exceptional circumstances proviso, including Attorney General references for unduly lenient sentences. Anecdotally, both judges and law enforcement stakeholders have observed inconsistent approaches to what constitutes exceptional circumstances, for example the offender being pressured into possession as a custodian or the weapon being a stun gun.

3.39 The guideline will need to set out text to assist sentencers to identify cases where the minimum sentence applies and where exceptional circumstances are present. It would be helpful if the Council could indicate the level of detail it wishes to provide. It is recommended the guidance is comprehensive and includes detail on what may or may not constitute exceptional circumstances of the offence or offender.

**Question 6: Does the Council agree to provide comprehensive guidance on minimum sentences for firearms offences, including the exceptional circumstances proviso?**

**4 IMPACT**

4.1 A draft resource assessment will be developed in due course. If the Council decides that the aim of the guideline is to replicate current sentencing practice, then the impact on resources within the system is likely to be negligible. Transcripts and other data are being analysed to assess this impact.

4.2 The resource impact of developing the guideline itself is greater if the Council decides to include a broader range of offences. A more comprehensive guideline means the guideline may take longer to complete and occupy more staff and Council meeting time. Additional meeting slots will be allocated if needed once the scope of the guideline is decided.

**5 RISK**

5.1 None at this stage. Judicial and stakeholder engagement so far has suggested sentencing guidance in this area will be welcomed. Firearms offending can sometimes be high profile, particularly when linked to organised criminal activity and drug offending. There are also strong interest groups on the lawful use of firearms side, such as shooting organisations, who are likely to take an interest in the development of the guideline.

Number of adult offenders sentenced for firearms offences, by court type, 2007-2017<sup>1</sup>

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	5(1)(a), (c), (ad), (ae)	Possess/purchase/acquire a prohibited weapon (automatic)/ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle	MC	4	4	9	4	2	1	1	1	0	1	0		
				CC	242	335	348	301	165	50	46	26	43	68	54		
				<b>Total</b>	<b>246</b>	<b>339</b>	<b>357</b>	<b>305</b>	<b>167</b>	<b>51</b>	<b>47</b>	<b>27</b>	<b>43</b>	<b>69</b>	<b>54</b>		
		5(1)(b)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	MC	639	625	637	610	531	431	410	313	303	289	204		
				CC	174	232	226	215	213	173	153	151	156	173	143		
				<b>Total</b>	<b>813</b>	<b>857</b>	<b>863</b>	<b>825</b>	<b>744</b>	<b>604</b>	<b>563</b>	<b>464</b>	<b>459</b>	<b>462</b>	<b>347</b>		
		5(1A)(a)	Possess/ purchase prohibited weapon (disguised firearm)	MC	0	0	2	3	1	1	0	0	0	1	0		
				CC	3	1	1	0	3	24	52	86	138	190	138		
				<b>Total</b>	<b>3</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>4</b>	<b>25</b>	<b>52</b>	<b>86</b>	<b>138</b>	<b>191</b>	<b>138</b>		
		5(1A)(b)-(g)	Possess/ purchase/ sell or transfer military equipment	MC	15	10	10	3	6	5	1	0	1	5	1		
				CC	7	22	23	12	57	121	124	161	192	218	220		
				<b>Total</b>	<b>22</b>	<b>32</b>	<b>33</b>	<b>15</b>	<b>63</b>	<b>126</b>	<b>125</b>	<b>161</b>	<b>193</b>	<b>223</b>	<b>221</b>		
Group 2	Firearms Act 1968	16	Possess a firearm/ ammunition with intent to endanger life / enable another to do so	MC	1	0	1	0	0	0	0	0	0	0			
				CC	45	58	52	43	67	62	68	44	52	52	76		
				<b>Total</b>	<b>46</b>	<b>58</b>	<b>53</b>	<b>43</b>	<b>67</b>	<b>62</b>	<b>68</b>	<b>44</b>	<b>52</b>	<b>52</b>	<b>76</b>		
				Possess shotgun with intent to endanger life / enable another to do so	MC	0	0	0	0	0	0	0	0	0	0	0	
					CC	1	3	1	5	0	1	2	0	2	1	1	
					<b>Total</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>5</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>1</b>	
		Possess air weapon with intent to endanger life / enable another to do so	MC	0	0	0	0	0	0	0	0	0	0	0			
			CC	1	2	0	0	2	1	0	0	0	0	0			
			<b>Total</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			
		Group 3	Firearms Act 1968	16A	Possess a firearm/ imitation firearm with intent to cause fear of violence	MC	3	4	3	0	1	0	0	1	2	3	
						CC	286	315	246	264	238	216	206	205	229	259	251
						<b>Total</b>	<b>289</b>	<b>319</b>	<b>249</b>	<b>264</b>	<b>239</b>	<b>216</b>	<b>206</b>	<b>206</b>	<b>230</b>	<b>261</b>	<b>254</b>
Shotgun - possession with intent to cause fear of violence	MC					0	1	0	0	0	0	0	0	0	0	0	
	CC					4	5	1	6	0	5	1	3	3	7	6	
	<b>Total</b>					<b>4</b>	<b>6</b>	<b>1</b>	<b>6</b>	<b>0</b>	<b>5</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>7</b>	<b>6</b>	
Air weapon - possession with intent to cause fear of violence	MC	0	0	2	0	0	0	0	0	0	0	0					
	CC	9	7	10	4	12	9	14	13	9	14	4					
	<b>Total</b>	<b>9</b>	<b>7</b>	<b>12</b>	<b>4</b>	<b>12</b>	<b>9</b>	<b>14</b>	<b>13</b>	<b>9</b>	<b>14</b>	<b>4</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			
				CC	20	15	14	8	11	6	7	5	7	6			
				<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>			

