

## Revision of Drug Offences Guideline – proposed sections for new guideline October 2018

### **Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug**

Misuse of Drugs Act 1971 (section 3)

Customs and Excise Management Act 1979 (section 170(2))

#### Step one – determining the offence category

The court should determine the offender's culpability (role) and the harm caused (quantity) with reference to the tables below.

In assessing culpability, the sentencer should weigh up all the factors of the case to determine role. Where there are characteristics present which fall under different role categories the court should balance these characteristics to reach a fair assessment of the offender's culpability.

~~Where the operation is on the most serious and commercial scale, involving a quantity of drugs significantly higher than category 1, sentences of 20 years and above may be appropriate, depending on the role of the offender.~~

#### *Culpability demonstrated by the offender's role*

One or more of these characteristics may demonstrate the offender's role, whether or not the offender is operating alone or consciously taking part in a wider operation. These lists are not exhaustive.

#### **Leading** role:

- Directing or organising buying and selling on a commercial scale
- Substantial links to, and influence on, others in a chain
- Close links to original source
- Expectation of substantial financial or other advantage
- Uses business as cover
- Abuses a position of trust or responsibility
- Exploitation of children and/or vulnerable persons to assist in drug-related activity
- Exercising control over the home of another person for drug-related activity

#### **Significant** role:

- Operational or management function within a chain
- Involves others in the operation whether by pressure, influence, intimidation or reward
- Expectation of significant financial or other advantage, (save where this advantage is limited to meeting the offender's own habit) whether or not operating alone
- Some awareness and understanding of scale of operation

**Lesser role:**

- Performs a limited function under direction
- Engaged by pressure, coercion, intimidation
- Involvement through naivety/exploitation
- No influence on those above in a chain
- Very little, if any, awareness or understanding of the scale of operation
- If own operation, solely for own use (considering reasonableness of account in all the circumstances)
- Expectation of limited, if any, financial or other advantage (including meeting the offender’s own habit)

In assessing harm, quantity is determined by the weight of the product. Purity is not taken into account at step one but is dealt with at step two.

*Category of harm*

Indicative quantities of the most common drugs, upon which the starting point is to be based, are as follows given in the table below. Where a drug is not listed in the table below, sentencers should expect to be provided with expert evidence to assist in determining the potency of the particular drug and in equating the quantity in the case with the quantities set out in the guidelines in terms of the harm caused. There will often be no precise calculation possible, but courts are reminded that in cases of particularly potent drugs, even very small quantities may be held to be equivalent to large quantities of the drugs listed.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 5kg</li> <li>• <del>Ecstasy – 10,000 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 250,000 squares</del></li> <li>• Amphetamine – 20kg</li> <li>• Cannabis – 200kg</li> <li>• <del>Ketamine – 5kg</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 5kg</u></li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 1kg</li> <li>• <del>Ecstasy – 2,000 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 25,000 squares</del></li> <li>• Amphetamine – 4kg</li> <li>• Cannabis – 40kg</li> <li>• <del>Ketamine – 1kg</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 1kg</u></li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 150g</li> <li>• <del>Ecstasy – 300 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 2,500 squares</del></li> <li>• Amphetamine – 750g</li> </ul>

	<ul style="list-style-type: none"> <li>• Cannabis – 6kg</li> <li>• <del>Ketamine – 150g</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 150g</u></li> </ul>
<b>Category 4</b>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 5g</li> <li>• <del>Ecstasy – 20 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 170 squares</del></li> <li>• Amphetamine – 20g</li> <li>• Cannabis – 100g</li> <li>• <del>Ketamine – 5g</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 5g</u></li> </ul>

Step two – starting point and category range

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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Where appropriate, consider the custody threshold as follows:

- Has the custody threshold been passed?
- If so, is it unavoidable that a custodial sentence be imposed?
- If so, can that sentence be suspended?

