

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

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SC(19)JUL05 - Firearms
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1 ISSUE

1.1 This is the final consideration of the firearms guidelines prior to consultation in late September. Sentence levels were considered by the Firearms Working Group in May and those levels have been used to inform the resource impact analysis.

1.2 The consultation document will be circulated to Council members for comment in early September.

2 RECOMMENDATION

2.1 It is recommended that the Council:

- Agrees the content of each of the eight guidelines
- Agrees the sentence levels in each guideline, taking into account the analysis undertaken to assess the potential resource impact of the guidelines
- Considers whether there are any equality and diversity issues that should be addressed in the consultation.

3 CONSIDERATION

Legislative changes

3.1 The Offensive Weapons Act 2019 received Royal Assent on 16 May 2019. As anticipated the Act prohibits two further items: rapid firing rifles¹ and bump stock devices.² Both items will eventually be subject to the minimum term.

¹ Certain chambered weapons from which cartridge cases are extracted by propellant gas. 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.

² 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.

3.2 The implementation of the firearms provisions is being phased, to allow time for people to surrender their weapons and claim compensation ahead of the prohibition on possession taking effect. Consequently, the prohibition of rapid-firing rifles and bump stocks came into force on Royal Assent but only to the extent that it prohibits the manufacture, sale, transfer or acquisition of such items. It is expected that when the prohibition on possession comes into force, the section applying the minimum term provisions to the items will also come into force. The draft guidelines will reflect the position at the time of the launch of the consultation and an explanation of expected changes will be included in the consultation document.

3.3 The Council needs to decide how it will categorise the rapid firing rifles and bump stocks in the guideline for possession of a prohibited weapon (at Annex A). It is proposed that rapid firing rifles (s5(1)(ag)) should be a type 1 weapon. There may be an argument for bump stocks (s5(1)(ba)) to go in type 2 (along with air weapons, disguised firearms, and ammunition), given they are an attachment rather than a full weapon, but the Council may consider that these too should be in type 1.

Question 1: How should the new items be categorised once the prohibition on possession is in force?

Drafting changes approved by the Firearms Working Group

3.4 There are changes to the wording in the possession of a prohibited weapon guideline (Annex A):

- The two stages of culpability are no longer referred to as A and B to avoid confusion with the culpability categorisation (this change has also been made to the possession without a certificate guideline, Annex B; possession by person prohibited guideline, Annex C; and carrying in a public place, annex D). They are now titled:
 - Culpability – Type of weapon
 - Culpability – Other culpability factors;
- at Culpability – Type of weapon, the highlighted wording above the table has been added;
- at Culpability – Other culpability factors, the highlighted wording in medium culpability has been added;

- at harm categories 1 and 3, there is additional wording to explicitly include risk of psychological as well as physical harm. The change to the harm wording has been made across all guidelines.

3.5 In Annexes F and G the type of weapon is not considered at step one and so there are aggravating factors relating to the weapon type at step two. The wording in brackets in aggravating factor A4 is designed to avoid double counting – e.g. where the guideline would otherwise have led to a 3 year starting point but this has been increased to 5 years because the minimum term provisions apply, the aggravating factor should not be used to increase it further. However, if the guideline led to a starting point of 6 years, it would be appropriate to increase further for the fact that the weapon was prohibited.

Question 2: Does the Council agree to these drafting changes?

Sentence levels

3.6 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 and suggests revisions to guideline 6. In addition, this section includes findings from analysis undertaken to assess the potential resource impact of the guidelines, based on current sentence levels and suggests some further changes. This is followed by an overview of the sentence levels across the eight guidelines.

3.7 Data on sentence levels, including volumes, outcomes, pre-guilty plea average custodial sentence lengths (ACSLs), and pre-guilty plea sentence lengths, updated with 2018 figures, are at **Annex I**.

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

3.8 The guideline has two 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).

3.9 An analysis of transcripts of Crown Court judges' sentencing remarks for cases involving hand guns (5(1A)(aba) offences) to assess the potential impact of the guideline suggested that in some cases the guideline would result in higher sentences than are currently being imposed. These are the highest volume prohibited weapons to which the 5 year minimum term applies and fall into Type 1 in the 'Culpability – Type of weapon' table. All of the (30) cases analysed were assessed as either high or medium culpability and most were either harm category 1 or 2. For those assessed as medium culpability the draft guideline tended to result in higher sentences than that actually imposed.

3.10 As can be seen from the table below, for type 1 weapons high and medium culpability are both categorised as culpability A. This means that the guideline fails to distinguish between these cases.

		Type of weapon		
		1	2	3
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

3.11 A suggested way to address this is to change type 1/ medium culpability to category B. This would provide a distinction between the high and medium culpability and reduce the danger of the guideline inflating sentences for medium culpability cases.

3.12 The transcript analysis also drew attention to the fact that very few firearms cases involve just one offence and it is therefore difficult to compare the actual sentences imposed with the theoretical sentence resulting from the guideline. Those offenders who received the highest sentences tended to have been convicted of multiple offences. In those cases the sentences were sometimes above the top of the range for the guideline (9 years).

3.13 Two possible approaches to address this would be to add some wording relating to the need to consider totality and/or increase the top of the range for A1 to 9 years 6 months. The range of sentences available in table 1 is very restricted by the statutory minimum and maximum which could justify the top of the range approaching the statutory maximum. The following wording relating to totality could be added above or below the sentence table:

The sentences in the table are for a single offence. 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 and step six of this guideline.

3.14 It should be noted, however, that there are aggravating factors (A5 and A10) relating to multiple offences and therefore the Council may consider further reference to totality to be unnecessary.

3.15 Following recent changes to CPS charging practice, which is likely to lead to more disguised firearms now being charged under section 5(1)(b) rather than section 5(1A)(a), an analysis of Crown Court judges' sentencing remarks was undertaken to assess whether the draft guideline is likely to result in any changes to sentence levels for these offences.

3.16 The analysis of this small sample of cases indicated that if cases involving a disguised stun gun are charged under 5(1)(b) rather than 5(1A)(a), and sentencers follow the current guideline (and sentence levels in Table 2), the guideline will result in substantially lower sentences for disguised stun guns in those cases where exceptional circumstances were found (so that the five year minimum sentence did not apply).

3.17 This is to be expected, to some extent, given that the majority of offenders sentenced for 5(1A)(a) offences are currently sentenced to immediate custody, whereas those cases now charged as 5(1)(b) would be placed within culpability B or C, and most are likely to fall within harm 2 or 3 and only B2 has custody in the range.

3.18 If the Council wishes to align the guideline more closely with current sentencing practice, the culpability category for type 3 weapons and medium culpability could be changed from category C to category B. This would still result in some lower sentences than are currently being imposed, but that is unavoidable if sentence levels for 'normal' 5(1)(b) cases are not to be inflated, given the change in charging practice.

3.19 The working group decided to set the starting points of A3, B2 and C1 in table 2 to 1 year's custody. Compared with other firearms offences, the offences falling under this table have relatively low rates of immediate custody, at 17%, and fairly high rates of suspended sentence (26%) and community orders (30%). A further 18% of offenders received fines and 8% received conditional discharges. The estimated median pre-guilty plea custodial length was 1 year 2 months for these non-minimum term cases.

3.20 It is expected that 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. The relevant boxes covering custody are therefore B1, B2 and C1. 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.

3.21 Currently half of immediate custodial cases fall below 1 year 2 months. An analysis of transcripts of Crown Court judges' sentencing remarks was undertaken for 5(1)(b) offences, to assess the potential impact of the guideline. This analysis indicated that in some cases

the guideline might result in higher sentences than currently, in other cases sentences would be lower, and some sentences would remain the same. In particular, there was no strong evidence that having a 1 year starting point in B2 and C1 would cause an inflationary impact.

Question 3: Does the Council wish to amend the culpability categories as suggested at 3.10 and 3.18 above?

Question 4: Does the Council wish to add a reference to totality and/or increase the top of the range to 9 years 6 months?

Question 5: Is the Council content to consult on the sentence levels in guideline 1?

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

3.22 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 2018 there were around 140 offenders sentenced, including 8 for the aggravated form (around 6% of total cases). In 2018 for all cases, immediate custody was the outcome in 43% of cases, with 20% receiving suspended sentences. A further 13% received a community order, while 13% received a fine, and 8% a conditional discharge. For custodial sentences, the estimated median pre-guilty plea length was 2 years 7 months.

3.23 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 10% of immediate custody cases in 2018 received 5 years' custody or more. 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 sentences that increased these cases to the maximum sentence.

3.24 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. The aggravated weapons (converted firearms or shortened shotguns) are type 1 weapons so most will fall into culpability A.

3.25 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 for this offence.

3.26 Transcript analysis found that the most common category for the non-aggravated offence was B2, with a 1 year starting point. When using the draft guideline to re-sentence transcripts, all of the B2 cases analysed had sentences which were either the same or broadly similar to the original sentence, indicating that the 1 year starting point is about right.

3.27 The analysis did however find that some cases in A2/B1 (with a 2 year starting point) resulted in a lower sentence using the draft guideline, when compared with the actual sentence given. It is therefore suggested that the starting point in these categories is increased to 2 years 6 months, with a range from 1 year to 3 years 6 months. The starting point for A1 could be increased to 3 years 6 months with a range of 2 years 6 months to 4 years 6 months. In 2018, 50% of custodial sentences for the offences covered by this guideline were 3 years or higher, so the increased sentence levels will better reflect current sentencing practice. If these changes are agreed the sentence table would look like this:

Harm	Culpability		
	A	B	C
Category 1	Starting point 3 years 6 months' custody Category range 2 years 6 months – 4 years 6 months' custody	Starting point 2 years 6 months' custody Category range 1 – 3 years 6 months' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody
Category 2	Starting point 2 years 6 months' custody Category range 1 – 3 years 6 months' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Medium level community order Category range Discharge – 6 months' custody
Category 3	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Medium level community order Category range Band A fine – 6 months' custody	Starting point Band A fine Category range Discharge – Band C Fine

3.28 Further transcript analysis will be conducted to look at how the aggravated form of the offence is sentenced and if any problems are identified these will be raised out of committee before the consultation launch in September.

