

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

- The characteristics set out below are indications of the level of culpability that may attach to the offender's conduct; the court should balance these characteristics to reach a fair assessment of the offender's overall culpability in the context of the circumstances of the offence.
- The court should avoid an overly mechanistic application of these factors

**For offences involving an extreme nature of one or more high culpability factors or the extreme impact caused by a combination of high culpability factors a sentence higher than the offence category range or an extended or life sentence may be appropriate. Extended and life sentences are dealt with at Step 5 of the guideline.**

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

A – Very High culpability	<ul style="list-style-type: none"> <li>• Substantial degree of premeditation or planning of murder</li> <li>• Abduction of the victim with intent to murder</li> <li>• Attempted murder of a child</li> <li>• Offence motivated by or involves sexual or sadistic conduct</li> <li>• Offence involves the use of a firearm or explosive</li> <li>• Offence committed for financial gain</li> <li>• Attempted murder of a police officer or prison officer in the course of their duty</li> <li>• Offence committed for the purpose of advancing a political, religious, racial or ideological cause</li> <li>• Offence intended to obstruct or interfere with the course of justice</li> <li>• Offence racially or religiously aggravated or aggravated by sexual orientation, disability or transgender identity</li> </ul>
B- High culpability	<ul style="list-style-type: none"> <li>• Offender took a knife or other weapon to the scene intending to and using that knife or other weapon in committing the offence</li> <li>• Some planning or premeditation of murder</li> </ul>
C - Medium culpability	<ul style="list-style-type: none"> <li>• Use of weapon not in category A or B</li> <li>• Lack of premeditation</li> </ul>
D- Lesser culpability	<ul style="list-style-type: none"> <li>• Excessive self defence</li> <li>• Offender acted in response to prolonged or extreme violence or abuse by victim</li> <li>• Offender's responsibility substantially reduced by mental disorder or learning disability</li> </ul>

<b>Harm</b>	
<b>Category 1</b>	Particularly grave or life-threatening injury caused  Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment  Offence results in a permanent, irreversible injury or psychological condition which has a substantial and long term effect on the victim's ability to carry out normal day to day activities or on their ability to work
<b>Category 2</b>	Serious physical or psychological harm not in category 1
<b>Category 3</b>	All other cases

**STEP TWO**

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability in step one, could merit upward adjustment from the starting point or a sentence at the top of the category range before further adjustment for aggravating or mitigating features, set out below.

**Where the offence is committed in a domestic context, consideration must be given to the definitive guideline ‘Overarching Principles: Domestic Abuse’ and any aggravating features appropriately reflected in the sentence.**

HARM	CULPABILITY			
	A	B	C	D
<b>Harm 1</b>	<b>Starting point</b> 35 years  <b>Category Range</b> 30 - 40	<b>Starting point</b> 30  <b>Category Range</b> 25-35	<b>Starting point</b> 25  <b>Category Range</b> 20-30	<b>Starting point</b> 14  <b>Category Range</b> 10-20
<b>Harm 2</b>	<b>Starting point</b> 30 years  <b>Category Range</b> 25-35	<b>Starting point</b> 25  <b>Category Range</b> 20-30	<b>Starting point</b> 20  <b>Category Range</b> 15-25	<b>Starting point</b> 8  <b>Category Range</b> 5-12
<b>Harm 3</b>	<b>Starting point</b> 25  <b>Category Range</b> 20-30	<b>Starting point</b> 20  <b>Category Range</b> 15-25	<b>Starting point</b> 10  <b>Category Range</b> 7-15	<b>Starting point</b> 5  <b>Category Range</b> 3-6

Note: The table is for a single offence against a single victim. Where another offence or offences arise out of the same incident or facts, concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Offences Taken into Consideration and Totality guideline*.

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.

### Factors increasing seriousness

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

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

Offence committed whilst on bail

Offence motivated by, or demonstrating hostility based on any of the following characteristics of the victim: disability, sexual orientation or gender identity

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

Offence committed against those working in the public sector or providing a service to the public

Offence committed in prison

History of violence or abuse towards victim by offender (where not taken into account at step one)

Presence of children

Gratuitous degradation of victim

Victim vulnerable

Revenge attack

Actions after the event (including but not limited to attempts to cover up/conceal evidence)

Steps taken to prevent the victim from seeking or receiving medical assistance,

Commission of offence whilst under the influence of alcohol/drugs

Other offences taken into consideration (TICs)

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

**Factors reducing seriousness or reflecting personal mitigation**

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Significant degree of provocation

History of significant violence or abuse towards the offender by the victim (where not taken into account at step one)

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence (where not taken into account at step one)

Sole or primary carer for dependent relative(s)

Determination and/or demonstration of steps taken to address addiction or offending behaviour

Serious medical conditions requiring urgent, intensive or long-term treatment

**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 potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

**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 a life sentence (section 224A 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**

**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**

**Compensation and ancillary orders**

In all cases the court should consider whether to make compensation and/or other ancillary orders.

Where the offence involves a firearm, an imitation firearm or an offensive weapon 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.