Group 5	Firearms Act 1968	1(1)(a),(b)	Possess a firearm/ammunition without a certificate; possess a shortened shotgun; possess a thing converted into a firearm	MC	97	87	81	74	68	60	50	58	31	49	29
				CC	98	98	110	123	110	99	84	83	78	88	82
				<b>Total</b>	<b>195</b>	<b>185</b>	<b>191</b>	<b>197</b>	<b>178</b>	<b>159</b>	<b>134</b>	<b>141</b>	<b>109</b>	<b>137</b>	<b>111</b>
Group 6	Firearms Act 1968 Firearms (Amendment) Act 1988	2(1)	Possess shotgun without a certificate	MC	36	36	27	29	19	23	21	22	14	16	22
				CC	15	19	12	25	19	12	9	15	22	15	19
				<b>Total</b>	<b>51</b>	<b>55</b>	<b>39</b>	<b>54</b>	<b>38</b>	<b>35</b>	<b>30</b>	<b>37</b>	<b>36</b>	<b>31</b>	<b>41</b>
Group 6	Firearms Act 1968 Firearms (Amendment) Act 1988	4(1) 6(1)	Shorten shotgun barrel - less than 60.96 cm / 24 ins Shorten smooth-bore gun barrel of section 1 firearm (Firearms Amendment Act 1988)	MC	1	0	0	0	0	0	0	0	0	0	0
				CC	2	2	0	1	0	0	0	0	1	0	1
				<b>Total</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>
Group 7	Firearms Act 1968	4(3)	Convert thing / imitation firearm into a firearm	MC	5	5	0	0	0	0	0	0	0	0	0
				CC	0	0	0	4	0	1	0	0	0	0	0
				<b>Total</b>	<b>5</b>	<b>5</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Group 7	Firearms Act 1968	4A(1)	Possession of articles for conversion of imitation firearms <sup>2</sup>	MC	-	-	-	-	-	-	-	-	-	-	-
				CC	-	-	-	-	-	-	-	-	-	-	-
				<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Group 8	Firearms Act 1968	5(2A)(a)	Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968	MC	0	0	0	0	0	0	0	0	0	0	0
				CC	0	0	0	0	0	0	0	0	0	4	0
				<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0</b>
Group 9	Firearms Act 1968	5(2A)(b)	Sell / transfer prohibited weapon / ammunition	MC	0	0	0	0	0	0	0	1	0	0	0
				CC	0	0	0	0	0	0	0	0	0	10	19
				<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>10</b>	<b>19</b>
Group 9	Firearms Act 1968	5(2A)(c)	Possess prohibited weapon / ammunition for sale / transfer	MC	0	0	0	0	0	0	0	0	0	1	0
				CC	0	0	0	0	0	0	0	0	0	4	5
				<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>5</b>
Group 9	Firearms Act 1968	5(2A)(d)	Purchase / acquire prohibited weapon / ammunition for sale / transfer	MC	0	0	0	0	0	0	0	0	0	0	0
				CC	0	0	0	0	0	0	0	0	0	0	1
				<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
Group 10	Customs and Excise Management Act 1979	50(3), (4) and (5A)(a)	Import prohibited weapons / ammunition with intent to evade a prohibition / restriction	MC	0	0	0	0	0	0	0	0	5	9	3
				CC	0	0	0	0	0	0	0	0	0	0	2
				<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>9</b>	<b>5</b>
Group 10	Customs and Excise Management Act 1979	170(1)(b) & (3) 170(2), (3) & (4A)(a)	Carry / remove / deposit etc. prohibited weapons / ammunition with intent to evade a prohibition / restriction / Knowingly concerned in fraudulent evasion	MC	0	0	0	0	0	0	0	0	2	2	0
				CC	0	0	0	0	0	0	0	0	3	3	
				<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>5</b>	<b>3</b>
Group 2	Firearms Act 1968	17(1)	Make use / attempt to make use of a firearm/ imitation firearm with intent to resist arrest	MC	0	0	0	1	0	0	1	0	0	0	0
				CC	1	0	5	2	5	3	3	3	1	4	1
				<b>Total</b>	<b>1</b>	<b>0</b>	<b>5</b>	<b>2</b>	<b>5</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>4</b>	<b>1</b>
Group 2	Firearms Act 1968	17(2)	Possess firearm/ imitation firearm/ shotgun/ air weapon while committing Schedule 1 offence	MC	0	0	0	1	0	0	1	0	0	0	0
				CC	52	55	34	24	24	20	13	24	13	13	16
				<b>Total</b>	<b>52</b>	<b>55</b>	<b>34</b>	<b>25</b>	<b>24</b>	<b>20</b>	<b>14</b>	<b>24</b>	<b>13</b>	<b>13</b>	<b>16</b>
Group 2	Firearms Act 1968	18(1)	Have a firearm/ imitation firearm with intent to commit an indictable offence/ resist arrest/ prevent the arrest of another	MC	0	0	0	0	0	0	0	0	0	0	1
				CC	43	26	34	24	23	11	17	11	10	14	16
				<b>Total</b>	<b>43</b>	<b>26</b>	<b>34</b>	<b>24</b>	<b>23</b>	<b>11</b>	<b>17</b>	<b>11</b>	<b>10</b>	<b>14</b>	<b>17</b>
Group 11	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>

