

# Sentencing Council

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

**5 April 2019**  
**SC(19)APR05 – Firearms paper**  
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## **1 ISSUE**

1.1 This is the seventh meeting to consider the firearms guideline. This paper asks the Council to consider revisions to the guidelines on possession with intent and transfer/manufacture following the March Council meeting and the meeting of the Firearms Working Group (FWG) on 12 March. The paper also discusses sentence levels for the possession and transfer/manufacture guidelines.

1.2 Currently, there are two further meetings scheduled to discuss the firearms guideline in May and July. The aim is to sign off the consultation version at the July meeting, if possible, with consultation planned for September.

## **2 RECOMMENDATION**

2.1 It is recommended that the Council:

- in the possession with intent guidelines, agrees revisions to harm factors (paragraphs 3.1-3.4), aggravating and mitigating factors (paragraphs 3.5-3.12), and culpability factors (3.13)
- in the transfer/manufacture guideline, agrees revisions including new factors relating to scale/nature of the enterprise and factors on actual harm (paragraphs 3.14-3.19) and minor changes to aggravating factors (paragraphs 3.20-3.21)
- considers the order of step two factors across the guidelines (paragraph 3.22)
- considers sentence levels for guidelines 1-4 and 8 (paragraph 3.23 onwards) and the relativity of sentence levels across guidelines 1-8 (paragraph 3.44 and table at page 12).

## **3 CONSIDERATION**

*Revisions to possession with intent (guidelines 5-7/Annexes F-H) – harm*

3.1 Following discussion at the March meeting and consideration by the FWG, several changes have been made to harm across the possession with intent guidelines. These changes apply across guidelines 5-7 (Annexes F-H).

3.2 The FWG has recommended that the catch-all factor be moved from category 2 to category 3, in the form 'All other cases'. While in the simple possession guidelines, the catch-all is the only factor in category 2, in these possession with intent guidelines there are several factors at category 2. The other two factors in category 3 (no/minimal risk of serious physical injury or death and no/minimal risk of serious disorder) have been removed, as they are covered by the catch-all. The factor 'Alarm/distress caused' has been retained at category 3 for clarity.

3.3 The FWG also discussed the possibility of adding risk of *psychological* injury to the risk-based factor at category 2. This would put risk of psychological and physical harm on the same footing in this factor. On the other hand, there are concerns it may unduly widen the category 2 factor as many cases may be seen to involve a high risk of serious psychological harm; actual alarm/distress or psychological harm is well covered and it may be appropriate to focus only on the risk of serious physical injury or death. The FWG agreed to test this with judges to see how the factor is approached with risk of psychological harm included.

3.4 Consideration has been given to the wording in bold below the harm table. The FWG discussed whether it was necessary to include the wording directing sentencers to balance factors falling under different levels of harm. Some considered the wording was unnecessary as factors under different levels were less likely to arise (e.g. no physical harm but high psychological harm) and sentencers were aware of the need to balance, however there was also a desire to retain the wording for consistency with the other guidelines and to remind sentencers of the need for balancing should it arise. It was agreed to test the wording with sentencers. Finally, the wording 'death or' has been added to the last line under the harm factors, relating to separate charges and totality.

#### **Question 1: Is the Council content with these changes to harm?**

*Revisions to possession with intent (guidelines 5-7/Annex E - G) – aggravating/mitigating factors*

3.5 At the March meeting the Council considered aggravating and mitigating factors and made some revisions. Some factors were referred to the FWG for consideration. The key changes recommended by the FWG are set out below.

3.6 **Factor A9/A12 'Offence committed to further organised criminal activity (except where already taken into account at step one)' (guidelines 5 and 6):** The Council wanted amendments to the previous wording of 'further organised criminal activity or protect territory'. The wording '*further or protect* organised criminal activity' had been suggested but the FWG

considered 'or protect' was unnecessary, so it has been omitted. The FWG agreed it was useful to qualify this factor to avoid double-counting with step one factors.

3.7 **A4 'Firearm is prohibited under section 5 and subject to minimum term (where not already increased to minimum term)' (guidelines 6 and 7):** The FWG agreed to add this wording to clarify that the factor should not apply in cases where the sentence has already been increased to meet the minimum term.

3.8 **A4/A5 'Firearm under section 5(1)(a) (automatic weapon)'**: This factor was already included as an aggravating factor under the transfer/manufacture guideline. The FWG decided to include it for the possession with intent guidelines as well. This is in addition to the aggravating factor in guidelines 6 and 7 for firearms prohibited under section 5.

3.9 **A5/A6 'Firearm modified to make it more ~~lethal~~ dangerous'**: The FWG considered that 'dangerous' was more appropriate wording for this factor.

3.10 **A11/A14 'Attempts to conceal or dispose of the firearm or other evidence'**: The FWG has agreed to include this factor, in part to address concerns over cases where the offender has taken steps to dispose of the firearm so it has not been recovered. The wording is consistent with that used in bladed articles, drugs, fraud and theft, but with specific reference to disposal of the firearm. It is broadly drafted so that it will apply to disposal of this as well as other evidence. The factor has been included in the possession with intent guidelines and the transfer/manufacture guideline (guidelines 5-8).

3.11 **M4 'Imitation firearm is unrealistic and unconvincing' (guidelines 6 and 7):** Previously this factor used the wording 'crude and unrealistic'. The Council had concerns about how 'unrealistic' would be assessed and from whose perspective this would be considered. The FWG has proposed this revised wording.

3.12 **M7 'Offender co-operated with investigation and/or made early admissions'**: This factor has been included to replace the factor 'co-operation with police'. The new wording is very similar to that used in the fraud guideline.

## **Question 2: Does the Council agree with these changes to aggravating and mitigating factors in guidelines 5-7?**

*Possession with intent (guidelines 6-7/Annexes F-G) – clarification in culpability factors*

3.13 Minor changes are proposed to the culpability factors in the possession with intent guidelines that cover both firearms and imitation firearms; these are tracked in guideline 6

(**Annex F page 2**). The changes are to clarify that the factors relating to the firearm being discharged, loaded or held with ammunition, or not produced/visible, apply to imitation firearms as well as firearms. This is necessary because many of the weapons involved in cases under guidelines 6 and 7 are BB guns/air weapons or other items which can be loaded etc but are treated as imitation firearms. If the Council agrees with the clarification, it will be applied to guidelines 6 and 7, as well as guideline 4 (Annex D) on carrying in a public place, as these all cover imitation firearms.

**Question 3: Does the Council agree with these changes to culpability factors in guidelines 4, 6 and 7 to clarify that they apply to imitation firearms?**

*Revisions to transfer/manufacture (guideline 8/Annex H) – harm*

3.14 The Council agreed the model of harm for this guideline at **Annex H**, focusing on the scale and nature of the criminal enterprise and any actual harm caused. The Council asked the FWG to consider the wording of the harm factors.

3.15 **Factors relating to scale and nature of criminal enterprise (Annex H page 3):** At the last meeting, the Council decided not to include general explanatory wording about the scale and nature of the criminal enterprise above the harm categories,<sup>1</sup> but instead to explore putting some of the content from this wording into factors. This has been considered by the FWG. The FWG has agreed to include certain sub-factors on scale and nature under category 1 and category 3, relating to the number of weapons, time period, geographic range, and connection to organised criminal groups, drawing on *Stephenson*.<sup>2</sup> The wording ‘indicators may include’ has been added to make it clear the factors are indicative and not exclusive.

3.16 Elements not included are: type and variety of weapon (as these are effectively captured at step two and more broadly under sophistication); substantial profits (due to overlap with the culpability factors relating to expectation of financial and other advantage); number of people involved (as a small number of people could still be involved in large-scale production or distribution); and specific factors indicating sophistication, such as organisational complexity/coordination or sophisticated methods of operation.

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<sup>1</sup> Wording originally proposed was as follows, located above the table:

“When considering the **scale** and **nature** of the enterprise, relevant considerations may include the number, type and variety of weapons involved, the value of profits, the number of people involved, the period of time and geographic range over which the enterprise operated, and connections to organised criminal groups.”

<sup>2</sup> *Attorney General's References (Nos 128-141 of 2015 and 8-10 of 2016)* [2016] EWCA Crim 54 (*R v Stephenson*).

3.17 New factors on scale and nature have been added to category 1 and category 3 only. Rather than including specific factors under category 2, the stand-alone catch-all factor in that category has been shifted so it forms part of the ‘medium-scale enterprise and/or some degree of sophistication’ factor. This makes it clearer that this catch-all factor will capture cases falling in between the specific factors in categories 1 and 3 or where there are factors from each of those categories that balance each other out (such as operation over a short time period or small geographic range but involving a large volume of weapons).

3.18 The text is as follow, listing the scale and sophistication factors only (actual harm factors are below at paragraph 3.19):

<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Large-scale commercial and/or highly sophisticated enterprise – indicators may include: <ul style="list-style-type: none"> <li>○ Large number of prohibited weapons/ammunition involved</li> <li>○ Operation over significant time period</li> <li>○ Operation over significant geographic range</li> <li>○ Close connection to organised criminal group(s)</li> </ul> </li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Medium-scale enterprise and/or some degree of sophistication, including 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>• Smaller-scale and/or unsophisticated enterprise – indicators may include: <ul style="list-style-type: none"> <li>○ Limited number of prohibited weapons/ammunition involved</li> <li>○ Operation over limited time period</li> <li>○ Operation over limited geographic range</li> <li>○ Minimal/no connection to organised criminal group(s)</li> </ul> </li> </ul>

**Question 4: Does the Council agree with these additional harm factors on scale and sophistication of the criminal enterprise in guideline 8?**

3.19 **Factors relating to actual harm (Annex H page 3):** The FWG has proposed slight changes to the factors relating to actual harm. ‘Subsequently’ has been added to each factor to clarify that they apply to harm arising *after* the transfer/manufacture. ‘Extensively’ in category 1 and ‘serious’ in category 2 have been removed as they were seen as unnecessary. The factors now read as follows:

<b>Category 1</b>	<ul style="list-style-type: none"> <li>Evidence firearm/ammunition <u>subsequently</u> used <b>extensively</b> to cause serious injury or death</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>Evidence firearm/ammunition <u>subsequently</u> used in <b>serious</b> criminal offending (where not at category 1)</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>Evidence firearm/ammunition not <u>subsequently</u> used in criminal offending</li> </ul>

**Question 5: Does the Council agree with these changes to actual harm factors in guideline 8?**

*Revisions to transfer/manufacture (Guideline 8/Annex H) – aggravating/mitigating factors*

3.20 **Aggravating factors A10 and A5 (Annex H page 4-5):** The FWG agreed to remove factor A10 ('Firearm/ammunition held with multiple weapons ...') as it is less relevant to manufacture/transfer than simple possession and possession with intent, the volume of weapons is already an element in harm, and the presence of ammunition is captured in A5.

3.21 Factor A5 has been amended to: 'Compatible ammunition and/or silencer(s) supplied with firearm (See step six on totality when sentencing for more than one offence.)'. The extra wording has been added because analysis of transcripts indicated that around 75% of cases involved compatible ammunition as well as the firearm, and often there were separate charges relating to the ammunition.

**Question 6: Does the Council agree with removing A4 and the addition to A5 on totality?**

*Order of aggravating/mitigating factors across the guidelines*

3.22 The Council asked for the aggravating and mitigating factors to be re-ordered. Across all of the guidelines, the factors have been grouped so that those relating to the firearm/imitation firearm itself come first, followed by other factors relating to the offending, and finally factors relating to the offender (noting that these distinctions are not always clear-cut). Guideline 6 or 7 may be referred to as an example as they have the highest number of aggravating factors.

**Question 7: Does the Council agree with the order of the step two factors?**

*Sentence levels*

3.23 The Council considered an earlier draft of sentence levels for guideline 1 at the December 2018 meeting, and guidelines 5-7 at the March 2019 meeting. The following section of the paper sets out revisions made to sentence levels for guideline 1, and levels for

guidelines 2-4 and 8 which have not yet been considered. This is followed by an overview of the sentence levels across the eight guidelines.

3.24 Data on sentence levels, including volumes, outcomes, pre-guilty plea ACSLs, and pre-guilty plea sentence lengths is at **Annex I**.

*Sentence levels – possession of prohibited weapon (Guideline 1/Annex A)*

3.25 The Council initially considered a draft of these sentence levels at the December 2018 meeting. It was agreed to use two separate tables, one for cases subject to the 5-year minimum term (table 1) and one for cases not subject to the minimum term (table 2). The Council was generally content with the levels in the two tables but wanted to reduce the 6 month increments in the starting points and category ranges.