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

3.29 This is quite a low volume offence with around 60 offenders sentenced in 2018. 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 2018, immediate custody was the outcome in 52% of cases, with 28% receiving suspended

sentences. A further 11% received a community order, while 5% received a fine, and 2% a discharge. For custodial sentences, the estimated median pre-guilty plea length was 1 year 4 months (compared with 2 years 7 months for possession without a certificate).

3.30 The sentence table is aligned to that of the possession without a certificate guideline. The top of box A1 has been set at 4 years; there were only 2 custodial sentences falling above 4 years in 2018 (6% of custodial sentences), compared with the possession without a certificate guideline which had 16%. The only other difference between the two guidelines is in C2 where the bottom of the range is a band A fine in the possession by a person prohibited guideline, to reflect the lower use of discharges for this offence.

3.31 Although the median sentence length is shorter, this is largely because the weapons involved in possession by person prohibited offending may include air weapons and other less serious weapons, compared with the possession without a certificate guideline.

3.32 In the possession by person prohibited guideline, possession of type 1 weapons (those prohibited under s5) will rarely be charged as this offence. Type 2 weapons could be similar across the two guidelines. Type 3 is relatively common in the possession by person prohibited guideline but less so in the possession without a certificate guideline. The consequence of this is that offending in the possession without a certificate guideline is more likely to fall into A1, A2 and B1 than the offending in guideline 3 which is likely to fall chiefly into B2 or C2.

3.33 Further transcript analysis will be conducted for the offences covered by guideline 2 and 3 before the finalisation of the resource assessment to check whether there are issues with the following:

- The 'firearms discharged' factor in high culpability in guideline 2
- Cases involving a custodian for guideline 2 including whether these cases apply to particular demographics.
- Cases where the person prosecuted has provided the weapon to the person prohibited in guideline 3

3.34 If issues are identified, these will be raised out of committee before the consultation launch in September.

Question 5: Does the Council wish to consult on the revised sentence levels in guideline 2?

Question 6: Is the Council content to consult on the sentence levels in guideline 3?

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

3.35 This offence covers a person having with them (a) a loaded shotgun; (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, 12 months' custody for imitation firearms or 6 months' custody for air weapons. There were around 200 offenders sentenced in 2018. This was mainly for imitation firearms (54% 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 2018, 21% of offenders received immediate custody, 17% received suspended sentences, 39% community orders, 17% fines and 3% conditional discharge. The estimated median pre-guilty plea sentence length was 9 months, significantly shorter than that for possession without a certificate (2 years 7 months) and possession by person prohibited (1 year 4 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. The majority of sentences (95%) were less than 5 years in 2018. 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 or air weapons which have a maximum of 6 months' custody. Imitation firearms and air weapons are type 3 weapons so would fall under culpability B or C. Only box B1 includes a range that goes above 12 months and C1 and B2 include a range that goes above 6 months. The differing maximum penalties have been addressed in the table through an asterisk in boxes B1, C1 and B2, highlighting the shorter maximum for imitation firearms and air weapons.

3.39 Although custody is in the range for six of the nine boxes in the table only three of them have a custodial starting point. This reflects the relatively high use of community orders for this offence (39% of cases).

3.40 The majority of these offences are sentenced in magistrates' courts but we do have some transcripts from the Crown Court which will be analysed to check that the guideline reflects current practice before the finalisation of the resource assessment. We plan to road test this guideline with magistrates during consultation.

Question 7: Is the Council content to consult on the sentence levels in guideline 4?

Sentence levels – possession with intent to endanger life (Guideline 5/Annex E)

3.41 The Council has previously considered and agreed the sentence levels for this offence subject to further testing against transcripts. Only one sentence table is used, because although the offence can be committed with a weapon that is not subject to the statutory minimum sentence, in fact, sentencing data show that sentences infrequently fall below five years (there were 6 such cases in 2018).

3.42 The offence is relatively low volume (around 60 cases in 2018), it has a maximum penalty of life imprisonment. All offenders sentenced received immediate custody. The ACSL for this offence is the highest of all the firearms offences being covered (with the exception of 5(2A) offences), at a median of 12 years pre-guilty plea.

3.43 Transcript analysis was undertaken to look specifically at the effect of the factor 'firearm discharged', in high culpability. This analysis found that in some cases involving group offending, where the offender played a 'significant role' (medium culpability factor) but the firearm was discharged (high culpability), there was a risk that the guideline would result in higher sentences for those offenders, if the case was placed in high culpability. The wording above the culpability table instructs the court to 'balance these characteristics to reach a fair assessment of the offender's culpability'. Views are sought as to whether this is an issue that could lead to inconsistent or inappropriate classification of culpability. If so, it could be explored in road testing.

3.44 Transcript analysis was also undertaken on section 16 offences more generally, and this did not identify any issues with sentence levels.

Question 8: Is the Council content to consult on the sentence levels in guideline 5?

Question 9: Should the balancing of culpability factors be specifically addressed in road testing?

Sentence levels – Possession with intent to cause fear of violence (Guideline 6/Annex F)

3.45 This offence can be committed with an imitation firearm or a genuine firearm. The sentences for imitation firearms are, on average, lower as might be expected. Around 44% of the imitation firearms offences in 2018 received a pre-guilty plea sentence length of 2 years or less, compared with 16% for firearms. The estimated median ACSL for imitations was 2 years 3 months compared with 4 years 6 months for firearms. There appear to be few, if any, cases that would fall into high harm for imitations and the majority would appear to be either medium or low culpability. However, there is significant overlap between the firearm and imitation firearm tables, to recognise that higher-end cases involving imitation firearms can be as serious as offences involving a genuine firearm in some instances. The Firearms Working Group agreed that to achieve proportionate outcomes the sentence levels from category 2 and category 3 in the firearms table should be copied across to category 1 and category 2 respectively in the imitation firearm table.

3.46 This has left a slight anomaly in that the starting point and range for A3 is higher than that for C2 (and B2) – meaning that culpability is weighted more highly than harm, but the starting point for C2 is higher than B3 – meaning that harm is weighted more highly than culpability. As has been noted above, there are very few high harm cases and not many high culpability cases, so it might make sense to change A3 to align with C1 and B2. It might also be sensible to change B3 to align with C2 to maintain the proportionality with table 1.

3.47 Transcript analysis was undertaken to look specifically at the effect of the factor ‘firearm discharged’, in high culpability. This did not identify any particular issues for these offences, however this may be due to the limited information available in these transcripts.

Question 10: Does the Council wish to make the suggested changes to the sentence levels in guideline 6 and consult on these levels?

Sentence levels – Possession with intent to resist arrest/commit indictable or Sch 1 offence (Guideline 7/Annex G)

3.48 These offences all carry a maximum of life imprisonment. The majority of cases (81%) received immediate custody in 2018. The estimated median ACSL (pre-guilty plea) was 8 years for offences involving a firearm, and 5 years for those involving an imitation firearm. As the volumes are relatively low these figures should be treated with caution.

3.49 As with guideline 6, there are separate tables for firearms and imitation firearms, and overlap between the levels for the two tables. Because of low volumes, it is more difficult to identify appropriate sentence levels for the tables, particularly across two tables. Data covering the last five years has been used to increase the data on which to base sentence levels. These levels have been developed with some regard to the sentence table in the [robbery guideline \(street and less sophisticated commercial\)](#) as many s17(1) and s18 offences are sentenced alongside robbery using the robbery guideline. Based on transcripts, courts often impose the same sentence (concurrent) for the robbery and the possession of firearm with intent offence. Broadly, the imitation firearm levels are similar to the robbery guideline and the firearm levels are slightly higher.

3.50 Transcript analysis was undertaken to look specifically at the effect of the factor 'firearm discharged', in high culpability. This analysis did not identify any particular issues for these offences, although it was challenging to sentence these offences using the draft guideline because they were often sentenced alongside other offences.

Question 11: Is the Council content to consult on the sentence levels in guideline 7?

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

3.51 The manufacture and transfer offences carry a maximum penalty of life imprisonment but as the dangerousness provisions do not apply life sentences are unlikely in practice. The offences are very low volume with 10 cases in 2018. All offenders sentenced in 2018 received immediate custody. In 2018 the estimated median pre-guilty plea sentence length was 9 years for sell/transfer offences. For manufacture offences, just five offenders have been sentenced since 2016. The ACSL for these offences was 19 years 7 months (when looking at all offenders sentenced since 2016).

3.52 The sentence levels have been informed by sentencing data and the decision of the Court of Appeal in *Stephenson*:

- 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 8 - 12 years, depending on the role they played and any previous association with guns.

3.53 The Working group considered that the proposed sentence levels were generally in line with the judgment in *Stephenson* but decided that the top of the range should be increased to 28 years to allow for the very serious cases.

3.54 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.

3.55 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).

3.56 The Working Group was content that sentence levels for this offence would be higher than for possession with intent to endanger life (guideline 5/ Annex E) as this offence often involves a larger scale of offending and potentially far greater harm.

Question 12: Is the Council content to consult on the sentence levels in guideline 8?

Sentence levels – comparison

3.57 The table below sets out the sentence ranges, selected boxes from the sentence tables and current median sentence lengths for each guideline.

Question 13: Is the Council content with the overall relativity of sentence levels across the guidelines?

