

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

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SC(19)MAR05 – Firearms paper 1
Maura McGowan
Sophie Klinger
07976 300962

1 ISSUE

1.1 This is the sixth meeting to consider the firearms guideline. This paper asks the Council to consider three guidelines covering possession with intent offences. The paper discusses revisions to culpability and harm following the January Council meeting and the meeting of the Firearms Working Group on 11 February. The Council is also asked to consider aggravating and mitigating factors and sentence levels.

1.2 Currently, there are three further meetings scheduled to discuss the firearms guideline. The aim is to sign off the consultation version at the June 2019 meeting, if possible, with consultation planned for September 2019. These timelines will continue to be monitored and amended as required.

2 RECOMMENDATION

2.1 It is recommended that the Council:

- agrees the approach to type of weapon developed by the Firearms Working Group (FWG) for each guideline (see paragraph 3.1 onwards);
- agrees further specific changes to culpability and harm factors (see paragraph 3.12 and 3.16);
- considers aggravating and mitigating factors (see paragraph 3.19 and 3.28); and
- considers sentence levels (see paragraph 3.34 onwards).

3 CONSIDERATION

Possession with intent guidelines

This paper focuses on possession with intent offences. There are three possession with intent guidelines, as follows:

Guideline	Offence(s)	Description	Maximum penalty	Volumes (2017)
Guideline 5 (Annex A)	S16 Possession with intent to endanger life	Possession of any firearm or ammunition with intent to endanger life, or to enable another person to endanger life, whether injury caused or not.	Life	77
Guideline 6 (Annex B)	S16A Possession with intent to cause fear of violence	Possession of any firearm or imitation firearm with intent to cause, or to enable another person to cause, any person to believe that unlawful violence will be used against him or another person.	10 years	261
Guideline 7 (Annex C)	S17(1) Use of firearm to resist arrest	Making or attempting to make use of a firearm or imitation firearm with intent to resist or prevent the lawful arrest or detention of himself or another person.	Life	1
	S17(2) Possession while committing a Schedule 1 offence	At the time of committing or being arrested for an offence in Schedule 1, having in possession a firearm or imitation firearm, unless possessed for a lawful object.	Life	16
	S18(1) Carry firearm with intent to commit indictable offence	Having a firearm or imitation firearm with intent to commit an indictable offence, or to resist arrest or prevent the arrest of another, while having the firearm or imitation firearm with him.	Life	16

Culpability and type of weapon

3.1 At the January meeting the Council considered the proposed three-tier type of weapon table. It was agreed to explore having two tiers instead. The FWG0 met in February to consider this issue further. Various options were explored. Difficulties were identified with a two-tier type of weapon step, including problems with satisfactorily structuring the final culpability table in a three by two grid with three culpability levels. In each guideline it has been decided to omit the type of weapon table at culpability A and address the type of weapon through alternative means. The following section sets out the approach recommended by the FWG for each possession with intent guideline.

Guideline 5 – Possession with intent to endanger life

3.2 This offence covers firearms and ammunition. It does not cover imitation firearms. Sentencing data for the period 2011-2017 shows that this offence involved 99% firearms and 1% ammunition. There is no data available on the type of weapon, but the majority of the firearms involved are likely to be prohibited weapons attracting the minimum term, based on analysis of transcripts and sentence levels.

3.3 In the draft guideline at **Annex A**, the type of weapon table has been omitted from culpability altogether and instead the type of weapon is addressed at step two. An option involving a two-tier type of weapon table in culpability was considered, with minimum term items at type 1 and all other firearms at type 2. However, because few cases would involve non-minimum term firearms, the type of weapon distinction in culpability seemed to add little value. Instead, it is now proposed to address the type of weapon at step two through a mitigating factor (M6) where the firearm is *not* a prohibited weapon attracting the minimum term. Mitigating for a non-minimum term weapon was considered preferable to aggravating for a minimum term weapon, since most cases are expected to involve minimum term weapons.

3.4 Under this approach culpability will be determined by the factors previously at step B of the two-pronged culpability model. The approach is considered suitable for this offence as it is more straightforward and the type of weapon is less of a driver of culpability compared with the possession guidelines.

Question 1: Does the Council agree with the approach to type of weapon for guideline 5 (endanger life)?

Guideline 6 – Possession with intent to cause fear of violence

3.5 This offence covers firearms and imitation firearms. In 2017, firearms comprised 28% of offences and imitation firearms 72%. Again, it is not possible to set out precisely how many of the firearms offences involved weapons subject to the minimum term. The data from transcripts and sentence levels is not clear-cut. Sentence levels show that in 2017 around 32% of offenders sentenced for possessing a firearm with intent to cause fear of violence received a custodial sentence of 5 years or more (after any reduction for guilty plea), suggesting these may be cases involving minimum term firearms. Analysis of transcripts indicated that the majority may be prohibited weapons. On balance the proportion of minimum term firearms is expected to be fairly low for this offence, certainly lower than for the endanger life offence.

3.6 As with guideline 5 above, consideration was given to a two-tier type of weapon table at culpability A, based on prohibited versus non-prohibited weapons. However the FWG agreed that for this offence the key distinction is between firearms and imitation firearms, rather than between prohibited and non-prohibited weapons. Transcripts and sentence levels indicate that cases involving imitation firearms attract much lower sentences than genuine firearms. Nearly half of the imitation firearms offences in 2017 received a pre-guilty plea sentence length of 2 years or less, compared with around a quarter for firearms. The median ACSL for imitations was 2 years 3 months compared with 5 years for firearms. Accordingly, it is appropriate to separate imitation firearms out from firearms.

