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Misuse of Drugs Act Guidelines

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

Misuse of Drugs Act 1971 (section 3)

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

Triable either way unless the defendant could receive the minimum sentence of seven years for a third drug trafficking offence under section 110 Powers of Criminal Courts (Sentencing) Act 2000 in which case the offence is triable only on indictment.

Class A

Maximum: Life imprisonment

Offence range: Band A fine – 16 years' custody

Class B

Maximum: 14 years' custody and/ or unlimited fine

Offence range: Discharge – 10 years' custody

Class C

Maximum: 14 years' custody and/ or unlimited fine

Offence range: Discharge – 8 years' custody

This offence is subject to statutory minimum sentencing provisions.

See **STEP THREE** for further details.

STEP ONE

Determine the offence category

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

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

Culpability demonstrated by the offender's role

One or more of these characteristics may demonstrate the offender's role. These lists are not exhaustive.

Leading role:

- Directing or organising buying and selling on a commercial scale
- Substantial links to, and influence on, others in a chain
- Close links to original source
- Expectation of substantial financial or other advantage
- Uses business as cover
- Abuses a position of trust or responsibility

Significant role:

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

Lesser role:

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

Harm

In assessing harm, quantity is determined by the weight of the product.

Category of harm

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

Category 1	<ul style="list-style-type: none"> • Heroin, cocaine – 5kg • Ecstasy – 7,000 tablets* • MDMA – 5kg • LSD – 250,000 squares • Amphetamine – 20kg • Cannabis – 200kg • Ketamine – 5kg • Synthetic cannabinoid receptor agonists (for example ‘spice’) –very large quantity indicative of an industrial scale operation
Category 2	<ul style="list-style-type: none"> • Heroin, cocaine – 1kg • Ecstasy – 1,300 tablets* • MDMA – 1kg • LSD – 25,000 squares • Amphetamine – 4kg • Cannabis – 40kg • Ketamine – 1kg • Synthetic cannabinoid receptor agonists (for example ‘spice’) – large quantity indicative of a commercial operation
Category 3	<ul style="list-style-type: none"> • Heroin, cocaine – 150g • Ecstasy –200_tablets* • MDMA – 150g • LSD – 2,500 squares • Amphetamine – 750g • Cannabis – 6kg • Ketamine – 150g • Synthetic cannabinoid receptor agonists (for example ‘spice’) – smaller quantity between categories 2 and 4
Category 4	<ul style="list-style-type: none"> • Heroin, cocaine – 5g • Ecstasy – 13 tablets* • MDMA – 5g • LSD – 170 squares • Amphetamine – 20g • Cannabis – 100g

	<ul style="list-style-type: none"> • Ketamine – 5g • Synthetic cannabinoid receptor agonists (for example ‘spice’) – very small quantity
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*Ecstasy tablet quantities based on a typical quantity of 150mg MDMA per tablet¹

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. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.</p> <p>Where the operation is on the most serious and commercial scale, involving a quantity of drugs significantly higher than category 1, sentences of 20 years and above may be appropriate, depending on the offender’s role.</p> <p>Where the defendant is dependent on or has a propensity to misuse drugs and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under section 209 of the Criminal Justice Act 2003 can be a proper alternative to a short or moderate length custodial sentence.</p>			
CLASS A	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 14 years’ custody Category range 12 – 16 years’ custody	Starting point 10 years’ custody Category range 9 – 12 years’ custody	Starting point 8 years’ custody Category range 6 – 9 years’ custody
Category 2	Starting point 11 years’ custody Category range 9 – 13 years’ custody	Starting point 8 years’ custody Category range 6 years 6 months’ – 10 years’ custody	Starting point 6 years’ custody Category range 5 – 7 years’ custody
Category 3	Starting point 8 years 6 months’ custody Category range 6 years 6 months’ – 10 years’ custody	Starting point 6 years’ custody Category range 5 – 7 years’ custody	Starting point 3 years’ custody Category range 18 months’ – 5 years’ custody
Category 4	Starting point 5 years’ custody Category range 4 years 6 months’ – 7 years 6 months’ custody	Starting point 3 years’ custody Category range 18 months’ – 5 years’ custody	Starting point Low level community order Category range Band A fine – 18 months’ custody

¹ NB. In the earlier guidelines, published in 2012, ecstasy tablet quantities were based on a typical quantity of 100mg MDMA per tablet

CLASS B	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 8 years' custody Category range 7 – 10 years' custody	Starting point 5 years 6 months' custody Category range 5 – 7 years' custody	Starting point 4 years' custody Category range 2 years 6 months' – 5 years' custody
Category 2	Starting point 6 years' custody Category range 4 years 6 months' – 8 years' custody	Starting point 4 years' custody Category range 2 years 6 months' – 5 years' custody	Starting point 2 years' custody Category range 18 months' – 3 years' custody
Category 3	Starting point 4 years' custody Category range 2 years 6 months' – 5 years' custody	Starting point 2 years' custody Category range 18 months' – 3 years' custody	Starting point 9 months' custody Category range 12 weeks' – 18 months' custody
Category 4	Starting point 18 months' custody Category range 26 weeks' – 3 years' custody	Starting point High level community order Category range Medium level community order – 9 months' custody	Starting point Band C fine Category range Discharge – 26 weeks' custody