<u>Where the operation is on the most serious and commercial scale, involving a quantity of drugs significantly higher than category 1, sentences of 20 years and above may be appropriate, depending on the offender's role.</u>			
CLASS A	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
<b>Category 1</b>	<b>Starting point</b> 14 years' custody <b>Category range</b> 12 – 16 years' custody	<b>Starting point</b> 10 years' custody <b>Category range</b> 9 – 12 years' custody	<b>Starting point</b> 8 years' custody <b>Category range</b> 6 – 9 years' custody
<b>Category 2</b>	<b>Starting point</b> 11 years' custody <b>Category range</b> 9 – 13 years' custody	<b>Starting point</b> 8 years' custody <b>Category range</b> 6 years 6 months' – 10 years' custody	<b>Starting point</b> 6 years' custody <b>Category range</b> 5 – 7 years' custody
<b>Category 3</b>	<b>Starting point</b> 8 years 6 months' custody <b>Category range</b> 6 years 6 months' – 10 years' custody	<b>Starting point</b> 6 years' custody <b>Category range</b> 5 – 7 years' custody	<b>Starting point</b> 4 years 6 months' custody <b>Category range</b> 3 years 6 months' – 5 years' custody
<b>Category 4</b>	<p>Where the quantity falls below the indicative amount set out for category 4 on the previous page, first identify the role for the importation offence, then refer to the starting point and ranges for possession or supply offences, depending on intent.</p> <p>Where the quantity is significantly larger than the indicative amounts for category 4 but below category 3 amounts, refer to the category 3 ranges above.</p>		

[Note – the above table with additional text is given as an example showing position of text above the table. Detail of sentence levels will be considered in May.]

*Factors increasing seriousness*

*Statutory aggravating factors:*

- Previous convictions, having regard to a) nature of the offence to which condition relates and relevance to current offence; and b) time elapsed since conviction
- Offender used or permitted a person under 18 to deliver a controlled drug to a third person
- Offender 18 or over supplies or offers to supply a drug on, or in the vicinity of, school premises either when school in use as such or at a time between one hour before and one hour after they are to be used.
- Offence committed on bail

*Other aggravating factors include:*

- Targeting of any premises where children or other vulnerable persons are likely to be present
- Exposure of drug user to the risk of serious harm, for example, through the method of production/mixing of the drug
- Exposure of those involved in drug dealing to the risk of serious harm, for example through method of transporting drugs
- Exposure of third parties to the risk of serious harm, for example, through the location of the drug-related activity
- Attempts to conceal or dispose of evidence, where not charged separately
- Presence of others, especially children and/or non-users
- Presence of weapons, where not charged separately
- High purity
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Established evidence of community impact
- Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection

*Factors reducing seriousness or reflecting personal mitigation*

- Involvement due to pressure, intimidation or coercion falling short of duress, except where already taken into account at step one.
- Supply only of drug to which offender addicted
- Mistaken belief of the offender regarding the type of drug, taking into account the reasonableness of such belief in all the circumstances
- Isolated incident
- Low purity
- No previous convictions **or** no relevant or recent convictions
- Remorse
- Good character and/or exemplary conduct
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives
- Offender's vulnerability was exploited

Supplying or offering to supply a controlled drug  
**Misuse of Drugs Act 1971 (section 4(3))**

Possession of a controlled drug with intent to supply it to another  
**Misuse of Drugs Act 1971 (section 4(3))**

Step one – determining the offence category

The court should determine the offender's culpability (role) and the harm caused (quantity) with reference to the tables below.

In assessing culpability, the sentencer should weigh up all the factors of the case to determine role. Where there are characteristics present which fall under different role categories the court should balance these characteristics to reach a fair assessment of the offender's culpability.

~~Where the operation is on the most serious and commercial scale, involving a quantity of drugs significantly higher than category 1, sentences of 20 years and above may be appropriate, depending on the role of the offender.~~

*Culpability demonstrated by the offender's role*

One or more of these characteristics may demonstrate the offender's role, whether or not the offender is operating alone or consciously taking part in a wider operation. These lists are not exhaustive.

**Leading** role:

- Directing or organising buying and selling on a commercial scale
- Substantial links to, and influence on, others in a chain
- Close links to original source
- Expectation of substantial financial or other advantage
- Uses business as cover
- Abuses a position of trust or responsibility, for example, prison employee, medical professional
- Exploitation of children and/or vulnerable persons to assist in drug-related activity
- Exercising control over the home of another person for drug-related activity

**Significant** role:

- Operational or management function within a chain
- Involves others in the operation whether by pressure, influence, intimidation or reward
- Expectation of significant financial or other advantage (save where this advantage is limited to meeting the offender's own habit), whether or not operating alone
- Some awareness and understanding of scale of operation

**Lesser** role:

- Performs a limited function under direction
- Engaged by pressure, coercion, intimidation
- Involvement through naivety/exploitation
- No influence on those above in a chain
- Very little, if any, awareness or understanding of the scale of operation

- Expectation of limited, if any, financial or other advantage (including meeting the offender’s own habit)

*Category of harm*

In assessing harm, quantity is determined by the weight of the product. Purity is not taken into account at step one but is dealt with at step two. Where the offence is supply directly to users (including street dealing), the quantity of product is less indicative of the harm caused and therefore the starting point is not solely based on quantity. The court should consider all offences involving supplying directly to users as at least category 3 harm, and make an adjustment from the starting point within that category considering the quantity of drugs in the particular case.