3.7 In the guideline at **Annex B**, the distinction between firearms and imitation firearms is made through two separate sentence tables, rather than as a step in culpability. The type of weapon step has been omitted.

3.8 Since the firearms table will encompass both minimum term and non-minimum term firearms, it is necessary to recognise the minimum term cases elsewhere. An aggravating factor (A8) has been included where the firearm is a prohibited firearm attracting the minimum term. Based on 2017 sentence levels, this may apply to around 9% of total cases (around 32% of the 74 cases involving firearms).

3.9 The FWG also sought to distinguish between certain types of imitation firearms, in light of the relatively high volumes of cases likely to fall into this category. An aggravating factor (A9) has been included for readily convertible imitation firearms.¹ A mitigating factor (M4) has been included for imitation firearms that are crude or unrealistic. This was chosen over an aggravating factor for more realistic firearms as it should be easier to assess and affect a smaller proportion of cases.

Question 2: Does the Council agree with the approach to type of weapon for guideline 6 (cause fear of violence)?

Guideline 7 – Possession with intent to resist arrest/commit indictable or Schedule 1 offence

3.10 These offences, like guideline 6, cover both firearms and imitation firearms. In 2017, 16% involved firearms and 84% imitation firearms, although volumes are low and the proportion of imitations was lower in previous years so caution should be taken with these figures.

¹ A firearm is readily convertible if: (a) it can be so converted without any special skill on the part of the person converting it in the construction or adaptation of firearms of any description; and (b) the work involved in converting it does not require equipment or tools other than such as are in common use by persons carrying out works of construction and maintenance in their own homes (section 1(6) of 1982 Act). Generally forensic evidence will be required to establish this.

3.11 As with guideline 6, the important distinction for this offence was considered to be firearm/imitation firearm rather than minimum term/non-minimum term. Accordingly, the approach taken in this guideline at **Annex C** is the same as for guideline 6, with separate tables for firearms and imitations, aggravating factors for minimum term firearms and readily convertible imitations, and a mitigating factor for crude or unrealistic imitations. Because volumes for these offences are very low, the data on which to develop separate sentence tables is very limited so there are risks associated with the two table approach. It was considered desirable for consistency with guideline 6 to retain the separate tables.

Question 3: Does the Council agree with the approach to type of weapon for guideline 7 (resist arrest and commit offence)?

Additional changes in culpability

3.12 **'Firearm discharged'** – All guidelines currently contain this factor at high culpability. While discharge of the firearm is rare in simple possession cases, it is more common in possession with intent cases. In transcripts analysed, this factor was present in nearly 50% of possession with intent to endanger life cases, and 25% of possession with intent to cause fear of violence cases. It is possible that including this factor at high culpability could put too many cases into that category, particularly in the intent to endanger life guideline. This may risk an inflationary effect on sentences. The FWG was not in favour of making changes to address this issue and preferred to retain the factor at high culpability. Therefore no changes are proposed, but the Council is asked to note the risk of an inflationary effect.

3.13 Road-testing will be needed to assess how sentencers would balance this factor against those in lower categories. For example in a case of group offending where the firearm was discharged but some individuals had a lesser or significant rather than leading role (for example assisting in the aftermath of the shooting), or limited planning. In addition, the sentence tables will need to encompass a wider range at culpability A if up to 50% of endanger life cases and 25% of cause fear of violence cases may fall into high culpability due to this factor. If there are no (or few) balancing factors to take it out of high culpability, a case where a firearm is discharged will have at least a starting point of 10 years and a range of 8-12 years (at lowest harm), or 14 years with a 11-17 range (at medium harm). There are few mitigating factors beyond the standard ones and some aggravating factors that may arise frequently so the sentences would likely fall at the higher end of the range.

3.14 If the Council were minded to narrow this factor to reduce the scope of the 'Firearm discharged' factor, possible wording could be 'Firearm used to inflict violence' (from high culpability in robbery) or 'Firearm discharged at a person' (as distinct from cases where it is fired at a house or vehicle).

3.15 **Firearm not produced or visible** – The FWG agreed to include this factor at lower culpability in all guidelines, and remove the factor ‘Firearm produced (where not at high culpability)’ from medium culpability. There was a concern that the ‘Firearm produced’ factor would put almost all cases into medium culpability or higher, unduly limiting the cases that might fall into lower culpability. The firearm being produced is a common feature of this offending, occurring in around three quarters of transcripts. Putting ‘Firearm not produced or visible’ at lower culpability does not preclude a case where the firearm is produced falling into this category, provided there are sufficient other lower culpability factors present. However, there is a risk that lower culpability could be interpreted as excluding cases where the firearm is produced. It may be worth including wording to make it clear that a case may fall into lower culpability even where the firearm is produced.

Question 4: Is the Council content with these changes to culpability?

Additional changes in harm

3.16 **‘Severe physical harm caused’ and ‘Severe psychological harm caused’** – These factors are in harm at category 1. Previously, these factors referred to ‘serious’ rather than ‘severe’ harm. The evaluation of the robbery guideline, which similarly included ‘serious physical or psychological harm’ at the highest level of harm, indicated that serious psychological harm was present in around one third of cases. The evaluation stated that the introduction of ‘psychological harm’ as part of harm may have played a role in the increase in sentencing severity, particularly in relation to dwelling and professionally planned commercial robberies, where psychological harm was often deemed serious. To avoid contributing to a similar increase in firearms sentencing levels, the FWG decided to substitute ‘severe’ for these factors. Since the category 1 factors are now ‘severe’ rather than ‘serious’, the equivalent factors in category 2 have been changed to ‘serious’ from ‘less serious’.