GUIDELINE	STAT MAX	RANGE	TOP BOX (A1)	MIDDLE BOX (B2)	BOTTOM BOX (C3)	MEDIAN SENTENCE LENGTH PRE-GP (2018)
1 – Possession of prohibited weapon*	10 years	<u>Table 1 Minimum term cases</u> 5 – 9 years	Starting point 8 years' custody Category range 7 – 9 years' custody	Starting point 6 years' custody Category range 5 – 7 years' custody	Starting point 5 years' custody Category range 5 – 6 years' custody	7 years
		<u>Table 2 Non-minimum term cases</u> Discharge – 5 years	Starting point 3 years' custody Category range 2 – 5 years' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Band C fine Category range Discharge – Low level community order	1 year 2 months
2 – Possession without certificate	5 years (7 years aggravated form)	Discharge – 4 years 6 months	Starting point 3 years' custody Category range 2 – 4 years 6 months' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Band A fine Category range Discharge – Band C Fine	2 years 7 months
3 – Possession by person prohibited	5 years	Discharge – 4 years	Starting point 3 years custody Category range 2 – 4 years' custody	Starting point 1 year's custody Category range High level community order – 2 year's custody	Starting point Band A fine Category range Discharge – Band C Fine	1 year 4 months
4 – Carrying in a public place*	7 years (6 & 12 months air weapons and imitations)	Discharge – 4 years	Starting point 2 years custody Category range 1 – 4 years' custody	Starting point High level community order Category range Low level community order – 1 year's custody	Starting point Band A fine Category range Discharge – Band C Fine	9 months
5 – Possession with intent to endanger life*	Life	4 – 22 years	Starting point 18 years' custody Category range 16 – 22 years' custody	Starting point 10 years' custody Category range 8 – 12 years' custody	Starting point 5 years' custody Category range 4 – 7 years' custody	12 years

6 – Possession with intent to cause fear of violence*	Life	<u>Table 1 Firearms</u> 6 months – 9 years	Starting point 8 years' custody Category range 7 – 9 years' custody	Starting point 4 years' custody Category range 2 – 6 years' custody	Starting point 1 year 6 months' custody Category range 6 months – 2 years' custody	4 years 6 months
		<u>Table 2 Imitation firearms</u> Medium level community order – 8 years	Starting point 6 years' custody Category range 4 – 8 years' custody	Starting point 2 years' custody Category range 1 – 4 years' custody	Starting point 6 months' custody Category range Medium level community order – 1 year's custody	2 years 3 months
7 – Possession with intent* – other offences (intent to resist arrest, intent to commit an indictable/ Schedule 1 offence)	Life	<u>Table 1 Firearms</u> 1 – 16 years	Starting point 12 years' custody Category range 10 – 16 years' custody	Starting point 7 years' custody Category range 5 – 9 years' custody	Starting point 2 years' custody Category range 1 – 3 years' custody	8 years
		<u>Table 2 Imitation firearms</u> High level community order – 12 years	Starting point 9 years' custody Category range 6 – 12 years' custody	Starting point 5 years' custody Category range 3 – 7 years' custody	Starting point 1 year's custody Category range High level community order – 3 years' custody	5 years
8 – Transfer/ Manufacture*	Life	5 – 28 years	Starting point 20 years' custody Category range 16 – 26 years' custody	Starting point 10 years' custody Category range 8 – 14 years' custody	Starting point 6 years' custody Category range 5 – 8 years' custody	9 years (transfer) 19 years 7 months (manufacture) ³

* Minimum term may apply.

³ The ACSL for manufacture offences covers the period 2016-2018 (due to very low volumes), and may therefore include cases sentenced prior to the Stephenson judgment.

4 RISKS AND IMPACT

4.1 As noted in the section above, there are various aspects of the guidelines which are being examined using transcript analysis over the coming weeks. If this analysis indicates any potential issues with the guidelines, these will be circulated to Council members outside of Council meetings.

4.2 Once any issues are resolved the resource assessment and consultation document will be drafted and circulated for comment before the consultation launch at the end of September.

4.3 The consultation document will contain information on demographic makeup (specifically age, race and sex) of offenders for firearms offences.

4.4 Broadly speaking convictions for firearms offences are most likely to be committed by white males under the age of 40. However, when compared with the demographics of the population as a whole, there is a significant over-representation of BAME offenders. The proportion of BAME offenders is also higher for firearms offences than for all offences. There is a large over-representation of young adults compared to the population as a whole and to a lesser extent compared to offenders across all offences.

4.5 In 2018, for possession offences to which the mandatory minimum applies, 41% of offenders were BAME and 53% were under 30. Females were much less likely to be convicted of these offences (only about 1 in 20 offenders sentenced were female) and about 50% of females who were convicted received a sentence less than the minimum term.

4.6 What this means is that if the guidelines increase sentences for these offences generally, there is a risk that the increase may fall disproportionately on young offenders and BAME offenders.

4.7 Looking at offenders who received sentences below the minimum term for possession offences reveals that 38% of White offenders received a sentence less than the minimum term whereas the figures for Black and Asian offenders were 18% and 21% respectively.

4.8 The Council is already committed to taking steps to address concerns around equality and diversity across all guidelines. As this consultation will be published before the drug offences consultation which will include the analysis on race and gender and the plan of action to be taken as a result, it will allude to that plan but will not give details.

4.9 Road testing will be conducted with Crown Court judges, district judges and magistrates alongside testing of the drugs guideline, over the summer and early autumn, the finding from which will be reported back to the Council when the consultation responses are considered in early 2020.

Question 14: Are there any particular equality and diversity issues that should be addressed in the consultation?

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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 – 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. 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.

Type 1	<p>Weapon that is designed to be capable of killing two or more people at the same time or in rapid succession</p> <ul style="list-style-type: none"> • This would normally include a weapon under: <ul style="list-style-type: none"> ○ section 5(1)(a) ○ section 5(1)(ab) ○ section 5(1)(aba) ○ section 5(1)(ac) ○ section 5(1)(ad) ○ section 5(1)(ae) ○ section 5(1A)(c)
Type 2	<p>All other weapons falling between Type 1 and Type 3</p> <ul style="list-style-type: none"> • This would normally include a weapon under: <ul style="list-style-type: none"> ○ section 5(1)(af) ○ section 5(1A)(a) <p>Ammunition under section 5(1)(c), 5(1A)(b) and (d)-(g) (where not at Type 3)</p>
Type 3	<p>Weapon that is not designed to be lethal</p> <ul style="list-style-type: none"> • This would normally include a weapon under section 5(1)(b) <p>Very small quantity of ammunition</p>

Culpability – 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.

Culpability demonstrated by one or more of the following:
High culpability: <ul style="list-style-type: none"> • Firearm discharged • Firearm loaded • Firearm/ammunition used or intended for use for criminal purpose
Medium culpability: <ul style="list-style-type: none"> • Firearm/ammunition produced (where not at High culpability) • Firearm held with compatible ammunition or stun gun that is charged • Firearm/ammunition intended for use (where not at High culpability)
Lower culpability: <ul style="list-style-type: none"> • No use or intention to use

Culpability category

Identify the final culpability category in the table below, considering both the **Type of weapon** and **Other culpability factors**.

		Type of weapon		
		1	2	3
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

Harm	
The court should consider the steps set out below to determine the level of harm that has been caused or was risked .	
This step is assessed by reference to the risk of harm or disorder occurring and/or actual alarm/distress 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.	
Category 1	<ul style="list-style-type: none"> • Serious alarm/distress caused • High risk of death or serious physical or psychological harm • High risk of serious disorder
Category 2	<ul style="list-style-type: none"> • All other cases falling between category 1 and category 3 because: <ul style="list-style-type: none"> ○ Factors in both 1 and 3 are present which balance each other out; and/or ○ The harm falls between the factors as described in 1 and 3
Category 3	<ul style="list-style-type: none"> • No/minimal alarm/distress caused • No/minimal risk of death or serious physical or psychological harm • No/minimal risk of serious disorder

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.

STEP TWO			
Starting point and category range			
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.			
TABLE 1	Offences subject to the statutory minimum sentence (Section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af), (c), section 5(1A)(a))		
Harm	Culpability		
	A	B	C
Category 1	Starting point 8 years' custody Category range 7-9 years' custody	Starting point 7 years' custody Category range 6-8 years' custody	Starting point 6 years' custody Category range 5-7 years' custody
Category 2	Starting point 7 years' custody Category range 6-8 years' custody	Starting point 6 years' custody Category range 5-7 years' custody	Starting point 5 years 6 months' custody Category range 5-7 years' custody
Category 3	Starting point 6 years' custody Category range 5-7 years' custody	Starting point 5 years 6 months' custody Category range 5-7 years' custody	Starting point 5 years' custody Category range 5 – 6 years' custody

TABLE 2	Offences not subject to the statutory minimum sentence		
Harm	Culpability		
	A	B	C
Category 1	Starting point 3 years' custody Category range 2 – 5 years' custody	Starting point 2 years' custody Category range 1 – 3 years' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody
Category 2	Starting point 2 years' custody Category range 1 – 3 years' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Medium level community order Category range Band D fine – High level community order
Category 3	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Medium level community order Category range Band D fine – High level community order	Starting point Band C fine Category range 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 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 (See step six on totality when sentencing more than one offence.)
- 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 five years' custody irrespective of plea **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 the Firearms Act 1968, 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. [DROPDOWN BOX]

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).

3. The minimum term applies to *all* such offences including the first offence, and regardless of plea.
4. The minimum term of five years applies to offenders aged 18 or over at the date of conviction. See below for guidance when 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 particular circumstances of the offender.
 either of which may give rise to exceptional circumstances
7. Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing: see [Criminal Practice Directions](#) VII: Sentencing B.

8. Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

Principles

9. Circumstances are exceptional if the imposition of the minimum term would result in an arbitrary and disproportionate sentence.
10. The circumstances must be truly exceptional. It is important that courts do not undermine the intention of Parliament and the deterrent purpose of the minimum term provisions by too readily accepting exceptional circumstances.
11. The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.
12. 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

Where exceptional circumstances are found

13. 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.**
14. 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 three years' custody. Where the offender is under 16 when the offence was committed, the minimum term does not apply.
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 aged 16 or 17.