Source: Court Proceedings Database, Ministry of Justice

## Notes

1) Information on sentence volumes has been provided for the firearms offences in tables 1 and 2 of the Council paper.

2) New offence under the Policing and Crime Act 2017; came into force 2 May 2018.

Sentence outcomes for adult offenders sentenced for offences under the Firearms Act 1968, 2017<sup>1</sup>

Guideline group	Section	Offence	Absolute Discharge	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with <sup>2</sup>	Total
Group 1	5(1)(a), (c), (ad), (ae)	Possess/purchase/acquire a prohibited weapon (automatic)/ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle	0	0	0	0	6	48	0	54
	5(1)(b)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	1	30	47	96	95	71	7	347
	5(1A)(a)	Possess/ purchase prohibited weapon (disguised firearm)	0	0	0	3	32	103	0	138
Group 2	5(1A)(b)-(g)	Possess/ purchase/ sell or transfer military equipment	0	0	1	2	12	204	2	221
	16	Possess a firearm/ ammunition/shotgun/air weapon with intent to endanger life / enable an other to do so	0	0	0	0	0	72	5	77
Group 3	16A	Possess a firearm/ imitation firearm/ shotgun/ air weapon with intent to cause fear of violence	0	1	0	10	62	185	6	264
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
Group 5	1(1)(a),(b)	Possess a firearm/ammunition without a certificate; possess a shortened shotgun; possess a thing converted into a firearm	2	11	12	5	29	51	1	111
	2(1)	Possess shotgun without a certificate	0	8	9	1	9	13	1	41