3.17 **‘Alarm/distress’** – This factor is now only at category 3. Previously, harm included ‘Serious alarm/distress caused’ at category 2 and ‘Limited alarm/distress caused’ at category 3. Given that in the vast majority of these cases, the firearm is visible and observed by at least one witness, alarm and distress is common. The FWG agreed it was no longer necessary to include both ‘Serious alarm/distress’ and ‘Less serious psychological harm’ in category 2. ‘Serious alarm/distress’ has been omitted from category 2 altogether and the category 3 factor amended to ‘Alarm/distress caused’, without ‘Limited’.

3.18 **Risk-based factors moved to harm category 2**– The risk-based factors that were at category 1 have been shifted to category 2. These factors are: ‘Offence committed in circumstances where person(s) put at high risk of serious physical injury or death’ and

'Offence committed in circumstances where there is a high risk of serious disorder'. In light of the change of the harm factors to 'severe' in category 1, it seems out of step to include these risk-based factors at category 1 as well, above actual 'serious' harm which is at category 2. They also may be present in quite a few cases which could distort category 1, particularly in intent to endanger life. Therefore these factors have been moved to category 2, to sit alongside what is now 'serious' physical harm and psychological harm and the catch-all factor. This means that category 1 is reserved for severe actual physical or psychological harm, and category 2 covers both serious actual harm and a high risk of serious physical injury, death or serious disorder.

Question 5: Is the Council content with these changes to harm?

Aggravating factors

3.19 The step two factors are similar to those used earlier for the possession guidelines. Amendments and additions compared with the possession guidelines have been tracked in Annex A but not B and C. Additions and changes of note are set out below. References are to the factors in **Annex A** except where otherwise specified.

3.20 A3 'Offence motivated by, or demonstrating hostility based on any of the following characteristics ...' – This statutory aggravating factor was not relevant in simple possession but may be relevant in the possession with intent offences, so has been included here using wording consistent with other guidelines.

3.21 A5 – The factor 'Contact with criminal associates ...' has been omitted since would affect a very high proportion of these offences. Instead 'Offence committed to further organised criminal activity or protect territory' has been included. This is included in guidelines 5 and 6 only, not guideline 7.

3.22 A10 'Steps taken to make imitation firearm appear more realistic ...' – This has been included to capture activity such as painting the coloured sections of a firearm black. It is proposed it could be included across the guidelines including the possession guidelines considered earlier.

3.23 A11 'Serious damage to property caused...' – The Council agreed at the last meeting to move this factor from harm to step two in this form.

3.24 A12 'Abuse of position as registered firearms dealer or certificate holder' – additional wording referring to certificate holders as some transcripts involved misuse of firearms held under certificate or holding some firearms under a certificate to increase respectability and reduce scrutiny. It is proposed this change could be made across the package of guidelines.

3.25 A13 'Expectation of substantial financial gain (except where already taken into account at step one)' – This factor has been included to capture cases with significant commercial elements that were not covered under the high culpability factors.

3.26 Annex C (Guideline 7) contains two additional aggravating factors specific to resisting arrest at A6 and A7, of 'Offender's actions resulted in a suspect avoiding arrest' and 'Offender's actions resulted in a significant waste of resources'. This latter factor is aimed at cases where a large number of officers have been engaged or armed response teams have been called out to disarm an offender (and where the gun may not even have been a genuine firearm).

3.27 Other new factors relating to imitation firearms and prohibited weapons have been discussed above.

Question 6: Does the Council agree with the aggravating factors?

Mitigating factors

3.28 Again the mitigating factors are very similar to the possession guidelines. The main change to note is as follows: M3 'Firearm incomplete or incapable of being discharged (including stun gun that is not charged and not held with a functioning charger)'. It is proposed to include this wording across all the guidelines, particularly to address the possession cases involving a stun gun, where it was regarded as less serious when a stun gun was not charged and not held with a means of doing so.

3.29 Certain factors from possession have not been carried across from possession as they are less relevant to these offences, including 'No knowledge or suspicion that item possessed was firearm/ammunition' and 'Unaware firearm/ammunition is prohibited'.

3.30 Other new factors relating to imitation firearms and prohibited weapons have been discussed above.

Question 7: Does the Council agree with the mitigating factors?

Sentence table – Guideline 5 – Possession with intent to endanger life

3.31 One table only has been used for this offence. The FWG gave consideration as to whether separate tables were needed for minimum term and non-minimum term cases, as in possession. Because the offence is relatively low volume (77 cases in 2017), and because sentence levels in 2017 suggested that the sentence table could start around 5 years, it was agreed only one table was necessary.

3.32 The offence has a maximum penalty of life imprisonment. Most cases (94%) received immediate custody, with a small number otherwise dealt with. The ACSL for this offence is

the highest of all the firearms offences being covered, at a median of 12 years pre-guilty plea.

3.33 Sentence levels are set out in the sentence table at page 4 of **Annex A**. The table has been drafted to reflect current sentence levels based on 2017 data. There will be a question about parity with the manufacture/transfer offence (see paper 2) when levels for that offence are considered. The figures are indicative at this stage. Further testing against transcripts will be carried out to refine the detail of the tables.