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 of Part II to Schedule 6 of the 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 (tagged curfew)

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 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 – 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.

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

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.

Culpability demonstrated by one or more of the following:

High culpability:

- Firearm discharged, other than for lawful purpose
- Firearm loaded
- Firearm/ammunition used or intended for use for criminal purpose

Medium culpability:

- Firearm/ammunition produced (where not at High culpability)
- Firearm held with compatible ammunition
- Firearm/ammunition used or intended for use (where not at High culpability)

Lower culpability:

- No use or intention to use

Culpability category

Identify the final culpability category in the table below, considering both the **Type of weapon** and **Other culpability factors**.

		Type of weapon		
		1	2	3
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>Harm The court should consider the factors set out below to determine the level of harm that has been caused or was risked.</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 risk of harm or disorder occurring and/or actual alarm/distress 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>Category 1</p>	<ul style="list-style-type: none"> • Serious alarm/distress caused • High risk of death or serious physical or psychological harm • High risk of serious disorder
<p>Category 2</p>	<ul style="list-style-type: none"> • All other cases falling between category 1 and category 3 because: <ul style="list-style-type: none"> ○ Factors in both 1 and 3 are present which balance each other out; and/or ○ The harm falls between the factors as described in 1 and 3
<p>Category 3</p>	<ul style="list-style-type: none"> • No/minimal alarm/distress caused • No/minimal risk of death or serious physical or psychological harm No/minimal risk of serious disorder

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.

STEP TWO			
Starting point and category range			
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 table below refers to offences for which the maximum sentence is five years. 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 sentencers should consider increasing the sentences shown.			
Harm	Culpability		
	A	B	C
Category 1	Starting point 3 years' custody Category range 2 – 4 years 6 months' custody	Starting point 2 years' custody Category range 1 – 3 years' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody
Category 2	Starting point 2 years' custody Category range 1 – 3 years' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Medium level community order Category range Discharge – 6 months' custody
Category 3	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Medium level community order Category range Band A fine – 6 months' custody	Starting point Band A fine Category range 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 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 (See step five on totality when sentencing more than one offence)
- 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.

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 – 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.

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

Culpability– 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.

Culpability demonstrated by one or more of the following:
<p>High culpability:</p> <ul style="list-style-type: none"> • Firearm discharged, other than for lawful purpose • Firearm loaded • Firearm/ammunition used or intended for use for criminal purpose
<p>Medium culpability:</p> <ul style="list-style-type: none"> • Firearm/ammunition produced (where not at High culpability) • Firearm held with compatible ammunition • Firearm/ammunition used or intended for use (where not at High culpability)
<p>Lower culpability:</p> <ul style="list-style-type: none"> • No use or intention to use

Culpability category

Identify the final culpability category in the table below, considering both the **Type of weapon** and **Other culpability factors**.

		Type of weapon		
		1	2	3
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>Harm The court should consider the factors set out below to determine the level of harm that has been caused or was risked.</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 risk of harm or disorder occurring and/or actual alarm/distress 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>Category 1</p>	<ul style="list-style-type: none"> • Serious alarm/distress caused • High risk of death or serious physical or psychological harm • High risk of serious disorder
<p>Category 2</p>	<ul style="list-style-type: none"> • All other cases falling between category 1 and category 3 because: <ul style="list-style-type: none"> ○ Factors in both 1 and 3 are present which balance each other out; and/or ○ The harm falls between the factors as described in 1 and 3
<p>Category 3</p>	<ul style="list-style-type: none"> • No/minimal alarm/distress caused • No/minimal risk of death or serious physical or psychological harm • No/minimal risk of serious disorder

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.

STEP TWO			
Starting point and category range			
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.			
Harm	Culpability		
	A	B	C
Category 1	Starting point 3 years' custody Category range 2 – 4 years' custody	Starting point 2 years' custody Category range 1 – 3 years' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody
Category 2	Starting point 2 years' custody Category range 1 – 3 years' custody	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Medium level community order Category range Band A fine – 6 months' custody
Category 3	Starting point 1 year's custody Category range High level community order – 2 years' custody	Starting point Medium level community order Category range Band A fine – 6 months' custody	Starting point Band A fine Category range 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 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, 6 months' custody for an air weapon)

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– 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.

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

Culpability – 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.

Culpability demonstrated by one or more of the following:
<p>High culpability:</p> <ul style="list-style-type: none"> • Firearm or imitation firearm discharged, other than for lawful purpose • Firearm or imitation firearm loaded • Firearm/imitation firearm used or intended for use for criminal purpose
<p>Medium culpability:</p> <ul style="list-style-type: none"> • Firearm/imitation firearm produced (where not at High culpability) • Firearm or imitation firearm held with compatible ammunition • Firearm/imitation firearm used or intended for use (where not at High culpability)
<p>Lower culpability:</p> <ul style="list-style-type: none"> • No use or intention to use • Possession falls just short of reasonable excuse

Culpability category

Identify the final culpability category in the table below, considering both the **Type of weapon** and **Other culpability factors**.

		Type of weapon		
		1	2	3
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>Harm</p> <p>The court should consider the factors set out below to determine the level of harm that has been caused or was risked.</p>	
<p>This step is assessed by reference to the risk of harm or disorder occurring and/or actual alarm/distress 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>	
Category 1	<ul style="list-style-type: none"> • Serious alarm/distress caused • High risk of death or serious physical or psychological harm • High risk of serious disorder
Category 2	<ul style="list-style-type: none"> • All other cases falling between category 1 and category 3 because: <ul style="list-style-type: none"> ○ Factors in both 1 and 3 are present which balance each other out; and/or ○ The harm falls between the factors as described in 1 and 3
Category 3	<ul style="list-style-type: none"> • No/minimal alarm/distress caused • No/minimal risk of death or serious physical or psychological harm • No/minimal risk of serious disorder

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.

STEP TWO			
Starting point and category range			
<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>The offence may be subject to a minimum sentence. Where the minimum sentence applies,¹ 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>			
Harm	Culpability		
	A	B	C
Category 1	<p>Starting point 2 years custody</p> <p>Category range 1 – 4 years' custody</p>	<p>Starting point 1 years' custody</p> <p>Category range 6 months' – 2 years' custody*</p>	<p>Starting point High level community order</p> <p>Category range Low level community order – 1 year's custody*</p>
Category 2	<p>Starting point 1 years' custody</p> <p>Category range 6 months' – 2 years' custody</p>	<p>Starting point High level community order</p> <p>Category range Low level community order – 1 year's custody*</p>	<p>Starting point Medium level community order</p> <p>Category range Band A fine – High level community order</p>
Category 3	<p>Starting point High level community order</p> <p>Category range Low level community order – 1 year's custody</p>	<p>Starting point Medium level community order</p> <p>Category range Band A fine – High level community order</p>	<p>Starting point Band A fine</p> <p>Category range Discharge – Band C Fine</p>

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

* Where the firearm is an air weapon, the maximum penalty is 6 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.

¹ 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.

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. Steps taken to make imitation firearm appear more realistic (See step six on totality when sentencing for more than one offence.)
- A6. Firearm/ammunition kept with multiple weapons and/or substantial quantity of ammunition (See step six on totality when sentencing 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 (See step six on totality when sentencing more than one offence)
- 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 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 five years' custody irrespective of plea **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 the Firearms Act 1968, 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. [DROPDOWN BOX]

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).

3. The minimum term applies to *all* such offences including the first offence, and regardless of plea.
4. The minimum term of five years applies to offenders aged 18 or over at the date of conviction. See below for guidance when 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 particular circumstances of the offender.
 either of which may give rise to exceptional circumstances
7. Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing: see [Criminal Practice Directions](#) VII: Sentencing B.
8. Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

Principles

9. Circumstances are exceptional if the imposition of the minimum term would result in an arbitrary and disproportionate sentence.
10. The circumstances must be truly exceptional. It is important that courts do not

undermine the intention of Parliament and the deterrent purpose of the minimum term provisions by too readily accepting exceptional circumstances.

11. The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.
12. 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

Where exceptional circumstances are found

13. 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.**

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 three years' custody. Where the offender is under 16 when the offence was committed, the minimum term does not apply.
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 aged 16 or 17.

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.

Culpability demonstrated by one or more of the following:
<p>A – High culpability:</p> <ul style="list-style-type: none"> • Sophisticated nature of offence/significant planning • Leading role where offending is part of a group activity • Distribution or supply of firearms on a large scale • Firearm or imitation firearm discharged • Prolonged incident
<p>B – Medium culpability:</p> <ul style="list-style-type: none"> • Significant role where offending is part of a group activity • Some degree of planning • Firearm or imitation firearm loaded or held with compatible ammunition but not discharged • Other cases falling between high and lower culpability
<p>C – Lower culpability:</p> <ul style="list-style-type: none"> • 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

Harm	
The court should consider the factors set out below to determine the level of harm that has been caused or was risked .	
This step is assessed by reference to the risk of harm or disorder occurring and/or actual harm 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.	
Category 1	<ul style="list-style-type: none"> • Severe physical harm caused • Severe psychological harm caused
Category 2	<ul style="list-style-type: none"> • Serious physical harm • Serious psychological harm • High risk of death or severe physical or psychological harm • High risk of serious disorder
Category 3	<ul style="list-style-type: none"> • Alarm/distress caused • All other cases not falling into 1 or 2

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).

STEP TWO			
Starting point and category range			
<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>This offence is subject to minimum sentence provisions. Where the minimum sentence applies,¹ 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>			
Harm	Culpability		
	A	B	C
Category 1	Starting point 18 years' custody Category range 16 – 22 years' custody	Starting point 14 years' custody Category range 11 – 17 years' custody	Starting point 10 years' custody Category range 8 – 12 years' custody
Category 2	Starting point 14 years' custody Category range 11 – 17 years' custody	Starting point 10 years' custody Category range 8 – 12 years' custody	Starting point 7 years' custody Category range 5 – 9 years' custody
Category 3	Starting point 10 years' custody Category range 8 – 12 years' custody	Starting point 7 years' custody Category range 5 – 9 years' custody	Starting point 5 years' custody Category range 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

¹ 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 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 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 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 (See step seven on totality when sentencing more than one offence)
- 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 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 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 five years' custody irrespective of plea **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 the Firearms Act 1968, 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. [DROPDOWN BOX]

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).