3.26 The tables have been revised to remove most of the 6 month increments. In the minimum term table (table 1), the starting point in boxes B3 and C2 have been left at 5 years 6 months' custody. There is only a limited range of sentences in this table (5 to 10 years) and the lower end is somewhat crowded so this 6 month increment is necessary to distinguish these boxes from those above and below.

3.27 There is one particular issue to note with table 2 (non-minimum term cases). Compared with other firearms offences, the offences falling under this table have relatively low rates of immediate custody, at 22%, and fairly high rates of suspended sentence (28%) and community orders (27%). A further 13% of offenders received fines and 8% received conditional discharges. The estimated median pre-guilty plea custodial length was 1 year 1 month for these non-minimum term cases.

3.28 It is expected the vast majority of table 2 cases will fall into culpability B or C as most will be type 3 weapons and there will be very few type 2 weapons that could fall into culpability A. Under the current levels in table 2, the boxes covering custody are B1, B2 and C1. The starting point in C1 and B2 has been set at 6 months, while the starting point in B1 is 2 years. The ranges across B1, B2 and C1 will cover around 90% of current custodial sentence levels, with the small proportion of cases that are higher expected to be covered by the cases falling into culpability A. The 6 month starting point in C1/B2 may appear low at first glance, but it was considered preferable to 1 year, as currently half of immediate custodial cases fall below 1 year 1 month, so setting the starting point for both boxes at 1 year would likely inflate sentence levels.

**Question 8: Does the Council agree with the revised levels for guideline 1?**

*Sentence levels – possession without certificate (Guideline 2/Annex B)*

3.29 The Council is asked to consider the draft levels for guideline 2 (**Annex B**) covering offences of possession without a certificate. The offences covered have a maximum penalty of 5 years' custody. The aggravated form of the offence (possession of a shortened shotgun or a thing converted into a firearm) has a maximum of 7 years. In 2017 there were around 150 offenders sentenced, including 14 for the aggravated form (less than 10% of total cases). In 2017 for all cases, immediate custody was the outcome in 42% of cases, with 25% receiving suspended sentences. A further 4% received a community order, while 14% received a fine, and 14% a discharge (13% conditional and 1% absolute). For custodial sentences, the estimated median pre-guilty plea length was 3 years.

3.30 The sentence levels have been drafted on the basis that most cases will fall into culpability B and C. Most cases will involve type 2 weapons and few are expected to involve high culpability factors. In the top box A1, the top of the range has been set at 4 years 6 months as 19% of immediate custody cases in 2017 received 5 years' custody. The top of the range could be set at 5 years but it is usual to leave some headroom and there may have been other factors such as concurrent charges that increased these sentences to the maximum sentence.

3.31 While the top of the range in A1 goes to 5 years' custody, there is a separate statement in bold above the table to draw sentencers' attention to the seven year maximum penalty for the aggravated form of the offence, stating that it may be appropriate to go above the category range for these cases. The aggravated weapons (converted firearms or shortened shotguns) are type 1 weapons so most will fall into culpability A.

3.32 In terms of non-custodial outcomes, the offences covered by this guideline have relatively few community orders (4%) and a relatively high proportion of conditional discharges (13%). Community orders are currently within the range for 5 out of 9 boxes (albeit only at the bottom of the range for A3, B2 and C1). This has the potential to increase rates of community orders, but seems preferable to restricting these boxes to custody only. Discharge has been used as the bottom of the range for both C2 and C3 to reflect the relatively high proportion of discharges.

**Question 9: Does the Council agree with the proposed levels for guideline 2?**

*Sentence levels – possession by person prohibited (Guideline 3/Annex C)*

3.33 The Council is asked to consider the draft sentence levels for guideline 3 (Annex C) on possession by a person with previous convictions who is prohibited from possessing a



firearm or ammunition. This is quite a low volume offence with around 50 offenders sentenced in 2017. Like the possession without a certificate guideline, the maximum penalty is 5 years' custody. Slightly more offenders received immediate custody, but sentences were shorter: in 2017, immediate custody was the outcome in 50% of cases, with 19% receiving suspended sentences. A further 10% received a community order, while 13% received a fine, and 8% a discharge. For custodial sentences, the estimated median pre-guilty plea length was 1 year 3 months (compared with 3 years for possession without a certificate).

3.34 The lower end of the sentence table is similar to that for possession without a certificate, since the non-custodial outcomes are fairly similar. However, where the box contains a custodial option, the levels are lower to reflect the lower median pre-guilty plea sentence lengths. The top of box A1 has been set at 4 years; there was only 1 custodial sentence falling above 4 years in 2017 (4% of custodial sentences), compared with the possession without a certificate guideline which had 19%.

#### **Question 10: Does the Council agree with the proposed levels for guideline 3?**

##### *Sentence levels – carrying in public place (Guideline 4/Annex D)*

3.35 The Council is asked to consider the sentence levels for guideline 4 (Annex D) on carrying a firearm in a public place. This offence covers a person having with them (a) a loaded shot gun; (b) an air weapon (whether loaded or not); (c) any other firearm (whether loaded or not) together with ammunition suitable for use in that firearm; or (d) an imitation firearm. It carries a maximum penalty of 7 years' custody, or 12 months' custody for imitation firearms. There were around 200 offenders sentenced in 2017. This was mainly for imitation firearms (nearly 60% of cases) and air weapons (36%).

3.36 This offence had much lower rates of immediate custody, compared with possession without a certificate and possession by person prohibited, and higher levels of community orders. In 2017, 21% of offenders received immediate custody, 24% received suspended sentences, 37% community orders, 12% fines and 5% conditional discharge. The estimated median pre-guilty plea sentence length was 6 months, significantly shorter than that for possession without a certificate (3 years) and possession by person prohibited (1 year 3 months).

3.37 This offence is subject to the minimum term, so the guideline will carry the usual guidance on this at step three, however it appears that this offence is only very rarely charged for weapons subject to the minimum term. All sentences were less than 5 years in 2017. Very few of these offences involve firearms or shotguns, and it is likely that cases

involving prohibited weapons are charged under other offences such as possession of a prohibited weapon or a possession with intent offence, which have higher maximum penalties. Since the application of the minimum term is expected to be rare, it was considered unnecessary to include separate tables for minimum term and non-minimum term cases.

3.38 As noted above, many of the cases under this offence involve imitation firearms, which have a lower maximum penalty of 12 months. Imitation firearms are type 3 weapons so would fall under culpability B or C. Only box B1 includes a range that goes above 12 months. The differing maximum penalty has been addressed in the table through an asterisk in box B1, highlighting the shorter maximum for imitation firearms.

**Question 11: Does the Council agree with the proposed levels for guideline 4, including the single table?**

*Sentence levels – transfer/manufacture (Guideline 8/Annex H)*

3.39 The manufacture and transfer offences carry a maximum penalty of life imprisonment. The offences are low volume with 25 cases in 2017. All offenders sentenced in 2017 received immediate custody. The estimated median pre-guilty plea sentence length was 9 years (note that this does not include any manufacture offences as there were none in 2017).

3.40 The Council considered the *Stephenson* judgment at the March meeting, in particular the indications about sentence levels for those in various roles in a large-scale enterprise. In brief the main points were (from [7]):

- For the leader of the enterprise, a starting point of 25 years prior to discount for plea (not to be taken as a maximum), with a materially greater sentence appropriate for previous convictions involving firearms. Those engaged in criminal enterprise under the leader should receive sentences reflecting the sentence for the leader (before any discount for plea), depending on the role they played;
- For the purchasers, sentences in the region of 15 years, with a significantly higher sentence required if any previous convictions for firearms;
- For those who assisted in transactions, sentences of not less than 8 years; sentences materially greater were required in cases where the assistance was significant; in the present case the sentences should have ranged from 12–8 years, depending on the role they played and any previous association with guns.

3.41 At the March meeting the Council considered whether the top box for this offence should be the same or higher than for the possession with intent to endanger life offence (Guideline 5/Annex E), in light of the *Stephenson* judgment. The Council agreed to reflect *Stephenson* with a higher range and starting point. Accordingly the starting point for A1 has been set at 20 years with a range of 16-26, compared with 18 years and a range of 16-22 for possession with intent to endanger life. A starting point of higher than 20 years was considered but this would be out of step with sentence levels from 2017 data.

3.42 Since purchasers would generally fall into culpability B, the 15 year starting point for purchasers in *Stephenson* is broadly equivalent to B1 (being a large-scale enterprise at harm category 1). B1 has a starting point of 14 years with a range of 12-18 years.

3.43 The range indicated in *Stephenson* of 8-12 years for those providing assistance in the transaction (in a large-scale enterprise at harm 1) broadly corresponds to the C1 box with a starting point of 10 years and a range of 8-14 years. Those providing more significant assistance may instead fall into culpability B (with materially greater assistance) or A (where a key facilitator).

**Question 12: Does the Council agree with the proposed levels for guideline 8?**

*Sentence levels – comparison*

3.44 It is useful for the Council to consider an overview of sentence levels across the package of guidelines as well as for each individual guideline. It is necessary to ensure that the individual levels are appropriate when compared with other firearms guidelines. The table below on page 12 sets out the sentence ranges, selected boxes from the sentence tables and current median sentence lengths for each guideline. Harm/culpability are equally balanced currently, so in each guideline the sentence table is symmetrical (with the exception of discharge being used in two boxes in guideline 2 – see paragraph 3.32 above). The Council may wish to consider whether it is content with this approach or whether it wishes to weight culpability (or harm) higher for any particular offence.

3.45 Further work will be done on the sentence levels across all guidelines to test them against transcripts.

**Question 13: Does the Council agree with the overall relativity of sentence levels across the guidelines?**

<b>GUIDELINE</b>	<b>STAT MAX</b>	<b>RANGE</b>	<b>TOP BOX (A1)</b>	<b>MIDDLE BOX (B2)</b>	<b>BOTTOM BOX (C3)</b>	<b>MEDIAN SENTENCE LENGTH PRE-GP (2017)</b>
<b>1 – Possession of prohibited weapon*</b>	10 years	<u>Table 1 Minimum term cases</u> 5 – 9 years	<b>Starting point</b> 8 years' custody <b>Category range</b> 7 – 9 years' custody	<b>Starting point</b> 6 years' custody <b>Category range</b> 5 – 7 years' custody	<b>Starting point</b> 5 years' custody <b>Category range</b> 5 – 6 years' custody	7 years 6 months
		<u>Table 2 Non-minimum term cases</u> Discharge – 5 years	<b>Starting point</b> 3 years' custody <b>Category range</b> 2 – 5 years' custody	<b>Starting point</b> 6 months' custody <b>Category range</b> High level community order – 2 years' custody	<b>Starting point</b> Band C fine <b>Category range</b> Discharge – Low level community order	1 year 1 month
<b>2 – Possession without certificate</b>	5 years  (7 years aggravated form)	Discharge – 4 years 6 months	<b>Starting point</b> 4 years' custody <b>Category range</b> 2 – 4 years 6 months' custody	<b>Starting point</b> 1 year's custody <b>Category range</b> High level community order – 2 years' custody	<b>Starting point</b> Band A fine <b>Category range</b> Discharge – Band C Fine	3 years
<b>3 – Possession by person prohibited</b>	5 years	Discharge – 4 years	<b>Starting point</b> 3 years custody <b>Category range</b> 2 – 4 years' custody	<b>Starting point</b> 6 months' custody <b>Category range</b> High level community order – 1 year's custody	<b>Starting point</b> Band A fine <b>Category range</b> Discharge – Band C Fine	1 year 3 months
<b>4 – Carrying in a public place*</b>	7 years  (12 months imitations)	Discharge – 4 years	<b>Starting point</b> 2 years custody <b>Category range</b> 1 – 4 years' custody	<b>Starting point</b> 3 months' custody <b>Category range</b> Medium level community order – 1 year's custody	<b>Starting point</b> Band A fine <b>Category range</b> Discharge – Band C Fine	6 months
<b>5 – Possession with intent to endanger life*</b>	Life	4 – 22 years	<b>Starting point</b> 18 years' custody <b>Category range</b> 16 – 22 years' custody	<b>Starting point</b> 10 years' custody <b>Category range</b> 8 – 12 years' custody	<b>Starting point</b> 5 years' custody <b>Category range</b> 4 – 7 years' custody	12 years
<b>6 – Possession with intent to cause fear of violence*</b>	Life	<u>Table 1 Firearms</u> 6 months – 9 years	<b>Starting point</b> 8 years' custody <b>Category range</b> 7 – 9 years' custody	<b>Starting point</b> 4 years' custody <b>Category range</b> 2 – 7 years' custody	<b>Starting point</b> 1 year 6 months' custody <b>Category range</b> 6 months – 2 years' custody	5 years
		<u>Table 2 Imitation firearms</u> Medium level community order – 8 years	<b>Starting point</b> 7 years' custody <b>Category range</b> 6 – 8 years' custody	<b>Starting point</b> 3 years' custody <b>Category range</b> 1 – 5 years' custody	<b>Starting point</b> 6 months' custody <b>Category range</b> Medium level community order – 1 year's custody	2 years 3 months