Question 8: Does the Council agree in principle with the sentence table for the endanger life offence?

Sentence tables – Guideline 6 – Possession with intent to cause fear of violence

3.34 This offence carries a maximum penalty of 10 years. In terms of outcomes, in 2017 the proportion receiving immediate custody was still high, at 70%, but significantly lower than for the endanger life offence. Nearly one quarter of cases received a suspended sentence. A small proportion received a community order (3%) and there was one conditional discharge in 2017. The median ACSL is 2 years 6 months pre-guilty plea.

3.35 Indicative levels are in the sentence table at page 4 of **Annex B**. As noted above, there are two tables, covering firearms and imitation firearms. 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.

Question 9: Does the Council agree in principle with the sentence table for the cause fear of violence offence?

Sentence tables – Guideline 7 – Possession with intent to resist arrest/commit indictable or Sch 1 offence

3.36 These offences all carry a maximum of life imprisonment. The vast majority of cases (88-94%) received immediate custody in 2017. The median ACLS (pre-guilty plea) range slightly from 4 years 3 months for resist arrest, to 5 years 8 months for possession while committing Sch 1 offence, to 7 years for possession with intent to commit an indictable offence.² As the volumes are low these figures should be taken with caution.

² The median ACSL for resist arrest is based on data covering the period 2011-2017, due to low volumes. For possession while committing a Sch 1 offence/ an indictable offence, the median ACSLs relate to 2017.

3.37 Indicative levels are in the sentence table at page 4 of **Annex B**. 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.

Question 10: Does the Council agree in principle with the sentence table for the resist arrest/commit offence guideline?

Minimum term guidance

3.38 Detailed guidance on the minimum term and exceptional circumstances will be included at step three once the wording is agreed in relation to possession.

3.39 In step two, a line has been added above the sentence table in each guideline to highlight that, where the minimum term applies and the sentence reached by application of the guideline would fall below 5 years, the sentence should be increased to 5 years. Alternatively, this point could be incorporated into the minimum sentence guidance for these guidelines in step three.

This offence is subject to minimum sentence provisions. Where the minimum sentence applies,³ 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.

Question 11: Does the Council agree with this wording and its location above the sentence table?

4 IMPACT

4.1 A draft resource assessment will be considered in due course. The resource assessment will be developed in line with the Council's decision at the September 2018 meeting that the guideline should aim to replicate current sentencing practice (subject to

³ 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.

consideration of the sentencing tables and any future decisions around the objective of the exceptional circumstances guidance). The impact on resources within the system is likely to be negligible if the guideline continues to be developed in line with the aim of replicating current practice.

5 RISK

5.1 As noted above, there are risks in guideline 7 of developing two separate sentence tables using very low volumes of data, although for the same reason of low volumes, the potential impact is also likely to be small.

5.2 The Offensive Weapons Bill completed its committee stage in the House of Lords on 22 February 2019. The report stage has yet to be scheduled. As noted previously, the Bill will prohibit two further items: rapid firing rifles⁴ and bump stock devices.⁵ Both items will be subject to the minimum term. They will be incorporated into the type of weapon table in the possession guidelines once the bill has passed.

⁴ Certain chambered weapons from which cartridge cases are extracted by propellant gas. According to the Home Office, these fire at a rate that is significantly greater than a conventional bolt-action rifle, making them closer to self-loading rifles, which are already prohibited.

⁵ 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.

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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 – 18 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 discharged • Prolonged incident
<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"> • Lesser role where offending is part of group activity • Little or no planning or unsophisticated offending • Firearm not produced or visible • Conduct limited in scope and duration

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 injury/death 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 • Offence committed in circumstances where person(s) put at high risk of serious physical injury or death • Offence committed in circumstances where there is a high risk of serious disorder • 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"> • Alarm/distress caused • Offence committed in circumstances where person(s) put at no/minimal risk of serious physical injury or death • Offence committed in circumstances where there is 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.

Where separate charges apply, for example in relation to any 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.			
Harm	Culpability		
	A	B	C
Category 1	Starting point 18 years Category range 16 – 22 years	Starting point 14 years Category range 11 – 17 years	Starting point 10 years Category range 8 – 12 years
Category 2	Starting point 14 years Category range 11 – 17 years	Starting point 10 years Category range 8 – 12 years	Starting point 7 years Category range 5 – 9 years
Category 3	Starting point 10 years Category range 8 – 12 years	Starting point 7 years Category range 5 – 9 years	Starting point 5 years Category range 4 – 7 years

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Factors increasing seriousness

Statutory aggravating factors:

- A1. Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- A2. Offence committed whilst on bail

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. Offence was committed as part of a group (except where already taken into account at step one)
- A5. ~~Offender has contact with criminal associates, including through the purchase and supply of drugs (except where already taken into account at step one)~~
Offence committed to further organised criminal activity or protect territory
- A6. Commission of offence whilst under the influence of alcohol or drugs
- A7. Firearm/ammunition kept held with multiple weapons (See step seven on totality when sentencing for more than one offence.)
- A8. Firearm modified to make it more lethal
- A9. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A10. Steps taken to make imitation firearm appear more realistic (where not charged separately)
- A11. Serious damage to property caused (where not charged separately)
- A12. Abuse of position as registered firearms dealer or certificate holder
- A13. Expectation of substantial financial gain (except where already taken into account at step one)
- A14. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)
- A15. Offences taken into consideration
- 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 (including stun gun that is not charged and not held with a functioning charger)
- M4. Voluntary surrender of firearm/ammunition
- M5. ~~No knowledge or suspicion that item possessed was firearm/ammunition~~
- M6. ~~Unaware firearm/ammunition is prohibited~~Firearm/ammunition is not prohibited under section 5
- M7. ~~Held on behalf of another through~~Involved through coercion, intimidation, or exploitation