3. The minimum term applies to *all* such offences including the first offence, and regardless of plea.
4. The minimum term of five years applies to offenders aged 18 or over at the date of conviction. See below for guidance when 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 particular circumstances of the offender.
 either of which may give rise to exceptional circumstances
7. Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing: see [Criminal Practice Directions](#) VII: Sentencing B.
8. Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

Principles

9. Circumstances are exceptional if the imposition of the minimum term would result in an arbitrary and disproportionate sentence.
10. The circumstances must be truly exceptional. It is important that courts do not undermine the intention of Parliament and the deterrent purpose of the minimum term provisions by too readily accepting exceptional circumstances.
11. The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.
12. 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

Where exceptional circumstances are found

13. 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.**

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 three years' custody. Where the offender is under 16 when the offence was committed, the minimum term does not apply.
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 mechanically. 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 aged 16 or 17.

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

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 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.

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:
<p>A – High culpability:</p> <ul style="list-style-type: none"> • 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
<p>B – Medium culpability:</p> <ul style="list-style-type: none"> • 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
<p>C – Lower culpability:</p> <ul style="list-style-type: none"> • 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

Harm	
The court should consider the factors set out below to determine the level of harm that has been caused or was risked .	
This step is assessed by reference to the risk of harm or disorder occurring and/or actual harm 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.	
Category 1	<ul style="list-style-type: none"> • Severe physical harm caused • Severe psychological harm caused
Category 2	<ul style="list-style-type: none"> • Serious physical harm caused • Serious psychological harm caused • High risk of death or severe physical or psychological harm • High risk of serious disorder
Category 3	<ul style="list-style-type: none"> • Alarm/distress caused • All other cases not falling into 1 or 2

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).

STEP TWO
Starting point and category range
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 in respect of a firearm. Table 2 should be used for an imitation firearm.
The offence may be subject to a minimum sentence. Where the minimum sentence applies, ¹ 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.

¹ 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.

TABLE 1	Firearm		
Harm	Culpability		
	A	B	C
Category 1	Starting point 8 years' custody Category range 7 – 9 years' custody	Starting point 6 years' custody Category range 4 – 8 years' custody	Starting point 4 years' custody Category range 3 – 6 years' custody
Category 2	Starting point 6 years' custody Category range 4 – 8 years' custody	Starting point 4 years' custody Category range 3 – 6 years' custody	Starting point 2 years' custody Category range 1 – 4 years' custody
Category 3	Starting point 4 years' custody Category range 3 – 6 years' custody	Starting point 2 years' custody Category range 1 – 4 years' custody	Starting point 1 year 6 months' custody Category range 6 months – 2 years' custody

TABLE 2	Imitation firearm		
Harm	Culpability		
	A	B	C
Category 1	Starting point 6 years' custody Category range 4 – 8 years' custody	Starting point 4 years' custody Category range 3 – 6 years' custody	Starting point 2 years' custody Category range 1 – 4 years' custody
Category 2	Starting point 4 years' custody Category range 3 – 6 years' custody	Starting point 2 years' custody Category range 1 – 4 years' custody	Starting point 1 year 6 months' custody Category range 6 months – 2 years' custody
Category 3	Starting point 3 years' custody Category range 1 – 5 years' custody	Starting point 1 year's custody Category range 6 months – 2 years' custody	Starting point 6 months' custody Category range Medium level community order – 1 year's 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
- 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 (taking care to avoid double counting with minimum term provisions)
- A5. Firearm under section 5(1)(a) (automatic weapon)
- A6. Firearm modified to make it more dangerous
- A7. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A8. Imitation firearm is readily convertible²
- A9. Steps taken to make imitation firearm appear more realistic (See step seven on totality when sentencing for more than one offence.)
- 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
- 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 (See step seven on totality when sentencing for more than one offence.)

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

- 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
- 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 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 five years' custody irrespective of plea **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 the Firearms Act 1968, 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. [DROPDOWN BOX]

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).

3. The minimum term applies to *all* such offences including the first offence, and regardless of plea.
4. The minimum term of five years applies to offenders aged 18 or over at the date of conviction. See below for guidance when 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 particular circumstances of the offender.either of which may give rise to exceptional circumstances
7. Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing: see [Criminal Practice Directions](#) VII: Sentencing B.
8. Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

Principles

9. Circumstances are exceptional if the imposition of the minimum term would result in an arbitrary and disproportionate sentence.
10. The circumstances must be truly exceptional. It is important that courts do not undermine the intention of Parliament and the deterrent purpose of the minimum term provisions by too readily accepting exceptional circumstances.
11. The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.
12. 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

Where exceptional circumstances are found

13. 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.**

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 three years' custody. Where the offender is under 16 when the offence was committed, the minimum term does not apply.

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 aged 16 or 17.

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

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 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.

Culpability demonstrated by one or more of the following:
<p>A – High culpability:</p> <ul style="list-style-type: none"> • Sophisticated nature of offence/significant planning • Leading role where offending is part of a group activity • Firearm discharged • Prolonged incident • Serious nature of intended offence
<p>B – Medium culpability:</p> <ul style="list-style-type: none"> • 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
<p>C – Lower culpability:</p> <ul style="list-style-type: none"> • No intention to cause injury to persons • Lesser role where offending is part of group activity • Little or no planning or unsophisticated offending • Conduct limited in scope and duration • Firearm not produced or visible • Less serious nature of intended offence

Harm	
The court should consider the factors set out below to determine the level of harm that has been caused or was risked .	
This step is assessed by reference to the risk of harm or disorder occurring and/or actual harm 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.	
Category 1	<ul style="list-style-type: none"> • Severe physical harm caused • Severe psychological harm caused
Category 2	<ul style="list-style-type: none"> • Serious physical harm caused • Serious psychological harm caused • High risk of death or severe physical or psychological harm • High risk of serious disorder
Category 3	<ul style="list-style-type: none"> • Alarm/distress caused • All other cases not falling into 1 or 2

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).

STEP TWO			
Starting point and category range			
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, ¹ 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.			
TABLE 1	Firearm		
Harm	Culpability		
	A	B	C
Category 1	Starting point 12 years' custody Category range 10 – 16 years' custody	Starting point 9 years' custody Category range 7 – 11 years' custody	Starting point 7 years' custody Category range 5 – 9 years' custody
Category 2	Starting point 9 years' custody Category range 7 – 11 years' custody	Starting point 7 years' custody Category range 5 – 9 years' custody	Starting point 4 years' custody Category range 2 – 6 years' custody
Category 3	Starting point 7 years' custody Category range 5 – 9 years' custody	Starting point 4 years' custody Category range 2 – 6 years' custody	Starting point 2 years' custody Category range 1 – 3 years' custody

TABLE 2	Imitation firearm		
Harm	Culpability		
	A	B	C
Category 1	Starting point 9 years' custody Category range 6 – 12 years	Starting point 7 years' custody Category range 5 – 9 years	Starting point 5 years' custody Category range 3 – 7 years
Category 2	Starting point 7 years' custody Category range 5 – 9 years' custody	Starting point 5 years' custody Category range 3 – 7 years' custody	Starting point 2 years' custody Category range 1 – 4 years' custody
Category 3	Starting point 5 years' custody Category range 3 – 7 years' custody	Starting point 2 years' custody Category range 1 – 4 years' custody	Starting point 1 year's custody Category range High level community order – 3 years' custody

¹ 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 (taking care to avoid double counting with minimum term provisions)
- A5. Firearm under section 5(1)(a) (automatic weapon)
- A6. Firearm modified to make it more dangerous
- A7. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A8. Imitation firearm is readily convertible²
- A9. Steps taken to make imitation firearm appear more realistic (See step seven on totality when sentencing for more than one offence.)
- 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

² [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 (See step seven on totality when sentencing for more than one offence.)
- 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
- 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 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 five years' custody irrespective of plea **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 the Firearms Act 1968, 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. [DROPDOWN BOX]

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).

3. The minimum term applies to *all* such offences including the first offence, and regardless of plea.
4. The minimum term of five years applies to offenders aged 18 or over at the date of conviction. See below for guidance when 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 particular circumstances of the offender.either of which may give rise to exceptional circumstances
7. Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing: see [Criminal Practice Directions](#) VII: Sentencing B.
8. Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

Principles

9. Circumstances are exceptional if the imposition of the minimum term would result in an arbitrary and disproportionate sentence.
10. The circumstances must be truly exceptional. It is important that courts do not undermine the intention of Parliament and the deterrent purpose of the minimum term provisions by too readily accepting exceptional circumstances.
11. The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.
12. 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

Where exceptional circumstances are found

13. 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.**

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 three years' custody. Where the offender is under 16 when the offence was committed, the minimum term does not apply.
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 aged 16 or 17.

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

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 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 – 28 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.