GUIDELINE	STAT MAX	RANGE	TOP BOX (A1)	MIDDLE BOX (B2)	BOTTOM BOX (C3)	MEDIAN SENTENCE LENGTH PRE-GP (2017)
<b>7 – Possession with intent* – other offences (intent to resist arrest, intent to commit an indictable/ Schedule 1 offence)</b>	Life	<u>Table 1 Firearms</u> 1 – 16 years	<b>Starting point</b> 12 years' custody <b>Category range</b> 10 – 16 years' custody	<b>Starting point</b> 7 years' custody <b>Category range</b> 5 – 9 years' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 3 years' custody	12 years <sup>3</sup>
		<u>Table 2 Imitation firearms</u> High level community order – 12 years	<b>Starting point</b> 9 years' custody <b>Category range</b> 6 – 12 years' custody	<b>Starting point</b> 5 years' custody <b>Category range</b> 3 – 7 years' custody	<b>Starting point</b> 1 year's custody <b>Category range</b> High level community order – 3 years' custody	6 years
<b>8 – Transfer/ Manufacture*</b>	Life	5 – 26 years	<b>Starting point</b> 20 years' custody <b>Category range</b> 16 – 26 years' custody	<b>Starting point</b> 10 years' custody <b>Category range</b> 8 – 14 years' custody	<b>Starting point</b> 6 years' custody <b>Category range</b> 5 – 8 years' custody	9 years <sup>4</sup>

\* Minimum term may apply.

<sup>3</sup> These figures should be treated with caution, due to the low number of offenders sentenced for this offence involving a firearm.

<sup>4</sup> Note that as there were no manufacture offences sentenced in 2017, this figure includes transfer offences only.

## **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 2018 meeting that the guideline should aim to replicate current sentencing practice (subject to specific issues arising out of the individual sentencing tables). 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 The Offensive Weapons Bill completed its third reading stage in the House of Lords on 19 March 2019 where final amendments were made. The Bill will now go to the Commons for consideration of Lords amendments. As noted previously, 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 term. They will need to be incorporated into the type of weapon table in the possession guidelines once the Bill has completed its passage.

5.2 The Home Office expects the Bill to pass and get Royal Assent in early April, subject to EU exit business. The date the Bill will come into effect is not yet known, but implementation of the firearms provisions is expected to be phased, to allow some time for people to surrender their rifles and claim compensation ahead of the prohibition on possession taking effect. We will continue to liaise with the Home Office as the Bill progresses.

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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 device 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' 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.

The categorisations below are indicative only and should not be applied mechanistically. Courts should take care to ensure the categorisation is appropriate for the specific weapon by moving up or down a category where necessary. 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:
<p><b>High culpability:</b></p> <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>
<p><b>Medium culpability:</b></p> <ul style="list-style-type: none"> <li>• Firearm/ammunition produced (where not at High culpability)</li> <li>• Firearm held with compatible ammunition <u>or stun gun that is charged</u></li> <li>• Firearm/ammunition intended for use (where not at High culpability)</li> </ul>
<p><b>Lower culpability:</b></p> <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' custody <b>Category range</b> 7-9 years' custody	<b>Starting point</b> 7 years' custody <b>Category range</b> 6-8 years' 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' custody <b>Category range</b> 6-8 years' 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 – 5 years' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 3 years' custody	<b>Starting point</b> 6 months' custody <b>Category range</b> High level community order – 2 years' custody
<b>Category 2</b>	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 3 years' custody	<b>Starting point</b> 6 months' custody <b>Category range</b> High level community order – 2 years' custody	<b>Starting point</b> Medium level community order <b>Category range</b> Band D fine – High level community order
<b>Category 3</b>	<b>Starting point</b> 6 months' custody <b>Category range</b> High level community order – 1 year's custody	<b>Starting point</b> Medium level community order <b>Category range</b> Band D fine – High level community order	<b>Starting point</b> Band C fine <b>Category range</b> Discharge – Low 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. Firearm modified to make it more dangerous
- A4. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A5. Firearm/ammunition kept with multiple weapons and/or substantial quantity of ammunition (See step six on totality when sentencing for more than one offence.)
- A6. Offence was committed as part of a group (except where already taken into account at step one)
- A7. Offender has contact with criminal associates, including through the purchase or supply of drugs (except where already taken into account at step one)
- A8. Abuse of position as registered firearms dealer or certificate holder
- A9. Commission of offence whilst under the influence of alcohol or drugs
- A10. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)
- A11. Failure to comply with current court orders
- A12. 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 (including stun gun that is not charged and not held with a functioning charger)
- M4. No knowledge or suspicion that item possessed was firearm/ammunition
- M5. No knowledge or suspicion that firearm/ammunition is prohibited
- M6. Held on behalf of another through coercion, intimidation, or exploitation

- M7. Voluntary surrender of firearm/ammunition
- M8. Offender co-operated with investigation and/or made early admissions
- M9. Remorse
- M10. Serious medical condition requiring urgent, intensive or long-term treatment
- M11. Age and/or lack of maturity
- M12. Mental disorder or learning disability
- M13. Sole or primary carer for dependent relatives

**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. [See below \[LINK\] for sentencing offenders aged under 18.](#)
5. Where the minimum term applies, this should be stated expressly.

**Exceptional circumstances**

6. 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.
7. Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing:<sup>2</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.

Principles

8. [The circumstances must indeed be exceptional.](#)<sup>3</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>4</sup> The court should

<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 Rogers Re B 2016 EWCA Crim 801.](#)

<sup>3</sup> [R Wilkinson \[2009\] EWCA Crim 1925.](#)

<sup>4</sup> [R v Dawson 2017 EWCA Crim 2244.](#)

consider whether the imposition of the minimum term would result in an arbitrary and disproportionate sentence.<sup>5</sup>

9. 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>6</sup>
10. 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>7</sup>

Where exceptional circumstances are found

11. 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.**

12. The court may find it useful to refer to the range of sentences under culpability A of Table 2 (Offences not subject to the statutory minimum sentence) in STEP TWO above. The court should impose a sentence that is appropriate to the individual case.

Sentencing offenders aged under 18 [\*DROPDOWN BOX\*]

1. Where the offender is aged 16 or 17 when the offence was committed, the minimum term is 3 years' custody.<sup>8</sup> Where the offender is under 16 when the offence was committed, the minimum term does not apply.<sup>9</sup>
2. Subject to the minimum term, the court should determine the sentence in accordance with the *Sentencing Children and Young People* guideline, particularly paragraphs 6.42-6.49 on custodial sentences.
3. This guidance states at paragraph 6.46: "When considering the relevant adult guideline, the court may feel it appropriate to apply a sentence broadly within the region of half to two thirds of the adult sentence for those aged 15 – 17 and allow a greater reduction for those aged under 15. This is only a rough guide and must not be applied mechanistically. In most cases when considering the appropriate reduction from the adult sentence the emotional and developmental age and maturity of the child or young person is of at least equal importance as their chronological age."
4. The considerations above on exceptional circumstances relating to the offence or offender apply equally when sentencing offenders under 18.

<sup>5</sup> R v Rehman and Wood 2005 EWCA Crim 2056, 2006 1 Cr App R (S).

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

<sup>7</sup> R v Shaw 2011 EWCA Crim 167.

<sup>8</sup> Section 51A(5)(a).

<sup>9</sup> Section 51A(1)(b).

**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.

**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 – Possession without certificate**

### **Possession, purchase or acquisition of a firearm without a certificate**

Firearms Act 1968 (section 1(1)(a))

### **Possession, purchase or acquisition of ammunition without a certificate**

Firearms Act 1968 (section 1(1)(b))

### **Possession, purchase or acquisition of a shotgun without a certificate**

Firearms Act 1968 (section 2(1))

Triable either way

Maximum: 5 years' custody, or 7 years for the section 1(1) offence where it is aggravated within the meaning of section 4(4) of the Act (shortened shotgun or converted firearm)

Offence range: Discharge – 4 years 6 months' custody

**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.

<b>Type 1</b>	<ul style="list-style-type: none"> <li>• Shotgun which has been shortened within the meaning of section 4(4)</li> <li>• Firearm which has been converted within the meaning of section 4(4)</li> </ul>
<b>Type 2</b>	<ul style="list-style-type: none"> <li>• All other firearms or shotguns</li> <li>• Ammunition (where not at Type 3)</li> </ul>
<b>Type 3</b>	<ul style="list-style-type: none"> <li>• Very small quantity of ammunition</li> </ul>

**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:
<p><b>High culpability:</b></p> <ul style="list-style-type: none"> <li>• Firearm discharged, other than for lawful purpose</li> <li>• Firearm loaded</li> <li>• Firearm/ammunition used or intended for use for criminal purpose</li> </ul>
<p><b>Medium culpability:</b></p> <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 used or intended for use (where not at High culpability)</li> </ul>
<p><b>Lower culpability:</b></p> <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**.

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

<p><b>Harm</b> The court should consider the factors set out below to determine the level of harm that has been <b>caused or was risked</b>.</p> <p>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.</p> <p>This step is assessed by reference to the <b>risk of injury/death</b> or <b>disorder</b> occurring and/or <b>actual alarm/distress</b> caused.</p> <p>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.</p>	
<p><b>Category 1</b></p>	<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>
<p><b>Category 2</b></p>	<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>
<p><b>Category 3</b></p>	<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.			
<b>Where the offence is aggravated under section 4(4) (i.e. the weapon is a converted firearm or shortened shotgun), the maximum penalty is seven years and it may be appropriate to go above the top of the category range.</b>			
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 4 years' custody <b>Category range</b> 2 – 4 years 6 months' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 4 years' custody	<b>Starting point</b> 1 year's custody <b>Category range</b> High level community order – 2 years' custody
<b>Category 2</b>	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 4 years' custody	<b>Starting point</b> 1 year's custody <b>Category range</b> High level community order – 2 years' custody	<b>Starting point</b> Medium level community order <b>Category range</b> Discharge – 6 months' custody
<b>Category 3</b>	<b>Starting point</b> 1 year's custody <b>Category range</b> High level community order – 2 years' custody	<b>Starting point</b> Medium level community order <b>Category range</b> Band A fine – 6 months' custody	<b>Starting point</b> Band A fine <b>Category range</b> Discharge – Band C Fine

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. Firearm modified to make it more dangerous
- A4. Steps taken to disguise firearm

- A5. Firearm/ammunition kept with multiple weapons and/or substantial quantity of ammunition (See step five on totality when sentencing for more than one offence.)
- A6. Offence was committed as part of a group (except where already taken into account at step one)
- A7. Offender has contact with criminal associates, including through the purchase or supply of drugs (except where already taken into account at step one)
- A8. Abuse of position as registered firearms dealer or certificate holder
- A9. Possession continued after certificate refused or revoked
- A10. Poor record of firearms compliance
- A11. Commission of offence whilst under the influence of alcohol or drugs
- A12. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)
- A13. Failure to comply with current court orders
- A14. 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. No knowledge or suspicion that item possessed was firearm/ammunition
- M5. Held on behalf of another through coercion, intimidation, or exploitation
- M6. Steps taken to obtain certificate
- M7. Certificate not obtained/renewed due to genuine oversight or misunderstanding
- M8. Good record of firearms licensing compliance
- M9. Voluntary surrender of firearm/ammunition
- M10. Offender co-operated with investigation and/or made early admissions
- M11. Remorse
- M12. Serious medical condition requiring urgent, intensive or long-term treatment
- M13. Age and/or lack of maturity
- M14. Mental disorder or learning disability
- M15. Sole or primary carer for dependent relatives

**STEP THREE**

**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 FOUR**

**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 **mandatory 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 mandatory minimum.