- M8. Serious medical condition requiring urgent, intensive or long-term treatment
- M9. Age and/or lack of maturity
- M10. Mental disorder or learning disability
- M11. Sole or primary carer for dependent relatives
- M12. Co-operation with the police

STEP THREE

Minimum Terms

[To come once finalised]

STEP FOUR

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FIVE

Dangerousness

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

STEP SIX

Reduction for guilty pleas

The court should take account of any reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

Where a **mandatory minimum sentence** has been imposed under section 51A of the Firearms Act 1968, the court must ensure that any reduction for a guilty plea does not reduce the sentence to less than the mandatory minimum.

STEP SEVEN

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the *Offences Taken into Consideration and Totality* guideline.

STEP EIGHT

Ancillary orders

In all cases the court should consider whether to make ancillary orders.

Forfeiture and destruction of firearms and cancellation of certificate

The court should consider ordering forfeiture or disposal of any firearm or ammunition and the cancellation of any firearms certificate. Section 52 Firearms Act 1968 provides for the forfeiture and disposal of firearms and the cancellation of firearms and shotgun certificates where a person is convicted of one or more offence under the Firearms Act 1968 (other than an offence relating to an air weapon) and is given a custodial sentence or a community order containing a requirement not to possess, use or carry a firearm. The court may order the forfeiture or disposal of air weapons under paragraphs 7 and 8 Part II to Schedule Six Firearms Act 1968.

Serious Crime Prevention Order

The court may consider the criteria in section 19 of the Serious Crime Act 2007 for the imposition of a Serious Crime Prevention Order.

STEP NINE

Reasons

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

STEP TEN

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

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Firearms – Possession with intent to cause fear of violence

Possession with intent to cause fear of violence

Firearms Act 1968 (section 16A)

Indictable only

Maximum: 10 years' custody

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

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

This offence is subject to statutory minimum sentencing provisions. See STEPS TWO and THREE for further details.

**STEP ONE
Determining the offence category**

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.

Culpability demonstrated by one or more of the following:

A – High culpability:

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

B – Medium culpability:

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

C – Lower culpability:

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

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 injury/death 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 • Offence committed in circumstances where person(s) put at high risk of serious physical injury or death • Offence committed in circumstances where there is a high risk of serious disorder • 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"> • Alarm/distress caused • Offence committed in circumstances where person(s) put at no/minimal risk of serious physical injury or death • Offence committed in circumstances where there is 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.

Where separate charges apply, for example in relation to any 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>Table 1 should be used if the offence is in respect of a firearm. Table 2 should be used for an imitation firearm.</p> <p>The offence may be subject to a minimum sentence. Where the minimum sentence applies,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>			
TABLE 1	Firearm		
Harm	Culpability		
	A	B	C
Category 1	Starting point 8 years Category range 7 – 9 years	Starting point 6 years Category range 4 – 8 years	Starting point 4 years Category range 2 – 7 years
Category 2	Starting point 6 years Category range 4 – 8 years	Starting point 4 years Category range 2 – 7 years	Starting point 2 years Category range 1 – 4 years
Category 3	Starting point 4 years Category range 2 – 7 years	Starting point 2 years Category range 1 – 4 years	Starting point 1 year 6 months Category range 6 months – 2 years
TABLE 2	Imitation firearm		
Harm	Culpability		
	A	B	C
Category 1	Starting point 7 years Category range 6 – 8 years	Starting point 5 years Category range 3 – 7 years	Starting point 3 years Category range 1 – 5 years
Category 2	Starting point 5 years Category range 3 – 7 years	Starting point 3 years Category range 1 – 5 years	Starting point 1 year Category range 6 months – 2 years
Category 3	Starting point 3 years Category range 1 – 5 years	Starting point 1 year Category range 6 months – 2 years	Starting point 6 months Category range Medium level community order – 1 year

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. Offence was committed as part of a group (except where already taken into account at step one)
- A5. Offence committed to further organised criminal activity or protect territory
- A6. Commission of offence whilst under the influence of alcohol or drugs
- A7. Firearm/ammunition held with multiple weapons (See step seven on totality when sentencing for more than one offence.)
- A8. Firearm is prohibited under section 5 and subject to minimum term
- A9. Imitation firearm is readily convertible¹
- A10. Firearm modified to make it more lethal
- A11. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A12. Steps taken to make imitation firearm appear more realistic (where not charged separately)
- A13. Serious damage to property caused (where not charged separately)
- A14. Abuse of position as registered firearms dealer or certificate holder
- A15. Expectation of substantial financial gain (except where already taken into account at step one)
- A16. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)

¹ [Drop-down box to show relevant statutory provision or link to statute]

- A17. Offences taken into consideration
- A18. Failure to comply with current court orders
- A19. Offence committed on licence or post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

- M1. No previous convictions **or** no relevant/recent convictions
- M2. Good character and/or exemplary conduct
- M3. Firearm incomplete or incapable of being discharged (including stun gun that is not charged and not held with a functioning charger)
- M4. Imitation firearm is crude or unrealistic
- M5. Voluntary surrender of firearm
- M6. Involved through coercion, intimidation, or exploitation
- M7. Serious medical condition requiring urgent, intensive or long-term treatment
- M8. Age and/or lack of maturity
- M9. Mental disorder or learning disability
- M10. Sole or primary carer for dependent relatives
- M11. Co-operation with the police

STEP THREE

Minimum Terms

[To come once finalised]

STEP FOUR

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FIVE

Dangerousness

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

STEP SIX

Reduction for guilty pleas

The court should take account of any reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

Where a **mandatory minimum sentence** has been imposed under section 51A of the Firearms Act 1968, the court must ensure that any reduction for a guilty plea does not reduce the sentence to less than the mandatory minimum.