Culpability demonstrated by one or more of the following:

A – High culpability:

- 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
- Significant planning, including but not limited to significant steps to evade detection
- Abuse of position of trust or responsibility, for example registered firearms dealer
- Expectation of substantial financial or other advantage
- Involves others through coercion, intimidation or exploitation

B – Medium culpability:

- 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
- Some degree of planning, including but not limited to some steps to evade detection
- Expectation of significant financial or other advantage
- Other cases falling between high and lower culpability

C – Lower culpability:

- Lesser role where offending is part of a group activity, including but not limited to performing a limited function under direction
- Involved through coercion, intimidation or exploitation
- Little or no planning
- Expectation of limited, if any, financial or other advantage

Harm	
The court should consider the steps set out below to determine the level of harm caused.	
This step is assessed by reference to the scale and nature of the enterprise and any actual harm caused, regardless of the offender's role.	
Category 1	<ul style="list-style-type: none"> • Large-scale commercial and/or highly sophisticated enterprise – indicators may include: <ul style="list-style-type: none"> ○ Large number of prohibited weapons/ammunition involved ○ Operation over significant time period ○ Operation over significant geographic range ○ Close connection to organised criminal group(s) • Evidence firearm/ammunition subsequently used to cause serious injury or death
Category 2	<ul style="list-style-type: none"> • 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"> ○ Factors in both 1 and 3 are present which balance each other out; and/or ○ The harm falls between the factors as described in 1 and 3 • Evidence firearm/ammunition subsequently used in criminal offending (where not at category 1)
Category 3	<ul style="list-style-type: none"> • Smaller-scale and/or unsophisticated enterprise – indicators may include: <ul style="list-style-type: none"> ○ Limited number of prohibited weapons/ammunition involved ○ Operation over limited time period ○ Operation over limited geographic range ○ Minimal/no connection to organised criminal group(s) • Evidence firearm/ammunition not subsequently used in criminal offending

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.

STEP TWO			
Starting point and category range			
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.			
Harm	Culpability		
	A	B	C
Category 1	Starting point 20 years' custody Category range 16 – 28 years' custody	Starting point 14 years' custody Category range 12 – 18 years' custody	Starting point 10 years' custody Category range 8 – 14 years' custody
Category 2	Starting point 14 years' custody Category range 12 – 18 years' custody	Starting point 10 years' custody Category range 8 – 14 years' custody	Starting point 8 years' custody Category range 6 – 12 years' custody
Category 3	Starting point 10 years' custody Category range 8 – 14 years' custody	Starting point 8 years' custody Category range 6 – 12 years' custody	Starting point 6 years' custody Category range 5 – 8 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

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. Offender prohibited from possessing weapon or ammunition because of previous conviction (See step six on totality when sentencing for more than one offence.)
- 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/ammunition not prohibited under section 5
- 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

1. Where the minimum term provisions under section 51A of the Firearms Act 1968 apply, a court must impose a sentence of at least five years' custody irrespective of plea **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 the Firearms Act 1968, 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. [DROPDOWN BOX]

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).

3. The minimum term applies to *all* such offences including the first offence, and regardless of plea.
4. The minimum term of five years applies to offenders aged 18 or over at the date of conviction. See below for guidance when 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 particular circumstances of the offender.either of which may give rise to exceptional circumstances
7. Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing: see [Criminal Practice Directions](#) VII: Sentencing B.
8. Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

Principles

9. Circumstances are exceptional if the imposition of the minimum term would result in an arbitrary and disproportionate sentence.
10. The circumstances must be truly exceptional. It is important that courts do not undermine the intention of Parliament and the deterrent purpose of the minimum term provisions by too readily accepting exceptional circumstances.
11. The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.
12. 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

Where exceptional circumstances are found

13. 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.**

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 three years' custody. Where the offender is under 16 when the offence was committed, the minimum term does not apply.
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 aged 16 or 17.

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.

Table 1: Number of adult offenders sentenced for offences under the Firearms Act 1968, all courts, 2008-2018

Guideline group	Legislation	Section	Offence	Number of adult offenders sentenced										
				2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
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	340	360	308	207	172	206	253	364	463	402	345
			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	889	896	840	771	634	581	485	469	482	358	375
TOTAL SECTION 5 OFFENCES				1,229	1,256	1,148	978	806	787	738	833	945	760	720
Group 2 (Maximum: 5 years, or 7 years for 1(1) aggravated)	Firearms Act 1968	1(1)	Possess a firearm/ammunition without a certificate ¹	-	-	-	163	139	128	126	101	128	97	105
			Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form) ¹	-	-	-	13	13	6	15	8	6	14	8
		2(1)	Possess shotgun without a certificate	55	39	54	38	35	30	37	36	31	41	31
TOTAL 1(1) & 2(1) OFFENCES				240	230	251	216	194	164	178	145	168	152	144
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	89	111	95	89	74	62	53	49	60	48	61
		Group 4 (Maximum: 7 years, or 12 months for imitation)	Firearms Act 1968	19	Possess loaded/unloaded firearm and suitable ammunition in public place	53	31	23	21	12	16	10	14	12
Possess a loaded shotgun in a public place	21				11	7	3	6	4	2	1	2	2	6
Possess a loaded / unloaded air weapon in a public place	274				250	221	151	127	101	92	103	69	74	72
Possess an imitation firearm in a public place	47				96	84	84	87	89	103	98	112	120	107
TOTAL SECTION 19 OFFENCES				395	388	335	259	232	210	207	216	195	203	199
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	63	53	48	69	64	70	44	54	53	77	63
Group 6 (Maximum: 10 years)	Firearms Act 1968	16A	Possess a firearm with intent to cause fear of violence ¹	-	-	-	101	81	82	74	77	98	74	76
			Possess an imitation firearm with intent to cause fear of violence ¹	-	-	-	146	139	138	145	162	180	187	164
		TOTAL SECTION 16A OFFENCES				327	257	274	250	230	221	221	241	280
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 ¹	-	-	-	18	15	13	10	7	11	5	22
			Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence ¹	-	-	-	34	17	20	28	17	20	27	20
		TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES				81	73	50	52	34	33	38	24	31
Group 8 (Maximum: Life)	Firearms Act 1968	5(2A)(a)	Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968 ²	-	-	-	-	-	-	0	0	4	0	1
		5(2A)(b)	Sell / transfer prohibited weapon / ammunition ²	-	-	-	-	-	-	0	0	10	19	5
		5(2A)(c)	Possess prohibited weapon / ammunition for sale / transfer ²	-	-	-	-	-	-	0	0	4	5	4
		5(2A)(d)	Purchase / acquire prohibited weapon / ammunition for sale / transfer ²	-	-	-	-	-	-	0	0	0	1	0
TOTAL SECTION 5(2A) OFFENCES				-	-	-	-	-	-	0	0	18	25	10

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, 2018

Guideline group	Section	Offence	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with ¹	Total
Group 1 (Maximum: 10 years)	Minimum term applies 5(1)(a)-(af), (c)	Possess/purchase/acquire a prohibited weapon (automatic)/ ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle	0	2	1	30	309	3	345
	5(1A)(a)	Possess/ purchase disguised firearm							
	Minimum term does not apply 5(1)(b)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	31	67	111	98	62	6	375
	5(1A)(b)-(g)	Possess/ purchase/ sell or transfer military equipment							
		TOTAL SECTION 5 OFFENCES	31	69	112	128	371	9	720
Group 2 (Maximum: 5 years, or 7 years for 1(1) aggravated)	1(1)	Possess a firearm/ammunition without a certificate Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form)	10	17	16	17	44	1	105
	2(1)	Possess shotgun without a certificate	2	2	3	12	11	1	31
		TOTAL 1(1) & 2(1)	12	19	19	29	62	3	144
Group 3 (Maximum: 5 years)	21	Possess a firearm when prohibited for life / five years due to previous conviction	1	3	7	17	32	1	61
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	6	33	78	34	41	7	199
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	63	0	63
Group 6 (Maximum: 10 years)		Possess a firearm with intent to cause fear of violence	0	0	1	10	61	4	76
	16A	Possess an imitation firearm with intent to cause fear of violence	0	0	5	32	120	7	164
		TOTAL SECTION 16A OFFENCES	0	0	6	42	181	11	240
Group 7 (Maximum: Life)		Possess a firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence	0	0	0	3	17	2	22
	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	2	17	1	20
		TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES	0	0	0	5	34	3	42
Group 8 (Maximum: Life)	5(2A)(a)	Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968 ²	0	0	0	0	5	0	5
	5(2A)(b)-(d)	Sell / transfer prohibited weapon / ammunition, Possess/purchase/acquire prohibited weapon / ammunition for sale / transfer	0	0	0	0	9	0	9

Source: Court Proceedings Database, Ministry of Justice

Guideline group	Section	Offence	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with ¹	Total
Group 1 (Maximum: 10 years)	Minimum term applies 5(1)(a)-(af), (c)	Possess/purchase/acquire a prohibited weapon (automatic)/ ammunition/ smooth-bore revolver/ rocket launcher/ mortar/ pump action rifle	0%	1%	<0.5%	9%	90%	1%	100%
	5(1A)(a)	Possess/ purchase disguised firearm							
	Minimum term does not apply 5(1)(b)	Possess/ purchase a weapon for the discharge of a noxious liquid / gas / electrical incapacitation device / thing	8%	18%	30%	26%	17%	2%	100%
	5(1A)(b)-(g)	Possess/ purchase/ sell or transfer military equipment							
		TOTAL SECTION 5 OFFENCES	4%	10%	16%	18%	52%	1%	100%
Group 2 (Maximum: 5 years, or 7 years for 1(1) aggravated)	1(1)	Possess a firearm/ammunition without a certificate	10%	16%	15%	16%	42%	1%	100%
		Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form)	0%	0%	0%	0%	88%	13%	100%
	2(1)	Possess shotgun without a certificate	6%	6%	10%	39%	35%	3%	100%
		TOTAL 1(1) & 2(1)	8%	13%	13%	20%	43%	2%	100%
Group 3 (Maximum: 5 years)	21	Possess a firearm when prohibited for life / five years due to previous conviction	2%	5%	11%	28%	52%	2%	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	3%	17%	39%	17%	21%	4%	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%	100%	0%	100%
		Possess a firearm with intent to cause fear of violence	0%	0%	1%	13%	80%	5%	100%
Group 6 (Maximum: 10 years)	16A	Possess an imitation firearm with intent to cause fear of violence	0%	0%	3%	20%	73%	4%	100%
		TOTAL SECTION 16A OFFENCES	0%	0%	3%	18%	75%	5%	100%
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	0%	0%	0%	14%	77%	9%	100%
		Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence	0%	0%	0%	10%	85%	5%	100%
		TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES	0%	0%	0%	12%	81%	7%	100%
Group 8 (Maximum: Life)	5(2A)(a)	Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968 ²	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%	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 covers the period 2016-2018 (due to very low volumes), 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, 2018