**STEP FIVE**

**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 SIX**

**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 SEVEN**

**Reasons**

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

**STEP EIGHT**

**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.

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## **Firearms – Possession by person prohibited**

### **Possession of a firearm or ammunition by person with previous convictions prohibited from possessing a firearm or ammunition**

Firearms Act 1968 (section 21(4))

Triable either way

Maximum: 5 years' custody

Offence range: Discharge – 4 years' custody

**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.

<b>Type 1</b>	<ul style="list-style-type: none"> <li>• Firearm or ammunition prohibited under section 5 (whether or not the minimum sentence applies) (where not at Type 2)</li> </ul>
<b>Type 2</b>	<ul style="list-style-type: none"> <li>• Weapon prohibited under section 5(1)(b)</li> <li>• Firearm, shotgun or air weapon for which a certificate is required</li> <li>• Ammunition for which a certificate is required (where not at Type 3)</li> </ul>
<b>Type 3</b>	<ul style="list-style-type: none"> <li>• Air weapon that is not prohibited and for which no certificate is required</li> <li>• Imitation firearm</li> <li>• Very small quantity of ammunition</li> </ul>

**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, other than for lawful purpose</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 used or 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

<p><b>Harm</b> The court should consider the factors set out below to determine the level of harm that has been <b>caused or was risked</b>.</p> <p>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.</p> <p>This step is assessed by reference to the <b>risk of injury/death</b> or <b>disorder</b> occurring and/or <b>actual alarm/distress</b> caused.</p> <p>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.</p>	
<p><b>Category 1</b></p>	<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>
<p><b>Category 2</b></p>	<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>
<p><b>Category 3</b></p>	<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.			
<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 – 4 years' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 3 years' custody	<b>Starting point</b> 6 months' custody <b>Category range</b> High level community order – 1 year's custody
<b>Category 2</b>	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 3 years' custody	<b>Starting point</b> 6 months' custody <b>Category range</b> High level community order – 1 year's custody	<b>Starting point</b> Medium level community order <b>Category range</b> Band A fine – 6 months' custody
<b>Category 3</b>	<b>Starting point</b> 6 months' custody <b>Category range</b> High level community order – 1 year's custody	<b>Starting point</b> Medium level community order <b>Category range</b> Band A fine – 6 months' custody	<b>Starting point</b> Band A fine <b>Category range</b> Discharge – Band C Fine

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. Firearm modified to make it more dangerous
- A4. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A5. Firearm/ammunition kept with multiple weapons and/or substantial quantity of ammunition (See step five on totality when sentencing for more than one offence.)

- A6. Offence was committed as part of a group (except where already taken into account at step one)
- A7. Offender has contact with criminal associates, including through the purchase or supply of drugs (except where already taken into account at step one)
- A8. Commission of offence whilst under the influence of alcohol or drugs
- A9. Failure to comply with current court orders
- A10. 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. No knowledge or suspicion that item possessed was firearm/ammunition
- M5. No knowledge or suspicion that firearm/ammunition is prohibited
- M6. Held on behalf of another through coercion, intimidation, or exploitation
- M7. Genuine misunderstanding about terms of prohibition
- M8. Voluntary surrender of firearm/ammunition
- M9. Offender co-operated with investigation and/or made early admissions
- M10. Remorse
- M11. Serious medical condition requiring urgent, intensive or long-term treatment
- M12. Age and/or lack of maturity
- M13. Mental disorder or learning disability
- M14. Sole or primary carer for dependent relatives

**STEP THREE**

**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 FOUR**

**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 **mandatory 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 mandatory minimum.

**STEP FIVE**

**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 SIX**

**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 SEVEN**

**Reasons**

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

**STEP EIGHT**

**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.

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# Firearms – Carrying in a public place

## Carrying a firearm in a public place

Firearms Act 1968 (section 19)

- (a) a loaded shot gun
- (b) an air weapon (whether loaded or not)
- (c) any other firearm (whether loaded or not) together with ammunition suitable for use in that firearm
- (d) an imitation firearm

Triable either way:

Indictable only if the firearm is a firearm specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae) or (af) or section 5(1A)(a) of the Firearms Act 1968

Summary only if the firearm is an air weapon

Maximum: 7 years' custody (12 months' custody for imitation firearms)

Offence range: Discharge – 4 years' 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.

<b>Type 1</b>	<ul style="list-style-type: none"> <li>• Firearm or shotgun prohibited under section 5 (whether or not the mandatory minimum sentence applies) (where not at Type 2)</li> </ul>
<b>Type 2</b>	<ul style="list-style-type: none"> <li>• Weapon prohibited under section 5(1)(b)</li> <li>• Firearm, shotgun or air weapon for which a certificate is required</li> </ul>
<b>Type 3</b>	<ul style="list-style-type: none"> <li>• Air weapon that is not prohibited and for which no certificate is required</li> <li>• Imitation firearm</li> </ul>

**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 demonstrated by one or more of the following:</b>
<p><b>High culpability:</b></p> <ul style="list-style-type: none"> <li>• Firearm discharged, other than for lawful purpose</li> <li>• Firearm loaded</li> <li>• Firearm/ammunition used or intended for use for criminal purpose</li> </ul>
<p><b>Medium culpability:</b></p> <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 used or intended for use (where not at High culpability)</li> </ul>
<p><b>Lower culpability:</b></p> <ul style="list-style-type: none"> <li>• No use or intention to use</li> <li>• Possession falls just short of reasonable excuse</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.			
The offence may be subject to a minimum sentence. Where the minimum sentence applies, <sup>1</sup> and 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. See STEP THREE for further details on the minimum sentencing provisions and exceptional circumstances.			
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 2 years custody <b>Category range</b> 1 – 4 years' custody	<b>Starting point</b> 1 years' custody <b>Category range</b> 6 months' – 2 years' custody*	<b>Starting point</b> 3 months' custody <b>Category range</b> Medium level community order – 1 year's custody
<b>Category 2</b>	<b>Starting point</b> 1 years' custody <b>Category range</b> 6 months' – 2 years custody	<b>Starting point</b> 3 months' custody <b>Category range</b> Medium level community order – 1 year's custody	<b>Starting point</b> Medium level community order <b>Category range</b> Band A fine – 3 months' custody
<b>Category 3</b>	<b>Starting point</b> 3 months' custody <b>Category range</b> Medium level community order – 1 year's custody	<b>Starting point</b> Medium level community order <b>Category range</b> Band A fine – 3 months' custody	<b>Starting point</b> Band A fine <b>Category range</b> Discharge – Band C Fine

\* Where the firearm is an imitation firearm, the maximum penalty is 12 months' custody.

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

<sup>1</sup> The minimum term applies in respect of a firearm specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae) or (af), (c) or section 5(1A)(a) of the Firearms Act 1968.

**Other aggravating factors:**

- A3. Firearm modified to make it more dangerous
- A4. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A5. Steps taken to make imitation firearm appear more realistic (where not charged separately)
- A6. Firearm/ammunition kept with multiple weapons and/or substantial quantity of ammunition (See step six on totality when sentencing for more than one offence.)
- A7. Offence was committed as part of a group (except where already taken into account at step one)
- A8. Offender has contact with criminal associates, including through the purchase or supply of drugs (except where already taken into account at step one)
- A9. Abuse of position as registered firearms dealer or certificate holder
- A10. Commission of offence whilst under the influence of alcohol or drugs
- A11. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)
- 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 (including stun gun that is not charged and not held with a functioning charger)
- M4. No knowledge or suspicion that item possessed was firearm/ammunition
- M5. No knowledge or suspicion that firearm/ammunition is prohibited
- M6. Held on behalf of another through coercion, intimidation, or exploitation
- M7. Genuine mistake about whether covered by lawful authorisation
- M8. Voluntary surrender of firearm/ammunition
- M9. Offender co-operated with investigation and/or made early admissions
- M10. Remorse
- M11. Serious medical condition requiring urgent, intensive or long-term treatment
- M12. Age and/or lack of maturity
- M13. Mental disorder or learning disability
- M14. Sole or primary carer for dependent relatives

**STEP THREE**  
**Minimum Terms**  
[To come]

**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 **mandatory 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 mandatory minimum.

**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.

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# Firearms – Possession with intent to endanger life

## **Possession with intent to endanger life**

Firearms Act 1968 (section 16)

Indictable only

Maximum: Life imprisonment

Offence range: 4 – 22 years' custody

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

This is an offence listed in Part 1 of Schedule 15B for the purposes of section 224A (life sentence for a second listed offence).

This is a specified offence for the purposes of section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

**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**.

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:
<p><b>A – High culpability:</b></p> <ul style="list-style-type: none"> <li>• Sophisticated nature of offence/significant planning</li> <li>• Leading role where offending is part of a group activity</li> <li>• Distribution or supply of firearms on a large scale</li> <li>• Firearm discharged</li> <li>• Prolonged incident</li> </ul>
<p><b>B – Medium culpability:</b></p> <ul style="list-style-type: none"> <li>• Firearm loaded or held with compatible ammunition but not discharged</li> <li>• Significant role where offending is part of a group activity</li> <li>• Some degree of planning</li> <li>• Other cases falling between high and lower culpability</li> </ul>
<p><b>C – Lower culpability:</b></p> <ul style="list-style-type: none"> <li>• Lesser role where offending is part of group activity</li> <li>• Little or no planning or unsophisticated offending</li> <li>• Firearm not produced or visible</li> <li>• Conduct limited in scope and duration</li> </ul>

<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 harm</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>• Severe physical harm caused</li> <li>• Severe psychological harm caused</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Serious physical harm</li> <li>• Serious psychological harm</li> <li>• Offence committed in circumstances where person(s) put at high risk of <u>death or serious physical or psychological injury or death</u></li> <li>• Offence committed in circumstances where there is a high risk of serious disorder</li> <li>• <del>All other cases falling between category 1 and category 3 because:</del> <ul style="list-style-type: none"> <li>○ <del>Factors in both 1 and 3 are present which balance each other out; and/or</del></li> <li>○ <del>The harm falls between the factors as described in 1 and 3</del></li> </ul> </li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• Alarm/distress caused</li> <li>• <u>All other cases</u></li> <li>• <del>Offence committed in circumstances where person(s) put at no/minimal risk of serious physical injury or death</del></li> <li>• <del>Offence committed in circumstances where there is no/minimal risk of serious disorder</del></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.

Where separate charges apply, for example in relation to any death or injury caused, the court should have regard to totality (see step seven).

<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.			
This offence is subject to minimum sentence provisions. Where the minimum sentence applies, <sup>1</sup> and 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. See STEP THREE for further details on the minimum sentencing provisions and exceptional circumstances.			
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 18 years' custody <b>Category range</b> 16 – 22 years' custody	<b>Starting point</b> 14 years' custody <b>Category range</b> 11 – 17 years' custody	<b>Starting point</b> 10 years' custody <b>Category range</b> 8 – 12 years' custody
<b>Category 2</b>	<b>Starting point</b> 14 years' custody <b>Category range</b> 11 – 17 years' custody	<b>Starting point</b> 10 years' custody <b>Category range</b> 8 – 12 years' custody	<b>Starting point</b> 7 years' custody <b>Category range</b> 5 – 9 years' custody
<b>Category 3</b>	<b>Starting point</b> 10 years' custody <b>Category range</b> 8 – 12 years' custody	<b>Starting point</b> 7 years' custody <b>Category range</b> 5 – 9 years' custody	<b>Starting point</b> 5 years' custody <b>Category range</b> 4 – 7 years' custody

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

<sup>1</sup> The minimum term applies in respect of a firearm specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae) or (af), (c) or section 5(1A)(a) of the Firearms Act 1968.

- A3. Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

***Other aggravating factors:***

- A4. Firearm under section 5(1)(a) (automatic weapon)
- A5. Firearm modified to make it more ~~lethal~~dangerous
- A6. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A7. Firearm/ammunition held with multiple weapons and/or substantial quantity of ammunition (See step seven on totality when sentencing for more than one offence.)
- A8. Offence was committed as part of a group (except where already taken into account at step one)
- A9. Offence committed to further organised criminal activity (except where already taken into account at step one)
- A10. Expectation of substantial financial gain (except where already taken into account at step one)
- A11. Attempts to conceal or dispose of the firearm or other evidence
- A12. Serious damage to property caused (See step seven on totality when sentencing for more than one offence.)
- A13. Abuse of position as registered firearms dealer or certificate holder
- A14. Commission of offence whilst under the influence of alcohol or drugs
- A15. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)
- A16. Failure to comply with current court orders
- A17. 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. Firearm/ammunition is not prohibited under section 5
- M5. Involved through coercion, intimidation, or exploitation
- M6. Voluntary surrender of firearm/ammunition
- M7. Offender co-operated with investigation and/or made early admissions
- M8. Remorse
- M9. Serious medical condition requiring urgent, intensive or long-term treatment
- M10. Age and/or lack of maturity

- M11. Mental disorder or learning disability
- M12. Sole or primary carer for dependent relatives

**STEP THREE**

**Minimum Terms**

[To come once finalised]

**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**

**Dangerousness**

The court should consider whether having regard to the criteria contained in Chapter 15 of Part 12 of the Criminal Justice Act 2003 it would be appropriate to impose a life sentence (section 244A or section 225) or an extended sentence (section 226A). When sentencing offenders to a life sentence under these provisions the notional determinate sentence should be used as the basis for the setting of a minimum term.