STEP SEVEN

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the *Offences Taken into Consideration and Totality* guideline.

STEP EIGHT

Ancillary orders

In all cases the court should consider whether to make ancillary orders.

Forfeiture and destruction of firearms and cancellation of certificate

The court should consider ordering forfeiture or disposal of any firearm or ammunition and the cancellation of any firearms certificate. Section 52 Firearms Act 1968 provides for the forfeiture and disposal of firearms and the cancellation of firearms and shotgun certificates where a person is convicted of one or more offence under the Firearms Act 1968 (other than an offence relating to an air weapon) and is given a custodial sentence or a community order containing a requirement not to possess, use or carry a firearm. The court may order the forfeiture or disposal of air weapons under paragraphs 7 and 8 Part II to Schedule Six Firearms Act 1968.

Serious Crime Prevention Order

The court may consider the criteria in section 19 of the Serious Crime Act 2007 for the imposition of a Serious Crime Prevention Order.

STEP NINE

Reasons

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

STEP TEN

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

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Firearms – Possession with intent – other offences

Use of firearm to resist arrest

Firearms Act 1968 (section 17(1))

Possession while committing a Schedule 1 offence

Firearms Act 1968 (section 17(2))

Carrying firearm with criminal intent

Firearms Act 1968 (section 18)

Indictable only

Maximum: Life imprisonment

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

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

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

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

This offence is subject to statutory minimum sentencing provisions. See STEPS TWO and THREE for further details.

**STEP ONE
Determining the offence category**

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.

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 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 injury/death 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 • Offence committed in circumstances where person(s) put at high risk of serious physical injury or death • Offence committed in circumstances where there is a high risk of serious disorder • 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"> • Alarm/distress caused • Offence committed in circumstances where person(s) put at no/minimal risk of serious physical injury or death • Offence committed in circumstances where there is 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.

Where separate charges apply, for example in relation to any 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 Category range 10 – 16 years	Starting point 9 years Category range 7 – 11 years	Starting point 7 years Category range 5 - 9
Category 2	Starting point 9 years Category range 7 – 11 years	Starting point 7 years Category range 5 – 9 years	Starting point 4 years Category range 2 – 6 years
Category 3	Starting point 7 years Category range 5 – 9 years	Starting point 4 years Category range 2 – 6 years	Starting point 2 years Category range 1 – 3 years
TABLE 2	Imitation firearm		
Harm	Culpability		
	A	B	C
Category 1	Starting point 9 years Category range 6 – 12 years	Starting point 7 years Category range 5 – 9 years	Starting point 5 years Category range 3 – 7 years
Category 2	Starting point 7 years Category range 5 – 9 years	Starting point 5 years Category range 3 – 7 years	Starting point 2 years Category range 1 – 4 years
Category 3	Starting point 5 years Category range 3 – 7 years	Starting point 2 years Category range 1 – 4 years	Starting point 1 year Category range High level community order – 3 years

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. Offence was committed as part of a group (except where already taken into account at step one)
- A5. Commission of offence whilst under the influence of alcohol or drugs
- A6. Offender's actions resulted in a suspect avoiding arrest
- A7. Offender's actions resulted in a significant waste of resources
- A8. Firearm/ammunition held with multiple weapons (See step seven on totality when sentencing for more than one offence.)
- A9. Firearm prohibited under section 5 and subject to minimum term
- A10. Imitation firearm is readily convertible²
- A11. Firearm modified to make it more lethal
- A12. Steps taken to disguise firearm (where not firearm under section 5(1A)(a))
- A13. Steps taken to make imitation firearm appear more realistic (where not charged separately)
- A14. Serious damage to property caused (where not charged separately)
- A15. Abuse of position as registered firearms dealer or certificate holder
- A16. Expectation of substantial financial gain (except where already taken into account at step one)

² [Drop-down box to show relevant statutory provision or link to statute]

- A17. Offender prohibited from possessing weapon or ammunition because of previous conviction (where not charged separately)
- A18. Offences taken into consideration
- A19. Failure to comply with current court orders
- A20. Offence committed on licence or post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

- M1. No previous convictions **or** no relevant/recent convictions
- M2. Good character and/or exemplary conduct
- M3. Firearm incomplete or incapable of being discharged (including stun gun that is not charged and not held with a functioning charger)
- M4. Imitation firearm is crude or unrealistic
- M5. Voluntary surrender of firearm
- M6.
- M7. Involved through coercion, intimidation, or exploitation
- M8. Serious medical condition requiring urgent, intensive or long-term treatment
- M9. Age and/or lack of maturity
- M10. Mental disorder or learning disability
- M11. Sole or primary carer for dependent relatives
- M12. Co-operation with the police

STEP THREE

Minimum Terms

[To come once finalised]

STEP FOUR

Consider any factors which indicate a reduction for assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FIVE

Dangerousness

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

STEP SIX

Reduction for guilty pleas

The court should take account of any reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

Where a **mandatory minimum sentence** has been imposed under section 51A of the Firearms Act 1968, the court must ensure that any reduction for a guilty plea does not reduce the sentence to less than the mandatory minimum.