Guideline group	Section	Offence	Mean sentence length ^{1,3}	Median sentence length ^{2,3}	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 4 months	7 years	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 8 months	1 year 2 months	Discharge - 8 years 3 months' custody
		Possess/ purchase/ sell or transfer military equipment			
		TOTAL SECTION 5 OFFENCES	5 years 6 months	6 years 6 months	Discharge - 10 years' custody
Group 2 (Maximum: 5 years, or 7 years for 1(1) aggravated)	1(1)	Possess a firearm/ammunition without a certificate	2 years 5 months	2 years 1 month	Discharge - 5 years' custody
		Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form) ⁴	4 years 1 month	4 years	1 year 9 months - 5 years 9 months' custody
	2(1)	Possess shotgun without a certificate ⁵	2 years 6 months	3 years	Discharge - 4 years' custody
		TOTAL 1(1) & 2(1)	2 years 8 months	2 years 7 months	Discharge - 5 years 9 months' custody
Group 3 (Maximum: 5 years)	21	Possess a firearm when prohibited for life / five years due to previous conviction	1 year 6 months	1 year 4 months	Discharge - 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	1 year 6 months	9 months	Discharge - 7 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 4 months	12 years	2 years 3 months - 30 years' custody (and indeterminate)
Group 6 (Maximum: 10 years)	16A	Possess a firearm with intent to cause fear of violence	4 years 11 months	4 years 6 months	CO - 10 years' custody
		Possess an imitation firearm with intent to cause fear of violence	2 years 8 months	2 years 3 months	CO - 7 years 9 months' custody
		TOTAL SECTION 16A OFFENCES	3 years 5 months	2 years 6 months	CO - 10 years' custody
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 ⁵	8 years 11 months	8 years	SSO - 26 years 8 months' custody
		Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence ⁵	7 years	5 years	SSO - 18 years' custody
		TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES	7 years 11 months	6 years	SSO - 26 years 8 months' custody
Group 8 (Maximum: Life)	5(2A)(a)	Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968 ^{4,6}	14 years 9 months	19 years 7 months	4 years - 22 years' custody
	5(2A)(b)-(d)	Sell / transfer prohibited weapon / ammunition, Possess/purchase/acquire prohibited weapon / ammunition for sale / transfer	11 years 2 months	9 years	3 years 9 months - 23 years' 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.
- 5) These figures should be treated with some caution, due to the relatively low number of offenders sentenced for this offence
- 6) The ACSLs and ranges shown for this offence cover the period 2016-2018 (due to very low volumes), and may therefore include cases sentenced prior to the Stephenson judgment

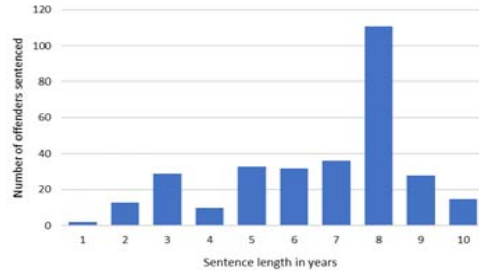
Figure 1: Estimated distribution of custodial sentence lengths for adult offenders sentenced to immediate custody for offences under the Firearms Act 1968, before any reduction for guilty plea, 2018

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)

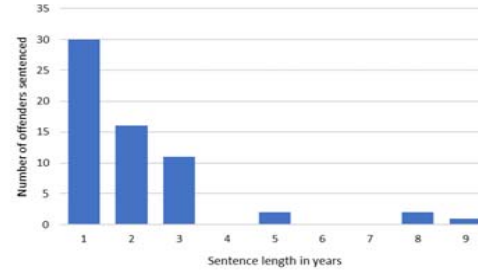
Minimum term applies

Sections 5(1)(a)-(af),(c) & 5(1A)(a) combined, 2018



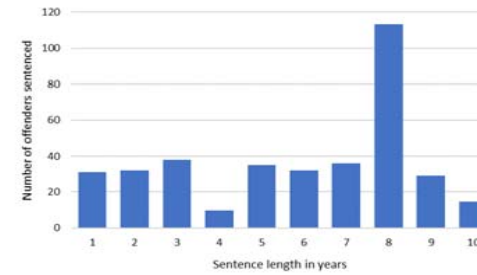
Minimum term does not apply

Sections 5(1)(b) & 5(1A)(b)-(g) combined, 2018



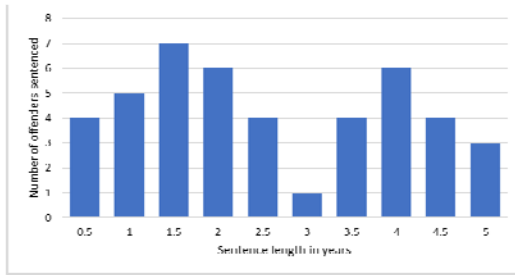
All Group 1 offences

Sections 5(1)(a)-(af),(c), 5(1A)(a), 5(1)(b) & 5(1A)(b)-(g) combined, 2018

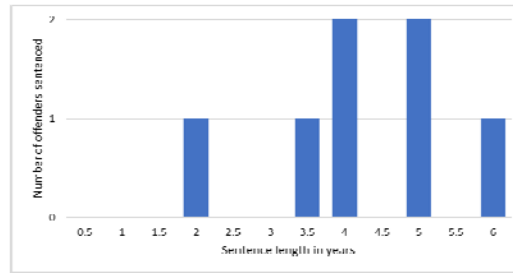


Group 2 (Maximum: 5 years, or 7 years for 1(1) aggravated)

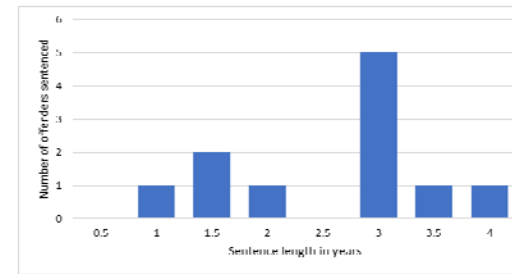
Section 1(1) - Possess a firearm/ammunition without a certificate, 2018



Section 1(1) - Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form), 2018

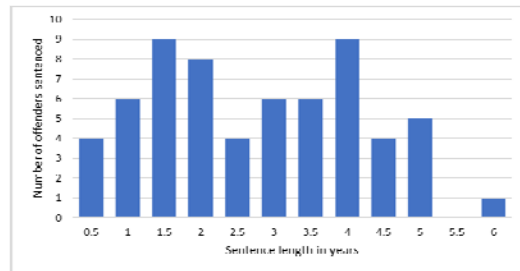


Section 2(1) - Possess shotgun without a certificate, 2018



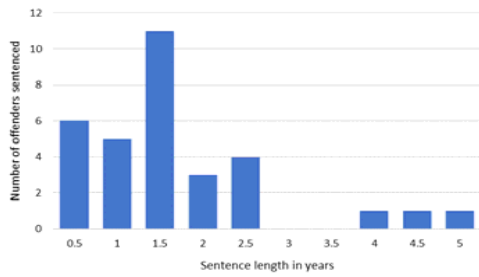
All Group 2 offences

Sections 1(1) & 2(1) combined - Possess a firearm/ ammunition/ shortened shotgun/ shotgun without a certificate, 2018



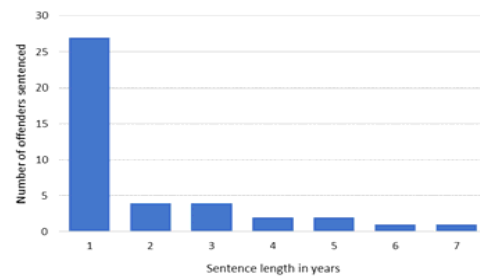
Group 3 (Maximum: 5 years)

Section 21 - Possess a firearm when prohibited for life / five years due to previous conviction, 2018



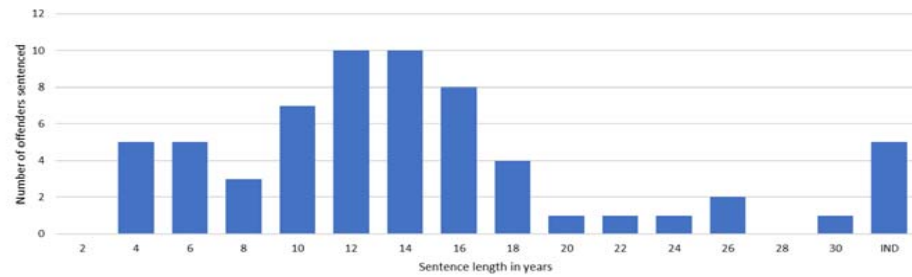
Group 4 (Maximum: 7 years, or 12 months for imitation)

Section 19 - Possess loaded/unloaded firearm and suitable ammunition/shotgun/ airweapon/ imitation firearm in public place, 2018



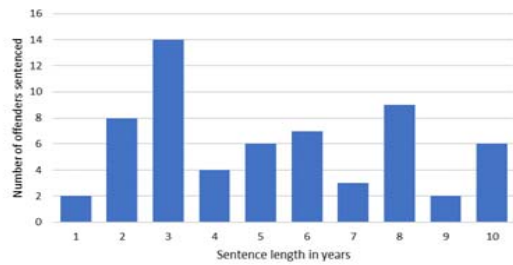
Group 5 (Maximum: Life)