**STEP SIX**

**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 **mandatory 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 mandatory minimum.

**STEP SEVEN**

**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 EIGHT**

**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 NINE**

**Reasons**

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

**STEP TEN**

**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.

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# **Firearms – Possession with intent to cause fear of violence**

## **Possession with intent to cause fear of violence**

Firearms Act 1968 (section 16A)

Indictable only

Maximum: 10 years' custody

Offence range: Medium level community order – 9 years' custody

This is a specified offence for the purposes of section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

**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**.

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.**

**Culpability** demonstrated by one or more of the following:

**A – High culpability:**

- Intention falling just short of intent to endanger life
- Conduct intended to maximise fear or distress
- Sophisticated nature of offence/significant planning
- Leading role where offending is part of a group activity
- Firearm or imitation firearm discharged
- Prolonged incident

**B – Medium culpability:**

- Firearm or imitation firearm loaded or held with compatible ammunition but not discharged
- Significant role where offending is part of a group activity
- Some degree of planning
- Other cases falling between high and lower culpability

**C – Lower culpability:**

- No intention to cause injury to persons
- Lesser role where offending is part of group activity
- Little or no planning or unsophisticated offending
- Firearm or imitation firearm not produced or visible
- Conduct limited in scope and duration

<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 harm</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>• Severe physical harm caused</li> <li>• Severe psychological harm caused</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Serious physical harm caused</li> <li>• Serious psychological harm caused</li> <li>• Offence committed in circumstances where person(s) put at high risk of <u>death or serious physical or psychological injury or death</u></li> <li>• Offence committed in circumstances where there is a high risk of serious disorder</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• <u>Alarm/distress</u> caused</li> <li>• <u>All other cases</u></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.

Where separate charges apply, for example in relation to any death or injury caused, the court should have regard to totality (see step seven).

<b>STEP TWO</b>			
<b>Starting point and category range</b>			
<p>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.</p> <p>Table 1 should be used if the offence is in respect of a firearm. Table 2 should be used for an imitation firearm.</p> <p>The offence may be subject to a minimum sentence. Where the minimum sentence applies,<sup>1</sup> and 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. See STEP THREE for further details on the minimum sentencing provisions and exceptional circumstances.</p>			
<b>TABLE 1</b>	<b>Firearm</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' custody <b>Category range</b> 7 – 9 years' custody	<b>Starting point</b> 6 years' custody <b>Category range</b> 4 – 8 years' custody	<b>Starting point</b> 4 years' custody <b>Category range</b> 2 – 7 years' custody
<b>Category 2</b>	<b>Starting point</b> 6 years' custody <b>Category range</b> 4 – 8 years' custody	<b>Starting point</b> 4 years' custody <b>Category range</b> 2 – 7 years' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 4 years' custody
<b>Category 3</b>	<b>Starting point</b> 4 years' custody <b>Category range</b> 2 – 7 years' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 4 years' custody	<b>Starting point</b> 1 year 6 months' custody <b>Category range</b> 6 months – 2 years' custody
<b>TABLE 2</b>	<b>Imitation firearm</b>		
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 7 years' custody <b>Category range</b> 6 – 8 years' custody	<b>Starting point</b> 5 years' custody <b>Category range</b> 3 – 7 years' custody	<b>Starting point</b> 3 years' custody <b>Category range</b> 1 – 5 years' custody
<b>Category 2</b>	<b>Starting point</b> 5 years' custody <b>Category range</b> 3 – 7 years' custody	<b>Starting point</b> 3 years' custody <b>Category range</b> 1 – 5 years' custody	<b>Starting point</b> 1 year's custody <b>Category range</b> 6 months – 2 years' custody
<b>Category 3</b>	<b>Starting point</b> 3 years' custody <b>Category range</b> 1 – 5 years' custody	<b>Starting point</b> 1 year's custody <b>Category range</b> 6 months – 2 years' custody	<b>Starting point</b> 6 months' custody <b>Category range</b> Medium level community order – 1 year's custody

<sup>1</sup> The minimum term applies in respect of a firearm specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae) or (af), (c) or section 5(1A)(a) of the Firearms Act 1968.

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
- A3. Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

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

- A4. Firearm is prohibited under section 5 and subject to minimum term (where not already increased to minimum term)
- A5. [Firearm under section 5\(1\)\(a\) \(automatic weapon\)](#)
- A6. Firearm modified to make it more ~~lethal~~ [dangerous](#)
- A7. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A8. Imitation firearm is readily convertible<sup>2</sup>
- A9. Steps taken to make imitation firearm appear more realistic (where not charged separately)
- A10. Firearm/ammunition held with multiple weapons and/or substantial quantity of ammunition (See step seven on totality when sentencing for more than one offence.)
- A11. Offence was committed as part of a group (except where already taken into account at step one)
- A12. Offence committed to further organised criminal activity [\(except where already taken into account at step one\)](#)
- A13. Expectation of substantial financial gain (except where already taken into account at step one)
- A14. Attempts to conceal or dispose of the firearm or other evidence

<sup>2</sup> [Drop-down box to show relevant statutory provision or link to statute - Section 1(6) Firearms Act 1982]

- A15. Serious damage to property caused (See step seven on totality when sentencing for more than one offence.)
- A16. Abuse of position as registered firearms dealer or certificate holder
- A17. Commission of offence whilst under the influence of alcohol or drugs
- A18. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)
- A19. Failure to comply with current court orders
- A20. 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 (including stun gun that is not charged and not held with a functioning charger)
- M4. Imitation firearm is ~~crude or unrealistic~~ unrealistic and unconvincing
- M5. Involved through coercion, intimidation, or exploitation
- M6. Voluntary surrender of firearm
- M7. Offender co-operated with investigation and/or made early admissions
- M8. Remorse
- M9. Serious medical condition requiring urgent, intensive or long-term treatment
- M10. Age and/or lack of maturity
- M11. Mental disorder or learning disability
- M12. Sole or primary carer for dependent relatives

**STEP THREE**

**Minimum Terms**

[To come once finalised]

**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**

**Dangerousness**

The court should consider whether having regard to the criteria contained in Chapter 5 of Part 12 of the Criminal Justice Act 2003 it would be appropriate to impose an extended sentence (section 226A).

**STEP SIX**

**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 **mandatory 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 mandatory minimum.

**STEP SEVEN**

**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 EIGHT**

**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 NINE**

**Reasons**

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

**STEP TEN**

**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.

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# **Firearms – Possession with intent – other offences**

## **Use of firearm to resist arrest**

Firearms Act 1968 (section 17(1))

## **Possession while committing a Schedule 1 offence**

Firearms Act 1968 (section 17(2))

## **Carrying firearm with criminal intent**

Firearms Act 1968 (section 18)

Indictable only

Maximum: Life imprisonment

Offence range: High level community order – 16 years' custody

These are serious specified offences for the purposes of sections 224 and 225(2) (life sentences for serious offences) of the Criminal Justice Act 2003.

These are offences listed in Part 1 of Schedule 15B for the purposes of section 224A (life sentence for a second listed offence).

These are specified offences for the purposes of section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

**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**.

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:
<p><b>A – High culpability:</b></p> <ul style="list-style-type: none"> <li>• Sophisticated nature of offence/significant planning</li> <li>• Leading role where offending is part of a group activity</li> <li>• Firearm discharged</li> <li>• Prolonged incident</li> <li>• Serious nature of intended offence</li> </ul>
<p><b>B – Medium culpability:</b></p> <ul style="list-style-type: none"> <li>• Firearm loaded or held with compatible ammunition but not discharged</li> <li>• Significant role where offending is part of a group activity</li> <li>• Some degree of planning</li> <li>• Other cases falling between high and lower culpability</li> </ul>
<p><b>C – Lower culpability:</b></p> <ul style="list-style-type: none"> <li>• No intention to cause injury to persons</li> <li>• Lesser role where offending is part of group activity</li> <li>• Little or no planning or unsophisticated offending</li> <li>• Conduct limited in scope and duration</li> <li>• Firearm not produced or visible</li> <li>• Less serious nature of intended offence</li> </ul>

<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 harm</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>• Severe physical harm caused</li> <li>• Severe psychological harm caused</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Serious physical harm caused</li> <li>• Serious psychological harm caused</li> <li>• Offence committed in circumstances where person(s) put at high risk of <u>death or serious physical or psychological injury</u> <del>or death</del></li> <li>• Offence committed in circumstances where there is a high risk of serious disorder</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• Alarm/distress caused</li> <li>• <u>All other cases</u></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.

Where separate charges apply, for example in relation to any death or injury caused, the court should have regard to totality (see step seven).

<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.			
This offence is subject to minimum sentence provisions. Where the minimum sentence applies, <sup>1</sup> and 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. See STEP THREE for further details on the minimum sentencing provisions and exceptional circumstances.			
<b>TABLE 1</b>	<b>Firearm</b>		
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 12 years' custody <b>Category range</b> 10 – 16 years' custody	<b>Starting point</b> 9 years' custody <b>Category range</b> 7 – 11 years' custody	<b>Starting point</b> 7 years' custody <b>Category range</b> 5 – 9 years' custody
<b>Category 2</b>	<b>Starting point</b> 9 years' custody <b>Category range</b> 7 – 11 years' custody	<b>Starting point</b> 7 years' custody <b>Category range</b> 5 – 9 years' custody	<b>Starting point</b> 4 years' custody <b>Category range</b> 2 – 6 years' custody
<b>Category 3</b>	<b>Starting point</b> 7 years' custody <b>Category range</b> 5 – 9 years' custody	<b>Starting point</b> 4 years' custody <b>Category range</b> 2 – 6 years' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 3 years' custody
<b>TABLE 2</b>	<b>Imitation firearm</b>		
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 9 years' custody <b>Category range</b> 6 – 12 years	<b>Starting point</b> 7 years' custody <b>Category range</b> 5 – 9 years	<b>Starting point</b> 5 years' custody <b>Category range</b> 3 – 7 years
<b>Category 2</b>	<b>Starting point</b> 7 years' custody <b>Category range</b> 5 – 9 years' custody	<b>Starting point</b> 5 years' custody <b>Category range</b> 3 – 7 years' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 4 years' custody
<b>Category 3</b>	<b>Starting point</b> 5 years' custody <b>Category range</b> 3 – 7 years' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1 – 4 years' custody	<b>Starting point</b> 1 year's custody <b>Category range</b> High level community order – 3 years' custody

<sup>1</sup> The minimum term applies in respect of a firearm specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae) or (af), (c) or section 5(1A)(a) of the Firearms Act 1968.

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
- A3. Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

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

- A4. Firearm prohibited under section 5 and subject to minimum term (where not already increased to minimum term)
- A5. [Firearm under section 5\(1\)\(a\) \(automatic weapon\)](#)
- A6. Firearm modified to make it more ~~lethal~~ [dangerous](#)
- A7. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A8. Imitation firearm is readily convertible<sup>2</sup>
- A9. Steps taken to make imitation firearm appear more realistic (where not charged separately)
- A10. Firearm/ammunition held with multiple weapons and/or substantial quantity of ammunition (See step seven on totality when sentencing for more than one offence.)
- A11. Offence was committed as part of a group (except where already taken into account at step one)
- A12. Offender's actions resulted in a suspect avoiding arrest
- A13. Expectation of substantial financial gain (except where already taken into account at step one)
- A14. Attempts to conceal or dispose of the firearm or other evidence

<sup>2</sup> [Drop-down box to show relevant statutory provision or link to statute - Section 1(6) Firearms Act 1982]

- A15. Serious damage to property caused (See step seven on totality when sentencing for more than one offence.)
- A16. Abuse of position as registered firearms dealer or certificate holder
- A17. Commission of offence whilst under the influence of alcohol or drugs
- A18. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)
- A19. Failure to comply with current court orders
- A20. 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 (including stun gun that is not charged and not held with a functioning charger)
- M4. Imitation firearm is unrealistic and unconvincing~~crude or unrealistic~~
- M5. Involved through coercion, intimidation, or exploitation
- M6. Voluntary surrender of firearm
- M7. Offender co-operated with investigation and/or made early admissions
- M8. Remorse
- M9. Serious medical condition requiring urgent, intensive or long-term treatment
- M10. Age and/or lack of maturity
- M11. Mental disorder or learning disability
- M12. Sole or primary carer for dependent relatives

**STEP THREE**

**Minimum Terms**

[To come once finalised]

**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**

**Dangerousness**

The court should consider whether having regard to the criteria contained in Chapter 15 of Part 12 of the Criminal Justice Act 2003 it would be appropriate to impose a life sentence (section 244A or section 225) or an extended sentence (section 226A).