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>2</sup>	Total
Group 1	5(1)(a), (c), (ad), (ae)	Possess/purchase/acquire a prohibited weapon (automatic)/ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle	0%	0%	0%	0%	11%	89%	0%	100%
	5(1)(b)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	0%	9%	14%	28%	27%	20%	2%	100%
	5(1A)(a)	Possess/ purchase prohibited weapon (disguised firearm)	0%	0%	0%	2%	23%	75%	0%	100%
Group 2	5(1A)(c), (d), (e), (f), (g)	Possess/ purchase/ sell or transfer military equipment	0%	0%	0%	1%	5%	92%	1%	100%
	16	Possess a firearm/ ammunition/shotgun/air weapon with intent to endanger life / enable an other to do so	0%	0%	0%	0%	0%	94%	6%	100%
Group 3	16A	Possess a firearm/ imitation firearm/ shotgun/ air weapon with intent to cause fear of violence	0%	0%	0%	4%	23%	70%	2%	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%
Group 5	1(1)(a),(b)	Possess a firearm/ammunition without a certificate; possess a shortened shotgun; possess a thing converted into a firearm	2%	10%	11%	5%	26%	46%	1%	100%
	2(1)	Possess shotgun without a certificate	0%	20%	22%	2%	22%	32%	2%	100%

Source: Court Proceedings Database, Ministry of Justice

## Notes

1) Information on sentence outcomes has been provided for the most common firearms offences.

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

**Average custodial sentence lengths (post guilty plea) for adult offenders sentenced to immediate custody for offences under the Firearms Act 1968, 2017<sup>1</sup>**

<b>Guideline group</b>	<b>Section</b>	<b>Offence</b>	<b>Mean sentence length<sup>2,4</sup></b>	<b>Median sentence length<sup>3,4</sup></b>
Group 1	5(1)(a), (c), (ad), (ae)	Possess/purchase/acquire a prohibited weapon (automatic)/ ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle	6 years 6 months	6 years 5 months
	5(1)(b)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	11 months	8 months
	5(1A)(a)	Possess/ purchase prohibited weapon (disguised firearm)	3 years 8 months	4 years
Group 2	5(1A)(b)-(g)	Possess/ purchase/ sell or transfer military equipment	5 years 3 months	5 years
	16	Possess a firearm/ ammunition/shotgun/air weapon with intent to endanger life / enable an other to do so	11 years 2 months	12 years
Group 3	16A	Possess a firearm/ imitation firearm/ shotgun/ air weapon with intent to cause fear of violence	2 years 7 months	2 years
Group 4	19	Possess loaded/unloaded firearm and suitable ammunition/shotgun/ airweapon/ imitation firearm in public place	7 months	4 months
Group 5	1(1)(a),(b)	Possess a firearm/ammunition without a certificate; possess a shortened shotgun; possess a thing converted into a firearm	2 years 9 months	2 years
	2(1)	Possess shotgun without a certificate	2 years 5 months	2 years 3 months

Source: Court Proceedings Database, Ministry of Justice

**Notes**

- 1) Information on ACSLs has been provided for the most common firearms offences.
- 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.



Number of children and young people sentenced for firearms offences, by court type, 2007-2017<sup>1</sup>, and number of adult offenders sentenced, 2017