Section 16 (all) - Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so, 2018

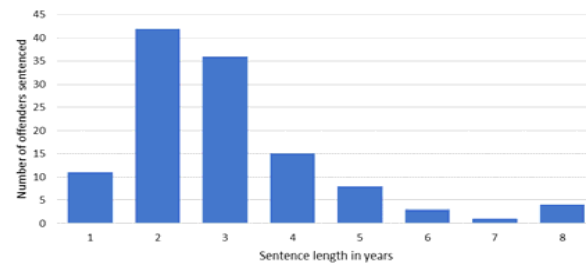


Group 6 (Maximum: 10 years)

Section 16A - Possess a firearm with intent to cause fear of violence, 2018

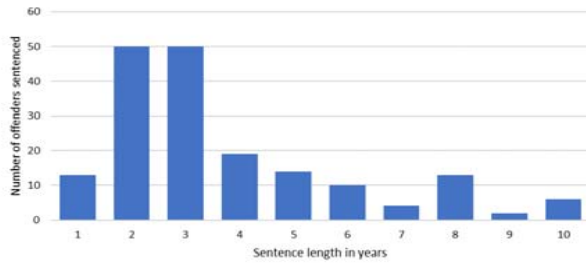


Section 16A - Possess an imitation firearm with intent to cause fear of violence, 2018



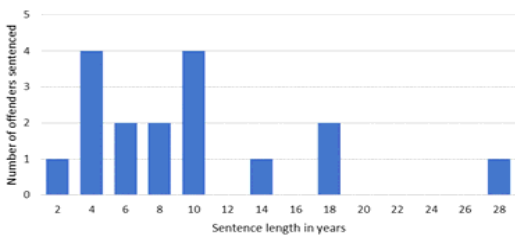
All Group 6 offences

Section 16A - Possess a firearm/ imitation firearm with intent to cause fear of violence, 2018

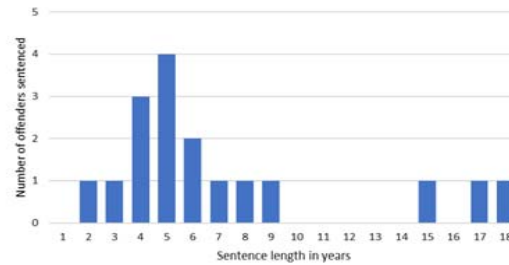


Group 7 (Maximum: Life)

Sections 17(1), 17(2), 18(1) - Possess a firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence, 2018

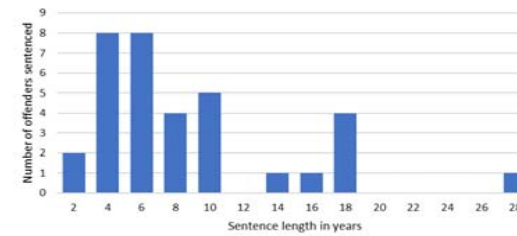


Sections 17(1), 17(2), 18(1) - Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence, 2018



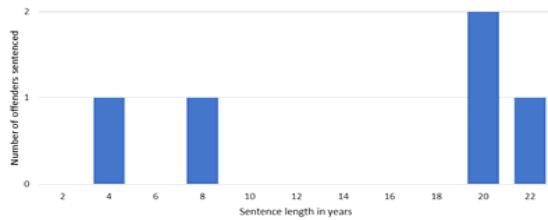
All Group 7 offences

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, 2018

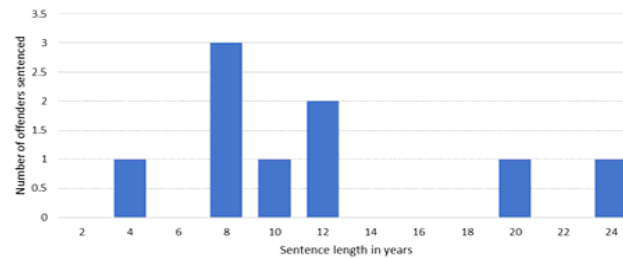


Group 8 (Maximum: Life)

Section 5(2A)(a) offences - Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968, 2016-2018¹



Section 5(2A)(b)-(d) offences - Sell / transfer prohibited weapon / ammunition, Possess/purchase/acquire prohibited weapon / ammunition for sale / transfer, 2018¹



Note:

1) The data shown for this offence covers the period 2016-2018 (due to very low volumes), 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, 2018

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, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	2	1%
2	13	4%
3	29	9%
4	10	3%
5	33	11%
6	32	10%
7	36	12%
8	111	36%
9	28	9%
10	15	5%
Total	309	100%

Minimum term does not apply

Sections 5(1)(b) & 5(1A)(b)-(g) combined, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	30	48%
2	16	26%
3	11	18%
4	0	0%
5	2	3%
6	0	0%
7	0	0%
8	2	3%
9	1	2%
Total	62	100%

All Group 1 offences

Sections 5(1)(a)-(af),(c), 5(1A)(a), 5(1)(b) & 5(1A)(b)-(g) combined, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	31	8%
2	32	9%
3	38	10%
4	10	3%
5	35	9%
6	32	9%
7	36	10%
8	113	30%
9	29	8%
10	15	4%
Total	371	100%

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

Section 1(1) - Possess a firearm/ammunition without a certificate, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	4	9%
1	5	11%
1.5	7	16%
2	6	14%
2.5	4	9%
3	1	2%
3.5	4	9%
4	6	14%
4.5	4	9%
5	3	7%
Total	44	100%

Section 1(1) - Possess a shortened shotgun without a certificate; possess a thing converted into a firearm (aggravated form), 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	0	0%
1	0	0%
1.5	0	0%
2	1	14%
2.5	0	0%
3	0	0%
3.5	1	14%
4	2	29%
4.5	0	0%
5	2	29%
5.5	0	0%
6	1	14%
Total	7	100%

Section 2(1) - Possess shotgun without a certificate, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	0	0%
1	1	9%
1.5	2	18%
2	1	9%
2.5	0	0%
3	5	45%
3.5	1	9%
4	1	9%
4.5	0	0%
5	0	0%
Total	11	100%

All Group 2 offences

Sections 1(1) & 2(1) combined - Possess a firearm/ ammunition/ shortened shotgun/ shotgun without a certificate, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	4	6%
1	6	10%
1.5	9	15%
2	8	13%
2.5	4	6%
3	6	10%
3.5	6	10%
4	9	15%
4.5	4	6%
5	5	8%
5.5	0	0%
6	1	2%
Total	62	100%

Group 3 (Maximum: 5 years)

Section 21 - Possess a firearm when prohibited for life / five years due to previous conviction, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	6	19%
1	5	16%
1.5	11	34%
2	3	9%
2.5	4	13%
3	0	0%
3.5	0	0%
4	1	3%
4.5	1	3%
5	1	3%
Total	32	100%

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, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
0.5	13	32%
1	14	34%
1.5	4	10%
2	0	0%
2.5	0	0%
3	4	10%
3.5	1	2%
4	1	2%
4.5	2	5%
5	0	0%
5.5	0	0%
6	1	2%
6.5	0	0%
7	1	2%
Total	41	100%

Group 5 (Maximum: Life)

Section 16 (all) - Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
2	0	0%
4	5	8%
6	5	8%
8	3	5%
10	7	11%
12	10	16%
14	10	16%
16	8	13%
18	4	6%
20	1	2%
22	1	2%
24	1	2%
26	2	3%
28	0	0%
30	1	2%
Indeterminate	5	8%
Total	63	100%

Group 6 (Maximum: 10 years)

Section 16A - Possess a firearm with intent to cause fear of violence, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	2	3%
2	8	13%
3	14	23%
4	4	7%
5	6	10%
6	7	11%
7	3	5%
8	9	15%
9	2	3%
10	6	10%
Total	61	100%

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, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
2	1	6%
4	4	24%
6	2	12%
8	2	12%
10	4	24%
12	0	0%
14	1	6%
16	0	0%
18	2	12%
20	0	0%
22	0	0%
24	0	0%
26	0	0%
28	1	6%
Total	17	100%

Section 16A - Possess an imitation firearm with intent to cause fear of violence, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	11	9%
2	42	35%
3	36	30%
4	15	13%
5	8	7%
6	3	3%
7	1	1%
8	4	3%
9	0	0%
10	0	0%
Total	120	100%

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, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	0	0%
2	1	6%
3	1	6%
4	3	18%
5	4	24%
6	2	12%
7	1	6%
8	1	6%
9	1	6%
10	0	0%
11	0	0%
12	0	0%
13	0	0%
14	0	0%
15	1	6%
16	0	0%
17	1	6%
18	1	6%
Total	17	100%

All Group 6 offences

Section 16A - Possess a firearm/ imitation firearm with intent to cause fear of violence, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
1	13	7%
2	50	28%
3	50	28%
4	19	10%
5	14	8%
6	10	6%
7	4	2%
8	13	7%
9	2	1%
10	6	3%
Total	181	100%

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, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
2	2	6%
4	8	24%
6	8	24%
8	4	12%
10	5	15%
12	0	0%
14	1	3%
16	1	3%
18	4	12%
20	0	0%
22	0	0%
24	0	0%
26	0	0%
28	1	3%
Total	34	100%

Group 8 (Maximum: Life)

Section 5(2A)(a) offences - Manufacture weapon / ammunition specified in section 5(1) of the Firearms Act 1968, 2016-2018^{1,2}

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
2	0	0%
4	1	20%
6	0	0%
8	1	20%
10	0	0%
12	0	0%
14	0	0%
16	0	0%
18	0	0%
20	2	40%
22	1	20%
Total	5	100%

Section 5(2A)(b)-(d) offences - Sell / transfer prohibited weapon / ammunition, Possess/purchase/acquire prohibited weapon / ammunition for sale / transfer, 2018

Sentence length in years	Number of offenders sentenced	Proportion of offenders sentenced
2	0	0%
4	1	11%
6	0	0%
8	3	33%
10	1	11%
12	2	22%
14	0	0%
16	0	0%
18	0	0%
20	1	11%
22	0	0%
24	1	11%
Total	9	100%

Notes:

1) The data shown for this offence covers the period 2016-2018 (due to very low volumes), 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

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