CLASS C	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 5 years' custody Category range 4 - 8 years' custody	Starting point 3 years' custody Category range 2 – 5 years' custody	Starting point 18 months' custody Category range 1 – 3 years' custody
Category 2	Starting point 3 years 6 months' custody Category range 2 - 5 years' custody	Starting point 18 months' custody Category range 1 – 3 years' custody	Starting point 26 weeks' custody Category range 12 weeks' – 18 months' custody
Category 3	Starting point 18 months' custody Category range 1 – 3 years' custody	Starting point 26 weeks' custody Category range 12 weeks' – 18 months' custody	Starting point High level community order Category range Medium level community order - 26 weeks' custody
Category 4	Starting point 9 months' custody Category range High level community order – 2 years' custody	Starting point High level community order Category range Medium level community order – 12 weeks' custody	Starting point Band B fine Category range Discharge – high 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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) nature of the offence to which condition relates and relevance to current offence; and b) time elapsed since conviction
- Offender used or permitted a person under 18 to deliver a controlled drug to a third person
- Offence committed on bail

Other aggravating factors:

- Exploitation of children and/or vulnerable persons to assist in drug-related activity
- Involving an innocent agent in the commission of the offence
- Exposure of drug user to the risk of serious harm over and above that expected by the user, for example, through the method of production or subsequent adulteration of the drug
- Exposure of those involved in drug dealing to the risk of serious harm, for example through method of transporting drugs
- Exposure of third parties to the risk of serious harm, for example, through the location of the drug-related activity
- Use of sophisticated methods or technologies in order to avoid or impede detection
- Presence of weapons, where not charged separately
- Use of violence (where not charged as separate offence or taken into account at step one)
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

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

STEP THREE **Minimum Terms**

For class A cases, section 110 of the Powers of Criminal Courts (Sentencing) Act 2000 provides that a court should impose an appropriate custodial sentence of at least seven years for a third class **A** trafficking offence except where the court is of the opinion that there are particular circumstances which (a) relate to any of the offences or to the offender; and (b) would make it unjust to do so in all the circumstances.

Unjust in all of the circumstances

In considering whether a statutory minimum sentence would be 'unjust in all of the circumstances' the court must have regard to the particular circumstances of the offence and the offender. If the circumstances of the offence, the previous offences or the offender make it unjust to impose the statutory minimum sentence then the court **must impose either a shorter custodial sentence than the statutory minimum provides or an alternative sentence.**

The offence

Having reached this stage of the guideline the court should have made a provisional assessment of the seriousness of the current offence. In addition, the court must consider the seriousness of the previous offences and the period of time that has elapsed between offences. Where the seriousness of the combined offences is such that it falls below the custody threshold, or where there has been a significant period of time between the offences, the court may consider it unjust to impose the statutory minimum sentence.

The offender

The court should consider the following factors to determine whether it would be unjust to impose the statutory minimum sentence;

- any strong personal mitigation;
- whether there is a realistic prospect of rehabilitation;
- whether custody will result in significant impact on others.

STEP FOUR

Consider any factors which indicate a reduction, such as 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 potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the guideline for Reduction in Sentence for a Guilty Plea (where first hearing is on or after 1 June 2017, or first hearing before 1 June 2017).

In circumstances where an appropriate custodial sentence of 7 years falls to be imposed under section 110 of the Powers of Criminal Courts (Sentencing) Act 2000 (third Class A drug trafficking offences), the court may impose any sentence in accordance with this guideline which is not less than **80 per cent** of the **appropriate** custodial period.

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 offending behaviour. See Totality guideline.

STEP SEVEN

Confiscation and ancillary orders

In all cases, the court is required to consider confiscation where the Crown invokes the process or where the court considers it appropriate. It should also consider whether to make ancillary orders.

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.

Supplying or offering to supply a controlled drug

Misuse of Drugs Act 1971 (section 4(3))

Possession of a controlled drug with intent to supply it to another

Misuse of Drugs Act 1971 (section 5(3))

Triable either way unless the defendant could receive the minimum sentence of seven years for a third drug trafficking offence under section 110 Powers of Criminal Courts (Sentencing) Act 2000 in which case the offence is triable only on indictment.

Class A

Maximum: Life imprisonment

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

Class B

Maximum: 14 years' custody and/ or unlimited fine

Offence range: Band B fine – 10 years' custody

Class C

Maximum: 14 years' custody and/ or unlimited fine

Offence range: Band A – 8 years' custody

This offence is subject to statutory minimum sentencing provisions.