STEP SEVEN

Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the *Offences Taken into Consideration and Totality* guideline.

STEP EIGHT

Ancillary orders

In all cases the court should consider whether to make ancillary orders.

Forfeiture and destruction of firearms and cancellation of certificate

The court should consider ordering forfeiture or disposal of any firearm or ammunition and the cancellation of any firearms certificate. Section 52 Firearms Act 1968 provides for the forfeiture and disposal of firearms and the cancellation of firearms and shotgun certificates where a person is convicted of one or more offence under the Firearms Act 1968 (other than an offence relating to an air weapon) and is given a custodial sentence or a community order containing a requirement not to possess, use or carry a firearm. The court may order the forfeiture or disposal of air weapons under paragraphs 7 and 8 Part II to Schedule Six Firearms Act 1968.

Serious Crime Prevention Order

The court may consider the criteria in section 19 of the Serious Crime Act 2007 for the imposition of a Serious Crime Prevention Order.

STEP NINE

Reasons

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

STEP TEN

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

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Annex D

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

Guideline group	Legislation	Section	Offence	Number of adult offenders sentenced										
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Group 5 (Maximum: Life)	Firearms Act 1968	16	Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so	47	63	53	48	69	64	70	44	54	53	77
Group 6 (Maximum: 10 years)	Firearms Act 1968	16A	Possess a firearm with intent to cause fear of violence ¹	-	-	-	-	101	81	82	74	77	98	74
			Possess an imitation firearm with intent to cause fear of violence ¹	-	-	-	-	146	139	138	145	162	180	187
			TOTAL SECTION 16A OFFENCES	299	327	257	274	250	230	221	221	241	280	261
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
			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
			TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES	96	81	73	50	52	34	33	38	24	31	33

Source: Court Proceedings Database, Ministry of Justice

Note

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

Table 2: Sentence outcomes for adult offenders sentenced for offences under the Firearms Act 1968, 2017

Guideline group	Section	Offence	Absolute Discharge	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with ¹	Total
Group 5 (Maximum: 16)	16	Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so	0	0	0	0	0	72	5	77
Group 6 (Maximum: 16A 10 years)	16A	Possess a firearm with intent to cause fear of violence	0	0	0	1	12	59	2	74
		Possess an imitation firearm with intent to cause fear of violence	0	1	0	8	49	125	4	187
		TOTAL SECTION 16A OFFENCES	0	1	0	9	61	184	6	261
Group 7 (Maximum: 17(1), 17(2), 18(1) 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	0	0	4	1	5
		Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence	0	0	0	1	2	24	0	27
		TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES	0	0	0	1	2	29	1	33

Source: Court Proceedings Database, Ministry of Justice

Guideline group	Section	Offence	Absolute Discharge	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with ¹	Total
Group 5 (Maximum: 16)	16	Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so	0%	0%	0%	0%	0%	94%	6%	100%
Group 6 (Maximum: 16A 10 years)	16A	Possess a firearm with intent to cause fear of violence	0%	0%	0%	1%	16%	80%	3%	100%
		Possess an imitation firearm with intent to cause fear of violence	0%	1%	0%	4%	26%	67%	2%	100%
		TOTAL SECTION 16A OFFENCES	0%	<0.5%	0%	3%	23%	70%	2%	100%
Group 7 (Maximum: 17(1), 17(2), 18(1) 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%	0%	0%	80%	20%	100%
		Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence	0%	0%	0%	4%	7%	89%	0%	100%
		TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES	0%	0%	0%	3%	6%	88%	3%	100%

Source: Court Proceedings Database, Ministry of Justice

Note

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

Table 3: Estimated average custodial sentence lengths (pre guilty plea) for adult offenders sentenced to immediate custody, and sentence ranges for offences under the Firearms Act 1968, 2017

Guideline group	Section	Offence	Mean sentence length ^{1,3}	Median sentence length ^{2,3}	Sentence range (using estimated pre GP sentence lengths)
Group 5 (Maximum: Life)	16	Possess a firearm/ ammunition/ shotgun/ air weapon with intent to endanger life / enable another to do so	12 years 5 months	12 years	1 year 8 months - 27 years' custody (and indeterminate)
Group 6 (Maximum: 10 years)	16A	Possess a firearm with intent to cause fear of violence	4 years 10 months	5 years	CO - 10 years' custody
		Possess an imitation firearm with intent to cause fear of violence	2 years 8 months	2 years 3 months	Discharge - 9 years 9 months' custody
		TOTAL SECTION 16A OFFENCES	3 years 4 months	2 years 6 months	Discharge - 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 ⁴	13 years 11 months	12 years	7 years 6 months - 24 years' custody
		Possess an imitation firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence	5 years 11 months	6 years	CO - 12 years' custody
		TOTAL SECTION 17(1), 17(2), 18(1) OFFENCES	7 years 4 months	7 years	CO - 24 years' custody

Source: Court Proceedings Database, Ministry of Justice

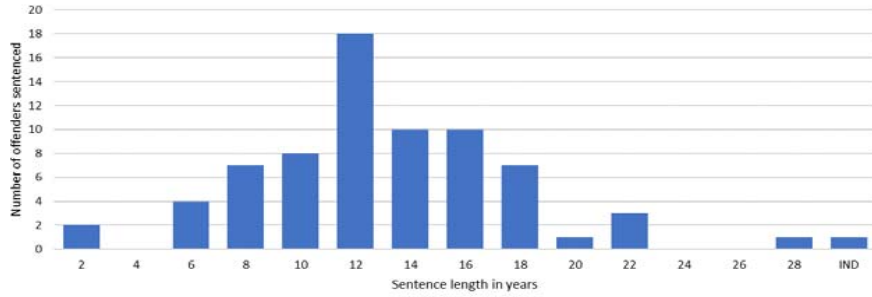
Notes

- 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 involving a firearm.