When sentencing offenders to a life sentence under these provisions the notional determinate sentence should be used as the basis for the setting of a minimum term.

**STEP SIX**

**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 **mandatory 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 mandatory minimum.

**STEP SEVEN**

**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 EIGHT**

**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 NINE**

**Reasons**

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

**STEP TEN**

**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.

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## **Firearms – Transfer and manufacture**

### **Manufacture weapon or ammunition specified in section 5(1)**

Firearms Act 1968 (section 5(2A)(a))

### **Sell or transfer prohibited weapon or ammunition**

Firearms Act 1968 (section 5(2A)(b))

### **Possess for sale or transfer prohibited weapon or ammunition**

Firearms Act 1968 (section 5(2A)(c))

### **Purchase or acquire for sale or transfer prohibited weapon or ammunition**

Firearms Act 1968 (section 5(2A)(d))

Indictable only

Maximum: Life imprisonment

Offence range: 5 – 26 years' 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**.

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:
<p><b>A – High culpability:</b></p> <ul style="list-style-type: none"> <li>• Leading role where offending is part of a group activity, including but not limited to head of enterprise, a lead armourer or a key facilitator</li> <li>• Significant planning, including but not limited to significant steps to evade detection</li> <li>• Abuse of position of trust or responsibility, for example registered firearms dealer</li> <li>• Expectation of substantial financial or other advantage</li> <li>• Involves others through coercion, intimidation or exploitation</li> </ul>
<p><b>B – Medium culpability:</b></p> <ul style="list-style-type: none"> <li>• Significant role where offending is part of a group activity, including but not limited to a purchaser or a provider of significant assistance in facilitating transfer or manufacture</li> <li>• Some degree of planning, including but not limited to some steps to evade detection</li> <li>• Expectation of significant financial or other advantage</li> <li>• Other cases falling between high and lower culpability</li> </ul>
<p><b>C – Lower culpability:</b></p> <ul style="list-style-type: none"> <li>• Lesser role where offending is part of a group activity, including but not limited to performing a limited function under direction</li> <li>• Involved through coercion, intimidation or exploitation</li> <li>• Little or no planning</li> <li>• Expectation of limited, if any, financial or other advantage</li> </ul>

<b>Harm</b>	
The court should consider the steps set out below to determine the level of harm caused.	
This step is assessed by reference to the <b>scale</b> and <b>nature of the enterprise</b> and any <b>actual harm</b> caused, regardless of the offender's role.	
<b>Category 1</b>	<ul style="list-style-type: none"> <li>• <u>Large-scale commercial and/or highly sophisticated enterprise – indicators may include:</u> <ul style="list-style-type: none"> <li>○ <u>Large number of prohibited weapons/ammunition involved</u></li> <li>○ <u>Operation over significant time period</u></li> <li>○ <u>Operation over significant geographic range</u></li> <li>○ <u>Close connection to organised criminal group(s)</u></li> </ul> </li> <li>• Evidence firearm/ammunition <u>subsequently</u> used to cause serious injury or death</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• <u>Medium-scale enterprise and/or some degree of sophistication, including cases falling between category 1 and category 3 because:</u> <ul style="list-style-type: none"> <li>○ <u>Factors in both 1 and 3 are present which balance each other out; and/or</u></li> <li>○ <u>The harm falls between the factors as described in 1 and 3</u></li> </ul> </li> <li>• Evidence firearm/ammunition <u>subsequently</u> used in <u>serious</u> criminal offending (where not at category 1)</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• <u>Smaller-scale and/or unsophisticated enterprise – indicators may include:</u> <ul style="list-style-type: none"> <li>○ <u>Limited number of prohibited weapons/ammunition involved</u></li> <li>○ <u>Operation over limited time period</u></li> <li>○ <u>Operation over limited geographic range</u></li> <li>○ <u>Minimal/no connection to organised criminal group(s)</u></li> </ul> </li> <li>• Evidence firearm/ammunition not <u>subsequently</u> used in criminal offending</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.			
This offence may be subject to minimum sentencing provisions. See STEP THREE for further details on the minimum sentencing provisions and exceptional circumstances.			
<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 20 years <b>Category range</b> 16 – 26 years	<b>Starting point</b> 14 years <b>Category range</b> 12 – 18 years	<b>Starting point</b> 10 years <b>Category range</b> 8 – 14 years
<b>Category 2</b>	<b>Starting point</b> 14 years <b>Category range</b> 12 – 18 years	<b>Starting point</b> 10 years <b>Category range</b> 8 – 14 years	<b>Starting point</b> 8 years <b>Category range</b> 6 – 12 years
<b>Category 3</b>	<b>Starting point</b> 10 years <b>Category range</b> 8 – 14 years	<b>Starting point</b> 8 years <b>Category range</b> 6 – 12 years	<b>Starting point</b> 6 years <b>Category range</b> 5 – 8 years

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. Firearm under section 5(1)(a) (automatic weapon)
- A4. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A5. Compatible ammunition and/or silencer(s) supplied with firearm ([See step six on totality when sentencing for more than one offence.](#))

- A6. Others put at risk of harm, including by location or method of manufacture or transfer
- A7. Use of business as a cover
- A8. Attempts to conceal or dispose of the firearm or other evidence
- A9. Commission of offence whilst under the influence of alcohol or drugs
- A10. ~~Firearm/ammunition held with multiple weapons and/or substantial quantity of ammunition (See step six on totality when sentencing for more than one offence.)~~
- A11. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)
- 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/ammunition not prohibited weapon subject to minimum term
- M4. Firearm incomplete or incapable of being discharged (including stun gun that is not charged and not held with a functioning charger)
- M5. Genuine belief that firearm will not be used for criminal purpose
- M6. No knowledge or suspicion that item possessed was firearm/ammunition
- M7. No knowledge or suspicion that firearm/ammunition is prohibited
- M8. Voluntary surrender of firearm/ammunition
- M9. Offender co-operated with investigation and/or made early admissions
- M10. Remorse
- M11. Serious medical condition requiring urgent, intensive or long-term treatment
- M12. Age and/or lack of maturity
- M13. Mental disorder or learning disability
- M14. Sole or primary carer for dependent relatives

**STEP THREE**  
**Minimum Term**  
[To come]

**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.

**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.

Annex I

Table 1: Number of adult offenders sentenced for offences under the Firearms Act 1968, all courts, 2007-2017

Guideline group	Legislation	Section	Offence	Number of adult offenders sentenced										
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Group 1 (Maximum: 10 years)	Firearms Act 1968	5(1)(a)-(af), (c) 5(1A)(a)	Minimum term applies Possess/purchase/acquire a prohibited weapon (automatic)/ ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle	249	340	360	308	207	172	206	253	364	463	402
			5(1A)(a) Possess/ purchase disguised firearm											
		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	835	889	896	840	771	634	581	485	469	482	358
<b>TOTAL SECTION 5 OFFENCES</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 (Maximum: 5 years, or 7 years for 1(1) aggravated)	Firearms Act 1968	1(1)	Possess a firearm/ammunition without a certificate <sup>1</sup>	-	-	-	-	163	139	128	126	101	128	97
			Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form) <sup>1</sup>	-	-	-	-	13	13	6	15	8	6	14
			2(1) Possess shotgun without a certificate	51	55	39	54	38	35	30	37	36	31	41
			<b>TOTAL 1(1) &amp; 2(1) OFFENCES</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 (Maximum: 5 years)	Firearms Act 1968	21(1) & (4) 21(2) & (4) & Sch 6	Possess a firearm/ shotgun/ air weapon/ ammunition when prohibited for life/ five years	102	89	111	95	89	74	62	53	49	60	48
			<b>TOTAL SECTION 19 OFFENCES</b>	<b>486</b>	<b>395</b>	<b>388</b>	<b>335</b>	<b>259</b>	<b>232</b>	<b>210</b>	<b>207</b>	<b>216</b>	<b>195</b>	<b>203</b>
Group 4 (Maximum: 7 years, or 12 months for imitation)	Firearms Act 1968	19	Possess loaded/unloaded firearm and suitable ammunition in public place	96	53	31	23	21	12	16	10	14	12	7
			Possess a loaded shotgun in a public place	24	21	11	7	3	6	4	2	1	2	2
			Possess a loaded / unloaded air weapon in a public place	366	274	250	221	151	127	101	92	103	69	74
			Possess an imitation firearm in a public place	0	47	96	84	84	87	89	103	98	112	120
<b>TOTAL SECTION 19 OFFENCES</b>				<b>486</b>	<b>395</b>	<b>388</b>	<b>335</b>	<b>259</b>	<b>232</b>	<b>210</b>	<b>207</b>	<b>216</b>	<b>195</b>	<b>203</b>
Group 5 (Maximum: Life)	Firearms Act 1968	16	Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so	47	63	53	48	69	64	70	44	54	53	77
Group 6 (Maximum: 10 years)	Firearms Act 1968	16A	Possess a firearm with intent to cause fear of violence <sup>1</sup>	-	-	-	-	101	81	82	74	77	98	74
			Possess an imitation firearm with intent to cause fear of violence <sup>1</sup>	-	-	-	-	146	139	138	145	162	180	187
			<b>TOTAL SECTION 16A OFFENCES</b>	<b>299</b>	<b>327</b>	<b>257</b>	<b>274</b>	<b>250</b>	<b>230</b>	<b>221</b>	<b>221</b>	<b>241</b>	<b>280</b>	<b>261</b>
Group 7 (Maximum: Life)	Firearms Act 1968	17(1), 17(2), 18(1)	Possess a firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence <sup>1</sup>	-	-	-	-	18	15	13	10	7	11	5
			Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence <sup>1</sup>	-	-	-	-	34	17	20	28	17	20	27
			<b>TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES</b>	<b>96</b>	<b>81</b>	<b>73</b>	<b>50</b>	<b>52</b>	<b>34</b>	<b>33</b>	<b>38</b>	<b>24</b>	<b>31</b>	<b>33</b>
Group 8 (Maximum: Life)	Firearms Act 1968	5(2A)(a) 5(2A)(b) 5(2A)(c) 5(2A)(d)	Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968 <sup>2</sup>	-	-	-	-	-	-	-	0	0	4	0
			Sell / transfer prohibited weapon / ammunition <sup>2</sup>	-	-	-	-	-	-	-	0	0	10	19
			Possess prohibited weapon / ammunition for sale / transfer <sup>2</sup>	-	-	-	-	-	-	-	0	0	4	5
			Purchase / acquire prohibited weapon / ammunition for sale / transfer <sup>2</sup>	-	-	-	-	-	-	-	0	0	0	1
			<b>TOTAL SECTION 5(2A) OFFENCES</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>0</b>	<b>0</b>	<b>18</b>	<b>25</b>

Source: Court Proceedings Database, Ministry of Justice

## Notes

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

2) These offences came into force on 14 July 2014. Cases in 2016 may have been sentenced prior to the Stephenson judgment