Legislation	Section	Offence	Court type	Number of children and young people sentenced											Number of adults sentenced
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2017
Firearms Act 1968	5(1)(a), (c), (ad), (ae)	Possess/purchase/acquire a prohibited weapon (automatic)/ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle	MC	10	6	1	0	1	1	1	1	1	0	0	0
			CC	6	17	21	17	7	0	0	0	1	1	2	54
			<b>Total</b>	<b>16</b>	<b>23</b>	<b>22</b>	<b>17</b>	<b>8</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>54</b>
	5(1)(b)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	MC	103	87	58	58	52	41	34	27	25	14	23	204
			CC	3	1	1	1	1	0	0	0	0	2	2	143
			<b>Total</b>	<b>106</b>	<b>88</b>	<b>59</b>	<b>59</b>	<b>53</b>	<b>41</b>	<b>34</b>	<b>27</b>	<b>25</b>	<b>16</b>	<b>25</b>	<b>347</b>
	5(1A)(a)	Possess/ purchase prohibited weapon (disguised firearm)	MC	2	0	0	1	0	0	0	2	2	3	4	0
			CC	0	0	0	0	0	0	2	2	1	4	9	138
			<b>Total</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>7</b>	<b>13</b>	<b>138</b>
	5(1A)(b)-(g)	Possess/ purchase/ sell or transfer military equipment	MC	3	8	5	5	2	1	6	3	1	2	2	1
			CC	1	1	0	1	5	4	5	1	6	3	12	220
			<b>Total</b>	<b>4</b>	<b>9</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>5</b>	<b>11</b>	<b>4</b>	<b>7</b>	<b>5</b>	<b>14</b>	<b>221</b>
	16	Possess a firearm/ ammunition with intent to endanger life / enable another to do so	MC	1	2	1	0	0	0	0	0	0	0	0	0
			CC	0	2	2	5	4	6	2	2	1	0	1	76
			<b>Total</b>	<b>1</b>	<b>4</b>	<b>3</b>	<b>5</b>	<b>4</b>	<b>6</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>76</b>
	16	Possess shotgun with intent to endanger life / enable another to do so	MC	0	0	0	0	0	0	0	0	0	0	0	0
			CC	0	1	0	1	0	0	0	0	0	0	0	1
			<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
	16	Possess air weapon with intent to endanger life / enable another to do so	MC	0	1	0	0	0	0	0	0	0	0	0	0
			CC	0	0	0	0	0	0	0	0	0	0	0	0
			<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	16A	Possess a firearm/ imitation firearm with intent to cause fear of violence	MC	71	51	26	33	29	23	22	14	18	17	17	3
			CC	8	9	9	6	4	8	8	6	2	4	2	251
			<b>Total</b>	<b>79</b>	<b>60</b>	<b>35</b>	<b>39</b>	<b>33</b>	<b>31</b>	<b>30</b>	<b>20</b>	<b>20</b>	<b>21</b>	<b>19</b>	<b>254</b>
16A	Shotgun - possession with intent to cause fear of violence	MC	2	0	0	0	0	0	0	0	1	0	0	0	
		CC	0	1	0	0	0	1	0	0	0	0	1	6	
		<b>Total</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>6</b>	
16A	Air weapon - possession with intent to cause fear of violence	MC	18	18	6	4	1	3	1	1	3	2	1	0	
		CC	0	0	0	0	0	0	0	1	0	0	0	4	
		<b>Total</b>	<b>18</b>	<b>18</b>	<b>6</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>4</b>	
19	Possess loaded/unloaded firearm and suitable ammunition in public place	MC	45	22	3	2	1	3	3	2	0	1	0	2	
		CC	2	0	0	0	2	0	1	1	0	1	0	5	
		<b>Total</b>	<b>47</b>	<b>22</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>4</b>	<b>3</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>7</b>	
19	Possess a loaded shotgun in a public place	MC	6	5	1	0	0	0	1	0	0	0	1	0	
		CC	0	0	0	0	0	0	0	1	0	0	0	2	
		<b>Total</b>	<b>6</b>	<b>5</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>	
19	Possess a loaded / unloaded air weapon in a public place	MC	203	146	64	48	37	28	19	7	17	9	8	68	
		CC	0	1	0	0	1	0	0	0	0	0	0	6	
		<b>Total</b>	<b>203</b>	<b>147</b>	<b>64</b>	<b>48</b>	<b>38</b>	<b>28</b>	<b>19</b>	<b>7</b>	<b>17</b>	<b>9</b>	<b>8</b>	<b>74</b>	
19	Possess an imitation firearm in a public place	MC	0	21	53	42	33	32	22	23	27	31	34	85	
		CC	0	0	1	2	1	2	1	2	3	0	0	35	
		<b>Total</b>	<b>0</b>	<b>21</b>	<b>54</b>	<b>44</b>	<b>34</b>	<b>34</b>	<b>23</b>	<b>25</b>	<b>30</b>	<b>31</b>	<b>34</b>	<b>120</b>	

Source: Court Proceedings Database, Ministry of Justice

## Note

1) Information on sentence volumes has been provided for the firearms offences in table 1 of the Council paper.