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

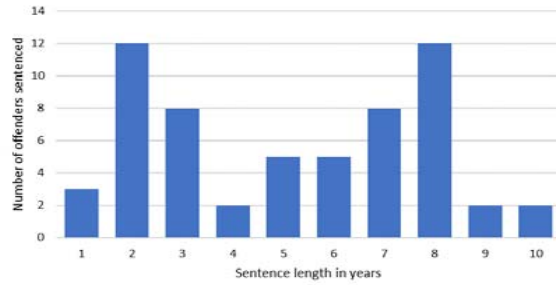
Group 5 (Maximum: Life)

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

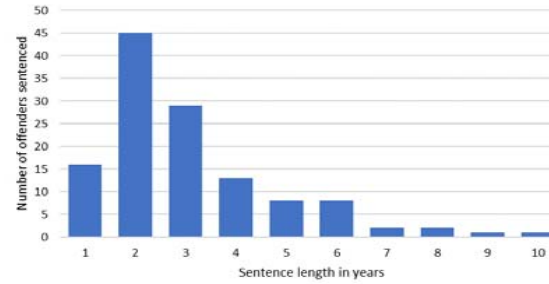


Group 6 (Maximum: 10 years)

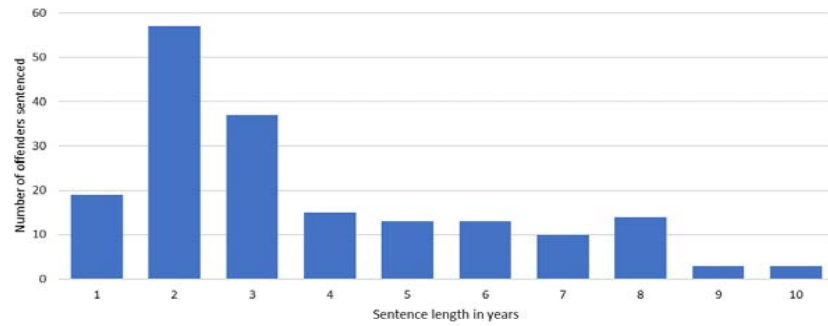
Section 16A - Possess a firearm with intent to cause fear of violence



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

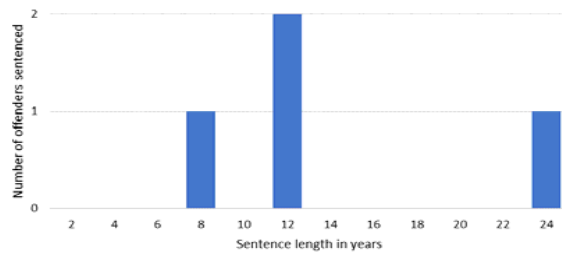


Section 16A (total) - Possess a firearm/ imitation firearm with intent to cause fear of violence

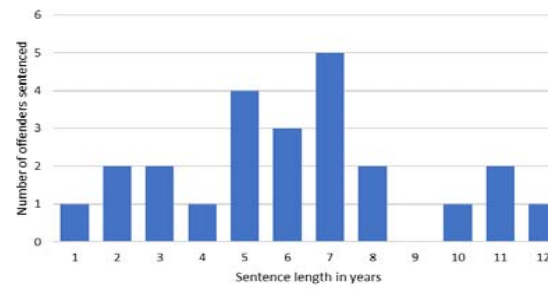


Group 7 (Maximum: Life)

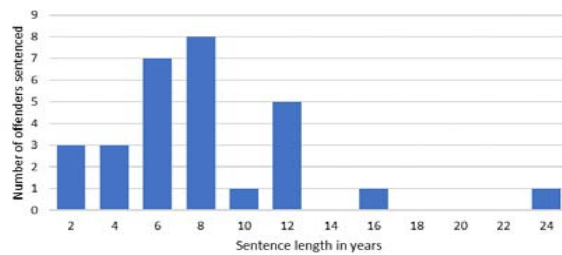
Sections 17(1), 17(2), 18(1) - Possess a firearm with intent to resist arrest/ commit a Schedule 1 offence/ commit an indictable offence



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



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



Source: Court Proceedings Database, Ministry of Justice

Note

Sentence length intervals include the upper bound sentence length. For example, the category '2' includes sentence lengths less than and equal to 2 years, and '4' includes sentence lengths over 2 years, and up to and including 4 years.

Table 4: Distribution of estimated custodial sentence lengths for adult offenders sentenced to immediate custody for offences under the Firearms Act 1968, before any reduction for guilty plea, 2017**Group 5 (Maximum: Life)**

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

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

Group 6 (Maximum: 10 years)

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

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

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

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

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

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

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

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

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

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

Source: Court Proceedings Database, Ministry of Justice

Note

Sentence length intervals include the upper bound sentence length. For example, the category '2' includes sentence lengths less than and equal to 2 years, and '4' includes sentence lengths over 2 years, and up to and including 4 years.

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