Indicative quantities of the most common drugs, upon which the starting point is to be based) are as follows given in the table below. Where a drug is not listed in the table below, sentencers should expect to be provided with expert evidence to assist in determining the potency of the particular drug and in equating the quantity in the case with the quantities set out in the guidelines in terms of the harm caused. There will often be no precise calculation possible, but courts are reminded that in cases of particularly potent drugs, even very small quantities may be held to be equivalent to large quantities of the drugs listed.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 5kg</li> <li>• <del>Ecstasy – 10,000 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 250,000 squares</del></li> <li>• Amphetamine – 20kg</li> <li>• Cannabis – 200kg</li> <li>• <del>Ketamine – 5kg</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 5kg</u></li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 1kg</li> <li>• <del>Ecstasy – 2,000 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 25,000 squares</del></li> <li>• Amphetamine – 4kg</li> <li>• Cannabis – 40kg</li> <li>• <del>Ketamine – 1kg</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 1kg</u></li> </ul>
<b>Category 3</b>	<p><del>Where the offence is sSelling directly to users (“street dealing”) the starting point is not based on a quantity</del>  OR  <del>Where the offence is sSupply of drugs in prison by a prison employee the starting point is not based on quantity – see shaded box on page 10,</del>  OR</p> <ul style="list-style-type: none"> <li>• Heroin, cocaine – 150g</li> <li>• <del>Ecstasy – 300 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 2,500 squares</del></li> <li>• Amphetamine – 750g</li> </ul>

	<ul style="list-style-type: none"> <li>• Cannabis – 6kg</li> <li>• <del>Ketamine – 150g</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 150g</u></li> </ul>
<b>Category 4</b>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 5g</li> <li>• <del>Ecstasy – 20 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 170 squares</del></li> <li>• Amphetamine – 20g</li> <li>• Cannabis – 100g</li> <li>• <del>Ketamine – 5g</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 5g</u></li> </ul> <p>OR</p> <p>Note – where the offence is selling directly to users <u>or supply in prison</u> (<del>street dealing</del>) the starting point is not based on quantity – go to category 3</p>

Step two – starting point and category range

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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Where appropriate, consider the custody threshold as follows:

- Has the custody threshold been passed?
- If so, is it unavoidable that a custodial sentence be imposed?
- If so, can that sentence be suspended?

Where appropriate, the court should also consider the community threshold as follows:

- Has the community threshold been passed?

<u>Where the operation is on the most serious and commercial scale, involving a quantity of drugs significantly higher than category 1, sentences of 20 years and above may be appropriate, depending on the offender's role.</u>			
<b>CLASS A</b>	<b>LEADING ROLE</b>	<b>SIGNIFICANT ROLE</b>	<b>LESSER ROLE</b>
<b>Category 1</b>	<b>Starting point</b> 14 years' custody <b>Category range</b> 12 – 16 years' custody	<b>Starting point</b> 10 years' custody <b>Category range</b> 9 – 12 years' custody	<b>Starting point</b> 7 years' custody <b>Category range</b> 6 – 9 years' custody
<b>Category 2</b>	<b>Starting point</b> 11 years' custody <b>Category range</b> 9 – 13 years' custody	<b>Starting point</b> 8 years' custody <b>Category range</b> 6 years 6 months' – 10 years' custody	<b>Starting point</b> 5 years' custody <b>Category range</b> 3 years 6 months' – 7 years' custody

<b>Category 3</b>	<p><b>Starting point</b> 8 years 6 months' custody</p> <p><b>Category range</b> 6 years 6 months' – 10 years' custody</p>	<p><b>Starting point</b> 4 years 6 months' custody</p> <p><b>Category range</b> 3 years 6 months' – 7 years' custody</p>	<p><b>Starting point</b> 3 years' custody</p> <p><b>Category range</b> 2 – 4 years 6 months' custody</p>
<b>Category 4</b>	<p><b>Starting point</b> 5 years 6 months' custody</p> <p><b>Category range</b> 4 years 6 months' – 7 years 6 months' custody</p>	<p><b>Starting point</b> 3 years 6 months' custody</p> <p><b>Category range</b> 2 – 5 years' custody</p>	<p><b>Starting point</b> 18 months' custody</p> <p><b>Category range</b> High level community order – 3 years' custody</p>

[Note – the above table with additional text is given as an example showing position of text above the table. Detail of sentence levels will be considered in May.]