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**MCSG GUIDELINE: CARRYING A FIREARM IN A PUBLIC PLACE**

Firearms Act 1968, s.19

**Firearm, carrying in public place**

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)

<b>Offence seriousness (culpability and harm)</b> <b>A. Identify the appropriate starting point</b> Starting points based on first time offender pleading not guilty		
<b>Examples of nature of activity</b>	<b>Starting point</b>	<b>Range</b>
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)
Carrying loaded shot gun/carrying shot gun or any other firearm together with ammunition for it	Crown Court	Crown Court

<b>Offence seriousness (culpability and harm)</b> <b>B. Consider the effect of aggravating and mitigating factors (other than those within examples above)</b> Common aggravating and mitigating factors are identified on page 20 – the following may be particularly relevant but <b>these lists are not exhaustive</b>	
<b>Factors indicating higher culpability</b> 1. Brandishing the firearm 2. Carrying firearm in a busy place 3. Planned illegal use  <b>Factors indicating greater degree of harm</b> 1. Person or people put in fear 2. Offender participating in violent incident	<b>Factors indicating lower culpability</b> 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**  
 Common factors are identified on page 20

**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)**  
 Refer to pages 433 - 442 for guidance on available ancillary orders

**Decide sentence**  
**Give reasons**

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**EXTRACT FROM *R v AVIS* [1998] 1 CR. APP. R. 420**

The appropriate level of sentence for a firearms offence, as for any other offence, will depend on all the facts and circumstances relevant to the offence and the offender, and it would be wrong for this Court to seek to prescribe unduly restrictive sentencing guidelines. It will, however, usually be appropriate for the sentencing court to ask itself a series of questions:

- 1) What sort of weapon is involved? Genuine firearms are more dangerous than imitation firearms. Loaded firearms are more dangerous than unloaded firearms. Unloaded firearms for which ammunition is available are more dangerous than firearms for which no ammunition is available. Possession of a firearm which has no lawful use (such as a sawn-off shotgun) will be viewed even more seriously than possession of a firearm which is capable of lawful use.
- 2) What (if any) use has been made of the firearm? It is necessary for the court, as with any other offence, to take account of all circumstances surrounding any use made of the firearm: the more prolonged and premeditated and violent the use, the more serious the offence is likely to be.
- 3) With what intention (if any) did the defendant possess or use the firearm? Generally speaking, the most serious offences under the Act are those which require proof of a specific criminal intent (to endanger life, to cause fear of violence, to resist arrest, to commit an indictable offence). The more serious the act intended, the more serious the offence.
- 4) What is the defendant's record? The seriousness of any firearm offence is inevitably increased if the offender has an established record of committing firearms offences or crimes of violence.

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**FIREARMS OFFENCES TO WHICH THE MINIMUM SENTENCE APPLIES***Possession under section 5*

The minimum sentence under s51A Firearms Act 1968 applies to the possession of prohibited weapons or ammunition offences under s5 of the Act under the following sections:

s5(1)(a)	any firearm which is so designed or adapted that two or more missiles can be successively discharged without repeated pressure on the trigger;
s5(1)(ab)	any self-loading or pump-action rifled gun other than one which is chambered for .22 rim-fire cartridges;
s5(1)(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, a muzzle-loading gun or a firearm designed as signalling apparatus;
s5(1)(ac)	any self-loading or pump-action smooth-bore gun which is not an air weapon or chambered for .22 rim-fire cartridges and either has a barrel less than 24 inches in length or is less than 40 inches in length overall;
s5(1)(ad)	any smooth-bore revolver gun other than one which is chambered for 9mm. rim-fire cartridges or a muzzle-loading gun;
s5(1)(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;
s5(1)(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;
s5(1)(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;
s5(1A)(a)	any firearm which is disguised as another object.

*Other offences*

The provisions were extended in 2006 via the Violent Crime Reduction Act 2006 (VCRA) and now also apply to the following offences, where the firearm or ammunition is prohibited under s5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c), or 5(1A)(a):

s5(2A)	manufacture, sale or transfer of firearm, or possession etc for sale or transfer;
s16	possession of firearm with intent to injure;
s16A	possession of firearm with intent to cause fear of violence;
s17	use of firearm to resist arrest;
s18	carrying firearm with criminal intent;
s19	carrying a firearm in a public place;
s20(1)	trespassing in a building with firearm;
s28 VCRA 2006	using someone to mind a weapon.

All of these offences are covered in tables 1 and 2 of the paper, except the last two, s20(1) Firearms Act and s28 Violent Crime Reduction Act, which are extremely low volume (in 2017, one and zero offences respectively).