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 (Maximum: 10 years)	<b>Minimum term applies</b> 5(1)(a)-(af), (c)	Possess/purchase/acquire a prohibited weapon (automatic)/ ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle	0	0	1	5	46	348	2	<b>402</b>
	5(1A)(a)	Possess/ purchase disguised firearm								
	<b>Minimum term does not apply</b> 5(1)(b)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	1	30	47	96	99	78	7	<b>358</b>
	5(1A)(b)-(g)	Possess/ purchase/ sell or transfer military equipment								
		<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 (Maximum: 5 years, or 7 years for 1(1) aggravated)	1(1)	Possess a firearm/ammunition without a certificate	2	11	12	5	27	39	1	<b>97</b>
		Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form)	0	0	0	0	2	12	0	<b>14</b>
	2(1)	Possess shotgun without a certificate	0	8	9	1	9	13	1	<b>41</b>
		<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 (Maximum: 5 years)	21	Possess a firearm when prohibited for life / five years due to previous conviction	0	4	6	5	9	24	0	<b>48</b>
Group 4 (Maximum: 7 years, or 12 months for imitation)	19	Possess loaded/unloaded firearm and suitable ammunition/shotgun/ airweapon/ imitation firearm in public place	0	10	25	75	48	43	2	<b>203</b>
Group 5 (Maximum: Life)	16	Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so	0	0	0	0	0	72	5	<b>77</b>
		Possess a firearm with intent to cause fear of violence	0	0	0	1	12	59	2	<b>74</b>
Group 6 (Maximum: 10 years)	16A	Possess an imitation firearm with intent to cause fear of violence	0	1	0	8	49	125	4	<b>187</b>
		<b>TOTAL SECTION 16A OFFENCES</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>9</b>	<b>61</b>	<b>184</b>	<b>6</b>	<b>261</b>
Group 7 (Maximum: Life)		Possess a firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence	0	0	0	0	0	4	1	<b>5</b>
	17(1), 17(2), 18(1)	Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence	0	0	0	1	2	24	0	<b>27</b>
		<b>TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>29</b>	<b>1</b>	<b>33</b>
Group 8 (Maximum: Life)	5(2A)(a)	Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968 <sup>2</sup>	0	0	0	0	0	4	0	<b>4</b>
	5(2A)(b)-(d)	Sell / transfer prohibited weapon / ammunition, Possess/purchase/acquire prohibited weapon / ammunition for sale / transfer	0	0	0	0	0	25	0	<b>25</b>

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 (Maximum: 10 years)	<b>Minimum term applies</b>	Possess/purchase/acquire a prohibited weapon (automatic)/ ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle	0%	0%	<0.5%	1%	11%	87%	<0.5%	100%
	5(1)(a)-(af), (c)	Possess/ purchase disguised firearm								
	5(1A)(a)	<b>Minimum term does not apply</b>								
	5(1)(b)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	<0.5%	8%	13%	27%	28%	22%	2%	100%
	5(1A)(b)-(g)	Possess/ purchase/ sell or transfer military equipment								
		<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 (Maximum: 5 years, or 7 years for 1(1) aggravated)	1(1)	Possess a firearm/ammunition without a certificate	2%	11%	12%	5%	28%	40%	1%	100%
		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 (Maximum: 5 years)	21	Possess a firearm when prohibited for life / five years due to previous conviction	0%	8%	13%	10%	19%	50%	0%	100%
Group 4 (Maximum: 7 years, or 12 months for imitation firearms)	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 (Maximum: Life)	16	Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so	0%	0%	0%	0%	0%	94%	6%	100%
		Possess a firearm with intent to cause fear of violence	0%	0%	0%	1%	16%	80%	3%	100%
Group 6 (Maximum: 10 years)	16A	Possess an imitation firearm with intent to cause fear of violence	0%	1%	0%	4%	26%	67%	2%	100%
		<b>TOTAL SECTION 16A OFFENCES</b>	<b>0%</b>	<b>&lt;0.5%</b>	<b>0%</b>	<b>3%</b>	<b>23%</b>	<b>70%</b>	<b>2%</b>	<b>100%</b>
Group 7 (Maximum: Life)		Possess a firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence	0%	0%	0%	0%	0%	80%	20%	100%
	17(1), 17(2), 18(1)	Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence	0%	0%	0%	4%	7%	89%	0%	100%
		<b>TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>3%</b>	<b>6%</b>	<b>88%</b>	<b>3%</b>	<b>100%</b>
Group 8 (Maximum: Life)	5(2A)(a)	Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968 <sup>2</sup>	0%	0%	0%	0%	0%	100%	0%	100%
	5(2A)(b)-(d)	Sell / transfer prohibited weapon / ammunition, Possess/purchase/acquire prohibited weapon / ammunition for sale / transfer	0%	0%	0%	0%	0%	100%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

## Notes

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

2) Data shown for this offence relates to 2016 (as no offenders were sentenced in 2017), and may therefore include cases sentenced prior to the Stephenson judgment.

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 (Maximum: 10 years)	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	6 years 6 months	7 years 6 months	Fine - 10 years' custody
		Possess/ purchase disguised firearm			
	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	1 year 7 months	1 year 1 month	Discharge - 8 year's custody
		Possess/ purchase/ sell or transfer military equipment			
		<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 (Maximum: 5 years, or 7 years for 1(1) aggravated)	1(1)	Possess a firearm/ammunition without a certificate	3 years 1 month	3 years	Discharge - 5 years' custody
		Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form) <sup>6</sup>	2 years 5 months	1 year 11 months	SSO - 4 years' custody
	2(1)	Possess shotgun without a certificate <sup>6</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 (Maximum: 5 years)	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 (Maximum: 7 years, or 12 months for imitation)	19	Possess loaded/unloaded firearm and suitable ammunition/shotgun/ airweapon/ imitation firearm in public place	10 months	6 months	Discharge - 4.5 years' custody
Group 5 (Maximum: Life)	16	Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so	12 years 5 months	12 years	1 year 8 months - 27 years' custody (and indeterminate)
Group 6 (Maximum: 10 years)	16A	Possess a firearm with intent to cause fear of violence	4 years 10 months	5 years	CO - 10 years' custody
		Possess an imitation firearm with intent to cause fear of violence	2 years 8 months	2 years 3 months	Discharge - 9 years 9 months' custody
		<b>TOTAL SECTION 16A OFFENCES</b>	<b>3 years 4 months</b>	<b>2 years 6 months</b>	<b>Discharge - 10 years' custody</b>
Group 7 (Maximum: Life)	17(1), 17(2), 18(1)	Possess a firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence <sup>4</sup>	13 years 11 months	12 years	7 years 6 months - 24 years' custody
		Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence	5 years 11 months	6 years	CO - 12 years' custody
		<b>TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES</b>	<b>7 years 4 months</b>	<b>7 years</b>	<b>CO - 24 years' custody</b>
Group 8 (Maximum: Life)	5(2A)(a)	Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968 <sup>5,6</sup>	17 years 9 months	20 years 3 months	8 years - 22 years 6 months' custody
	5(2A)(b)-(d)	Sell / transfer prohibited weapon / ammunition, Possess/purchase/acquire prohibited weapon / ammunition for sale / transfer	12 years	9 years	5 years 7 months - 26 years 6 months' 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 for this offence involving a firearm
- 5) The ACSLs and ranges shown for this offence relate to 2016 (as no offenders were sentenced in 2017), and may therefore include cases sentenced prior to the Stephenson judgment
- 6) These figures should be treated with caution, due to the low number of offenders sentenced for this offence.

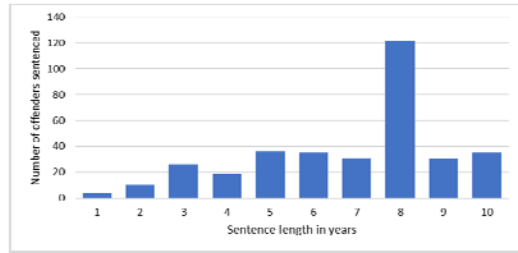
Figure 1: Estimated distribution of custodial sentence lengths for adult offenders sentenced to immediate custody for offences under the Firearms Act 1968, before any reduction for guilty plea, 2017

Note: Sentence length intervals 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 (Maximum: 10 years)**

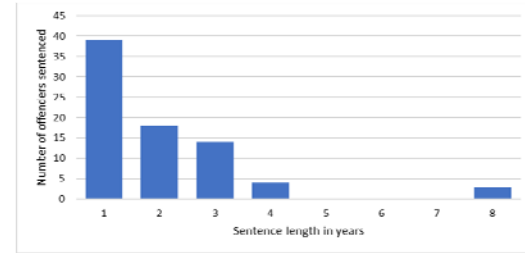
**Minimum term applies**

Sections 5(1)(a)-(af),(c) & 5(1A)(a) combined, 2017



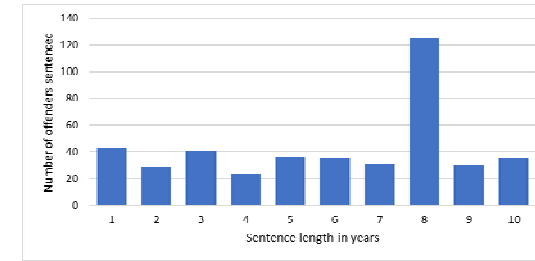
**Minimum term does not apply**

Sections 5(1)(b) & 5(1A)(b)-(g) combined, 2017



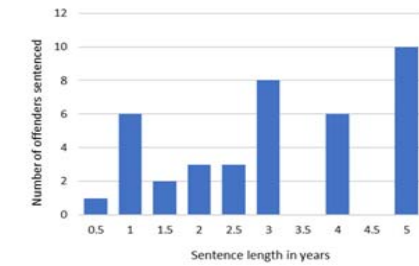
**All Group 1 offences**

Sections 5(1)(a)-(af),(c), 5(1A)(a), 5(1)(b) & 5(1A)(b)-(g) combined, 2017

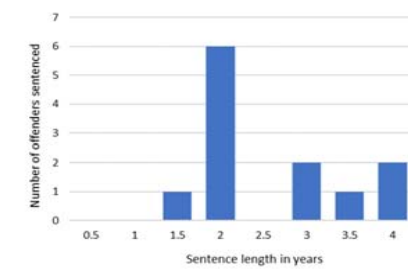


**Group 2 (Maximum: 5 years, or 7 years for 1(1) aggravated)**

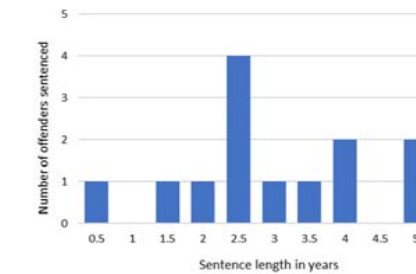
Section 1(1) - Possess a firearm/ammunition without a certificate, 2017



Section 1(1) - Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form), 2017

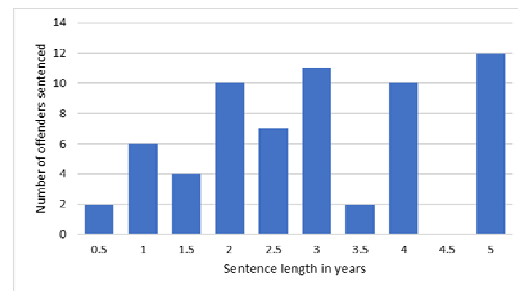


Section 2(1) - Possess shotgun without a certificate, 2017



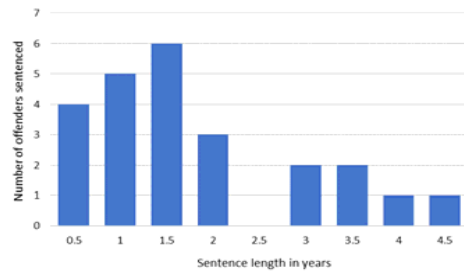
**All Group 2 offences**

Sections 1(1) & 2(1) combined - Possess a firearm/ ammunition/ shortened shotgun/ shotgun without a certificate, 2017



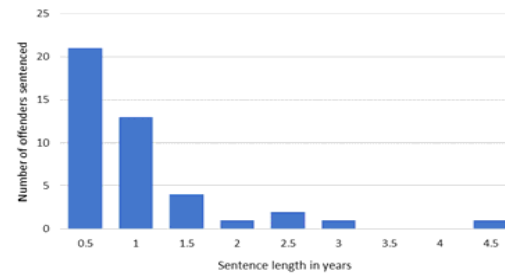
**Group 3 (Maximum: 5 years)**

Section 21 - Possess a firearm when prohibited for life / five years due to previous conviction, 2017



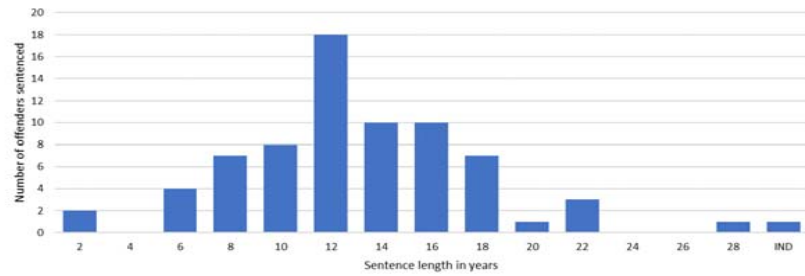
**Group 4 (Maximum: 7 years, or 12 months for imitation)**