*Factors increasing seriousness*

*Statutory aggravating factors:*

- Previous convictions, having regard to a) nature of the offence to which condition relates and relevance to current offence; and b) time elapsed since conviction
- Offender used or permitted a person under 18 to deliver a controlled drug to a third person
- Offender 18 or over supplies or offers to supply a drug on, or in the vicinity of, school premises either when school in use as such or at a time between one hour before and one hour after they are to be used.
- Offence committed on bail

*Other aggravating factors include:*

- Targeting of any premises where children or other vulnerable persons are likely to be present
- Exposure of drug user to the risk of serious harm, for example, through the method of production/mixing of the drug
- Exposure of those involved in drug dealing to the risk of serious harm, for example through method of transporting drugs
- Exposure of third parties to the risk of serious harm, for example, through the location of the drug-related activity
- Attempts to conceal or dispose of evidence, where not charged separately
- Presence of others, especially children and/or non-users
- Presence of weapons, where not charged separately
- High purity
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Established evidence of community impact
- Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection

There may be exceptional local circumstances that arise which may lead a court to decide that prevalence of drug offending should influence sentencing levels. The pivotal issue in such cases will be the harm caused to the community.

It is essential that the court before taking account of prevalence:



- has supporting evidence from an external source, for example, Community Impact Statements, to justify claims that drug offending is prevalent in their area, and is causing particular harm in that community; and
- is satisfied that there is a compelling need to treat the offence more seriously than elsewhere.

*Factors reducing seriousness or reflecting personal mitigation*

- Involvement due to pressure, intimidation or coercion falling short of duress, except where already taken into account at step one.
- Supply only of drug to which offender addicted
- Mistaken belief of the offender regarding the type of drug, taking into account the reasonableness of such belief in all the circumstances
- Isolated incident
- Low purity
- No previous convictions **or** no relevant or recent convictions
- Remorse
- Good character and/or exemplary conduct
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives
- Offender's vulnerability was exploited

**Production of a controlled drug**

Misuse of Drugs Act 1971 (section 4(2)(a) or (b))

**Cultivation of cannabis plant**

Misuse of Drugs Act 1971 (section 6(2))

Step one – determining the offence category

The court should determine the offender’s culpability (role) and the harm caused (output or potential output) with reference to the tables below.

In assessing culpability, the sentencer should weigh up all the factors of the case to determine role. Where there are characteristics present which fall under different role categories the court should balance these characteristics to reach a fair assessment of the offender’s culpability.

~~Where the operation is on the most serious and commercial scale, involving a quantity of drugs significantly higher than category 1, sentences of 20 years and above may be appropriate, depending on the role of the offender.~~

*Culpability demonstrated by the offender’s role*

One or more of these characteristics may demonstrate the offender’s role, whether or not the offender is operating alone or consciously taking part in a wider operation. These lists are not exhaustive.

**Leading role:**

- Directing or organising buying and selling on a commercial scale
- Substantial links to, and influence on, others in a chain
- Close links to original source
- Expectation of substantial financial or other advantage
- Uses business as cover
- Abuses a position of trust or responsibility
- Exploitation of children and/or vulnerable persons to assist in drug-related activity
- Exercising control over the home of another person for drug-related activity

**Significant role:**

- Operational or management function within a chain
- Involves others in the operation whether by pressure, influence, intimidation or reward
- Expectation of significant financial or other advantage (save where this advantage is limited to meeting the offender’s own habit), whether or not operating alone
- Some awareness and understanding of scale of operation

**Lesser role:**

- Performs a limited function under direction
- Engaged by pressure, coercion, intimidation
- Involvement through naivety/exploitation
- No influence on those above in a chain
- Very little, if any, awareness or understanding of the scale of operation

- Expectation of limited, if any, financial advantage, (including meeting the offender’s own habit)
- If own operation, solely for own use (considering reasonableness of account in all the circumstances)

*Category of harm*

In assessing harm, output or potential output are determined by the output or the potential output (the weight of the product or number of plants/scale of operation). For production offences purity is not taken into account at step one but is dealt with at step two.

Indicative output or potential output, upon which the starting point is to be based, is given in the table below. Where a drug is not listed in the table below, sentencers should expect to be provided with expert evidence to assist in determining the potency of the particular drug and in equating the quantity in the case with the quantities set out in the guidelines in terms of the harm caused. There will often be no precise calculation possible, but courts are reminded that in cases of particularly potent drugs, even very small quantities may be held to be equivalent to large quantities of the drugs listed.

<p><b>Category 1</b></p>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 5kg</li> <li>• <del>Ecstasy – 10,000 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 250,000 squares</del></li> <li>• Amphetamine – 20kg</li> <li>• Cannabis – operation capable of producing industrial quantities for commercial use</li> <li>• <del>Ketamine – 5kg</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 5kg</u></li> </ul>
<p><b>Category 2</b></p>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 1kg</li> <li>• <del>Ecstasy – 2,000 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 25,000 squares</del></li> <li>• Amphetamine – 4kg</li> <li>• Cannabis – operation capable of producing significant quantities for commercial use</li> <li>• <del>Ketamine – 1kg</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 1kg</u></li> </ul>
<p><b>Category 3</b></p>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 150g</li> <li>• <del>Ecstasy – 300 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 2,500 squares</del></li> <li>• Amphetamine – 750g</li> <li>• Cannabis – 28 plants</li> <li>• <del>Ketamine – 150g</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 150g</u></li> </ul>

<b>Category 4</b>	<ul style="list-style-type: none"> <li>• Heroin, cocaine – 5g</li> <li>• <del>Ecstasy – 20 tablets</del></li> <li>• <u>MDMA – TBC</u></li> <li>• <del>LSD – 170 squares</del></li> <li>• Amphetamine – 20g</li> <li>• Cannabis – 9g (domestic operation)</li> <li>• <del>Ketamine – 5g</del></li> <li>• <u>Synthetic cannabinoid receptor agonists – 5g</u></li> </ul>
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Step two – starting point and category range

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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Where appropriate, consider the custody threshold as follows:

- Has the custody threshold been passed?
- If so, is it unavoidable that a custodial sentence be imposed?
- If so, can that sentence be suspended?

Where appropriate, the court should also consider the community threshold as follows:

- Has the community threshold been passed?

<u>Where the operation is on the most serious and commercial scale, involving a quantity of drugs significantly higher than category 1, sentences of 20 years and above may be appropriate, depending on the offender's role.</u>			
CLASS A	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
<b>Category 1</b>	<b>Starting point</b> 14 years' custody <b>Category range</b> 12 – 16 years' custody	<b>Starting point</b> 10 years' custody <b>Category range</b> 9 – 12 years' custody	<b>Starting point</b> 7 years' custody <b>Category range</b> 6 – 9 years' custody
<b>Category 2</b>	<b>Starting point</b> 11 years' custody <b>Category range</b> 9 – 13 years' custody	<b>Starting point</b> 8 years' custody <b>Category range</b> 6 years 6 months' – 10 years' custody	<b>Starting point</b> 5 years' custody <b>Category range</b> 3 years 6 months' – 7 years' custody
<b>Category 3</b>	<b>Starting point</b> 8 years 6 months' custody <b>Category range</b> 6 years 6 months' – 10 years' custody	<b>Starting point</b> 5 years' custody <b>Category range</b> 3 years 6 months' – 7 years' custody	<b>Starting point</b> 3 years 6 months' custody <b>Category range</b> 2 – 5 years' custody
<b>Category 4</b>	<b>Starting point</b> 5 years 6 months' custody <b>Category range</b> 4 years 6 months' – 7 years 6 months' custody	<b>Starting point</b> 3 years 6 months' custody <b>Category range</b> 2 – 5 years' custody	<b>Starting point</b> 18 months' custody <b>Category range</b> High level community order – 3 years' custody

[Note – the above table with additional text is given as an example showing position of text above the table. Detail of sentence levels will be considered in May.]

*Factors increasing seriousness*

*Statutory aggravating factors:*

- Previous convictions, having regard to a) nature of the offence to which condition relates and relevance to current offence; and b) time elapsed since conviction
- Offence committed on bail

*Other aggravating factors include:*

- Nature of any likely supply
- Level of any profit element
- Use of premises accompanied by unlawful access to electricity/other utility supply of others, where not charged separately
- Ongoing/large scale operation as evidenced by presence and nature of specialist equipment
- Exposure of drug user to the risk of serious harm, for example, through the method of production/mixing of the drug
- Exposure of those involved in drug dealing to the risk of serious harm, for example through method of transporting drugs
- Exposure of third parties to the risk of serious harm, for example, through the location of the drug-related activity
- Attempts to conceal or dispose of evidence, where not charged separately
- Presence of others, especially children and/or non-users
- Presence of weapons, where not charged separately
- High purity or high potential yield
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Established evidence of community impact
- Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection

*Factors reducing seriousness or reflecting personal mitigation*

- Involvement due to pressure, intimidation or coercion falling short of duress, except where already taken into account at step one.
- Isolated incident
- Low purity
- No previous convictions **or** no relevant or recent convictions
- Offender's vulnerability was exploited
- Remorse
- Good character and/or exemplary conduct
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

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