Section 19 - Possess loaded/unloaded firearm and suitable ammunition/shotgun/airweapon/ imitation firearm in public place, 2017



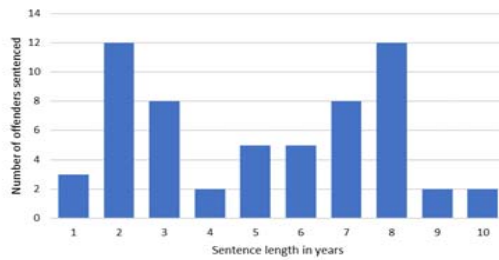
**Group 5 (Maximum: Life)**

Section 16 (all) - Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so, 2017

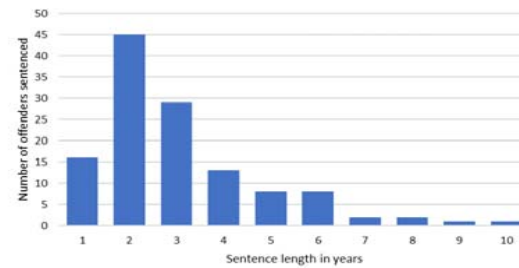


**Group 6 (Maximum: 10 years)**

Section 16A - Possess a firearm with intent to cause fear of violence, 2017

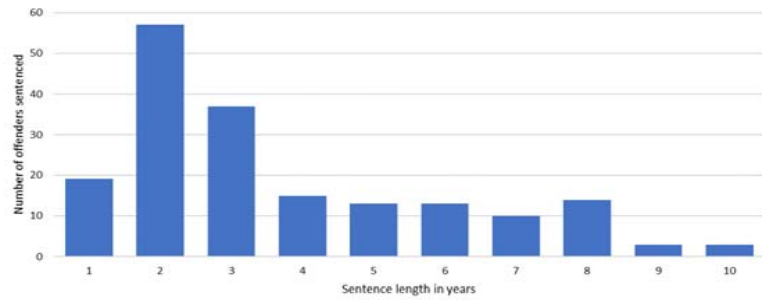


Section 16A - Possess an imitation firearm with intent to cause fear of violence, 2017



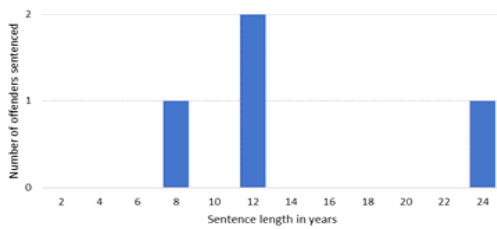
**All Group 6 offences**

Section 16A - Possess a firearm/ imitation firearm with intent to cause fear of violence, 2017

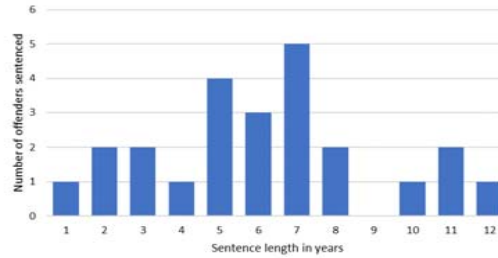


**Group 7 (Maximum: Life)**

Sections 17(1), 17(2), 18(1) - Possess a firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence, 2017

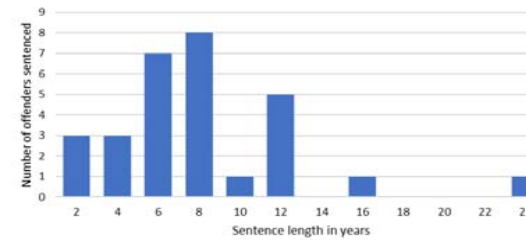


Sections 17(1), 17(2), 18(1) - Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence, 2017



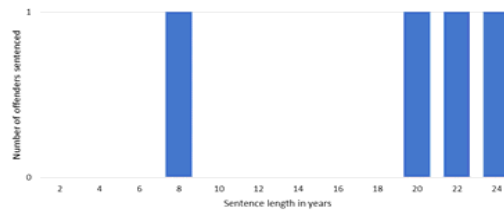
**All Group 7 offences**

Sections 17(1), 17(2), 18(1) - Possess a firearm/ imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence, 2017

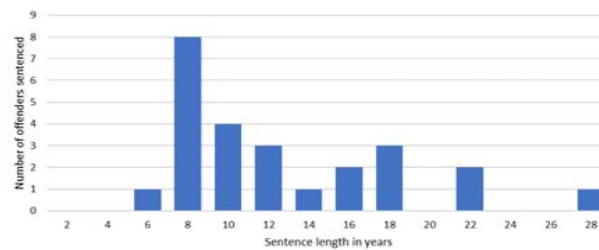


**Group 8 (Maximum: Life)**

Section 5(2A)(a) offences - Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968, 2016<sup>1</sup>



Section 5(2A)(b)-(d) offences - Sell / transfer prohibited weapon / ammunition, Possess/purchase/acquire prohibited weapon / ammunition for sale / transfer, 2017<sup>1</sup>



Note:

1) The data shown for this offence relates to 2016 (as no offenders were sentenced in 2017), and may therefore include cases sentenced prior to the Stephenson judgment.

Note:

1) Separate sentence length breakdowns for section 5(2A)(b)-(d) offences have not been shown due to low volumes.

**Table 4: Distribution of estimated 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 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 (Maximum: 10 years)****Minimum term applies**

Sections 5(1)(a)-(af),(c) &amp; 5(1A)(a) combined, 2017

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	4	1%
2	10	3%
3	26	7%
4	19	5%
5	36	10%
6	35	10%
7	31	9%
8	122	35%
9	30	9%
10	35	10%
<b>Total</b>	<b>348</b>	<b>100%</b>

**Minimum term does not apply**

Sections 5(1)(b) &amp; 5(1A)(b)-(g) combined, 2017

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	39	50%
2	18	23%
3	14	18%
4	4	5%
5	0	0%
6	0	0%
7	0	0%
8	3	4%
<b>Total</b>	<b>78</b>	<b>100%</b>

**All Group 1 offences**

Sections 5(1)(a)-(af),(c), 5(1A)(a), 5(1)(b) &amp; 5(1A)(b)-(g) combined, 2017

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	43	10%
2	28	7%
3	40	9%
4	23	5%
5	36	8%
6	35	8%
7	31	7%
8	125	29%
9	30	7%
10	35	8%
<b>Total</b>	<b>426</b>	<b>100%</b>

**Group 2 (Maximum: 5 years, or 7 years for 1(1) aggravated)**

Section 1(1) - Possess a firearm/ammunition without a certificate, 2017

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	1	3%
1	6	15%
1.5	2	5%
2	3	8%
2.5	3	8%
3	8	21%
3.5	0	0%
4	6	15%
4.5	0	0%
5	10	26%
<b>Total</b>	<b>39</b>	<b>100%</b>

Section 1(1) - Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form), 2017

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	0	0%
1	0	0%
1.5	1	8%
2	6	50%
2.5	0	0%
3	2	17%
3.5	1	8%
4	2	17%
4.5	0	0%
5	0	0%
<b>Total</b>	<b>12</b>	<b>100%</b>

Section 2(1) - Possess shotgun without a certificate, 2017

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	1	8%
1	0	0%
1.5	1	8%
2	1	8%
2.5	4	31%
3	1	8%
3.5	1	8%
4	2	15%
4.5	0	0%
5	2	15%
<b>Total</b>	<b>13</b>	<b>100%</b>

**All Group 2 offences**

Sections 1(1) & 2(1) combined - Possess a firearm/ ammunition/ shortened shotgun/ shotgun without a certificate, 2017

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	2	3%
1	6	9%
1.5	4	6%
2	10	16%
2.5	7	11%
3	11	17%
3.5	2	3%
4	10	16%
4.5	0	0%
5	12	19%
<b>Total</b>	<b>64</b>	<b>100%</b>

**Group 3 (Maximum: 5 years)**

Section 21 - Possess a firearm when prohibited for life / five years due to previous conviction, 2017

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	4	17%
1	5	21%
1.5	6	25%
2	3	13%
2.5	0	0%
3	2	8%
3.5	2	8%
4	1	4%
4.5	1	4%
5	0	0%
<b>Total</b>	<b>24</b>	<b>100%</b>

**Group 4 (Maximum: 7 years, or 12 months for imitation)**

Section 19 - Possess loaded/unloaded firearm and suitable ammunition/shotgun/ airweapon/ imitation firearm in public place, 2017

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	21	49%
1	13	30%
1.5	4	9%
2	1	2%
2.5	2	5%
3	1	2%
3.5	0	0%
4	0	0%
4.5	1	2%
5	0	0%
<b>Total</b>	<b>43</b>	<b>100%</b>

**Group 5 (Maximum: Life)**

Section 16 (all) - Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
2	2	3%
4	0	0%
6	4	6%
8	7	10%
10	8	11%
12	18	25%
14	10	14%
16	10	14%
18	7	10%
20	1	1%
22	3	4%
24	0	0%
26	0	0%
28	1	1%
Indeterminate	1	1%
<b>Total</b>	<b>72</b>	<b>100%</b>

**Group 6 (Maximum: 10 years)**

Section 16A - Possess a firearm with intent to cause fear of violence

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	3	5%
2	12	20%
3	8	14%
4	2	3%
5	5	8%
6	5	8%
7	8	14%
8	12	20%
9	2	3%
10	2	3%
<b>Total</b>	<b>59</b>	<b>100%</b>

**Group 7 (Maximum: Life)**

Sections 17(1), 17(2), 18(1) - Possess a firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
2	0	0%
4	0	0%
6	0	0%
8	1	25%
10	0	0%
12	2	50%
14	0	0%
16	0	0%
18	0	0%
20	0	0%
22	0	0%
24	1	25%
<b>Total</b>	<b>4</b>	<b>100%</b>

Section 16A - Possess an imitation firearm with intent to cause fear of violence

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	16	13%
2	45	36%
3	29	23%
4	13	10%
5	8	6%
6	8	6%
7	2	2%
8	2	2%
9	1	1%
10	1	1%
<b>Total</b>	<b>125</b>	<b>100%</b>

Sections 17(1), 17(2), 18(1) - Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	1	4%
2	2	8%
3	2	8%
4	1	4%
5	4	17%
6	3	13%
7	5	21%
8	2	8%
9	0	0%
10	1	4%
11	2	8%
12	1	4%
<b>Total</b>	<b>24</b>	<b>100%</b>

**All Group 6 offences**

Section 16A - Possess a firearm/ imitation firearm with intent to cause fear of violence

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	19	10%
2	57	31%
3	37	20%
4	15	8%
5	13	7%
6	13	7%
7	10	5%
8	14	8%
9	3	2%
10	3	2%
<b>Total</b>	<b>184</b>	<b>100%</b>

**All Group 7 offences**

Sections 17(1), 17(2), 18(1) - Possess a firearm/ imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
2	3	10%
4	3	10%
6	7	24%
8	8	28%
10	1	3%
12	5	17%
14	0	0%
16	1	3%
18	0	0%
20	0	0%
22	0	0%
24	1	3%
<b>Total</b>	<b>29</b>	<b>100%</b>



**Group 8 (Maximum: Life)**

Section 5(2A)(a) offences - Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968, 2016<sup>1,2</sup>

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
2	0	0%
4	0	0%
6	0	0%
8	1	25%
10	0	0%
12	0	0%
14	0	0%
16	0	0%
18	0	0%
20	1	25%
22	1	25%
24	1	25%
<b>Total</b>	<b>4</b>	<b>100%</b>

## Notes:

1) The data shown for this offence relates to 2016 (as no offenders were sentenced in 2017), and may therefore include cases sentenced prior to the Stephenson judgment.

2) These proportions should be treated with caution, due to the low number of offenders sentenced for this offence.

Source: Court Proceedings Database, Ministry of Justice

Section 5(2A)(b)-(d) offences - Sell / transfer prohibited weapon / ammunition, Possess/purchase/acquire prohibited weapon / ammunition for sale / transfer, 2017

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
2	0	0%
4	0	0%
6	1	4%
8	8	32%
10	4	16%
12	3	12%
14	1	4%
16	2	8%
18	3	12%
20	0	0%
22	2	8%
24	0	0%
26	0	0%
28	1	4%
<b>Total</b>	<b>25</b>	<b>100%</b>

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