See **STEP THREE** for further details.

STEP ONE

Determine the offence category

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

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

Culpability demonstrated by the offender's role

One or more of these characteristics may demonstrated the offender's role. These lists are not exhaustive.

Leading role:

- Directing or organising buying and selling on a commercial scale
- Substantial links to, and influence on, others in a chain
- Close links to original source
- Expectation of substantial financial or other advantage
- Uses business as cover
- Abuses a position of trust or responsibility

Significant role:

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

Lesser role:

- Performs a limited function under direction
- Engaged by pressure, coercion, intimidation, grooming and/ or control
- Involvement through naivety, immaturity or exploitation
- No influence on those above in a chain
- Very little, if any, awareness or understanding of the scale of operation
- Expectation of limited, if any, financial or other advantage (including meeting the offender's own habit)

Harm

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

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

Category 1	<ul style="list-style-type: none"> • Heroin, cocaine – 5kg • Ecstasy – 7,000 tablets* • MDMA – 5kg • LSD – 250,000 squares • Amphetamine – 20kg • Cannabis – 200kg • Ketamine – 5kg • Synthetic cannabinoid receptor agonists (for example ‘spice’) – very large quantity indicative of an industrial scale operation
Category 2	<ul style="list-style-type: none"> • Heroin, cocaine – 1kg • Ecstasy – 1,300 tablets* • MDMA – 1kg • LSD – 25,000 squares • Amphetamine – 4kg • Cannabis – 40kg • Ketamine – 1kg • Synthetic cannabinoid receptor agonists (for example ‘spice’) – large quantity indicative of a commercial operation
Category 3	<p>Selling directly to users</p> <p>OR</p> <p>Supply of drugs in a custodial institution</p> <p>OR</p> <ul style="list-style-type: none"> • Heroin, cocaine – 150g • Ecstasy – 200 tablets* • MDMA – 150g • LSD – 2,500 squares • Amphetamine – 750g • Cannabis – 6kg • Ketamine – 150g • Synthetic cannabinoid receptor agonists (for example ‘spice’) – smaller quantity between categories 2 and 4

Category 4	<ul style="list-style-type: none"> • Heroin, cocaine – 5g • Ecstasy – 13 tablets* • MDMA – 5g • LSD – 170 squares • Amphetamine – 20g • Cannabis – 100g • Ketamine – 5g • Synthetic cannabinoid receptor agonists (for example ‘spice’) – very small quantity <p>Note – where the offence is selling directly to users or supply in a custodial institution the starting point is not based on quantity – go to category 3</p>
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*Ecstasy tablet quantities based on a typical quantity of 150mg MDMA per tablet²

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. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.

Sentencers should be aware that there is evidence of a disparity in sentence outcomes for this offence which indicates that a higher proportion of Black and Asian offenders receive an immediate custodial sentence than White offenders and that for Asian offenders custodial sentence lengths have on average been longer than for White offenders.

There may be many reasons for these differences, but in order to apply the guidelines fairly sentencers may find useful information and guidance at Chapter 8 paragraphs 123 to 129 of the [Equal Treatment Bench Book](#).

CLASS A	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1*	Starting point 14 years' custody Category range 12 – 16 years' custody	Starting point 10 years' custody Category range 9 – 12 years' custody	Starting point 7 years' custody Category range 6 – 9 years' custody
Category 2	Starting point 11 years' custody Category range 9 – 13 years' custody	Starting point 8 years' custody Category range 6 years 6 months' – 10 years' custody	Starting point 5 years' custody Category range 3 years 6 months' – 7 years' custody
Category 3	Starting point	Starting point	Starting point

² NB. In the earlier guidelines, published in 2012, ecstasy tablet quantities were based on a typical quantity of 100mg MDMA per tablet

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

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

CLASS B	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 8 years' custody Category range 7 – 10 years' custody	Starting point 5 years 6 months' custody Category range 5 – 7 years' custody	Starting point 3 years' custody Category range 2 years 6 months' – 5 years' custody
Category 2	Starting point 6 years' custody Category range 4 years 6 months' – 8 years' custody	Starting point 4 years' custody Category range 2 years 6 months' – 5 years' custody	Starting point 1 year's custody Category range 26 weeks' – 3 years' custody
Category 3	Starting point 4 years' custody Category range 2 years 6 months' – 5 years' custody	Starting point 1 year's custody Category range 26 weeks' – 3 years' custody	Starting point High level community order Category range Low level community order – 26 weeks' custody
Category 4	Starting point 18 months' custody Category range 26 weeks' – 3 years' custody	Starting point High level community order Category range Medium level community order – 26 weeks' custody	Starting point Low level community order Category range Band B fine – medium level community order

CLASS C	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 5 years' custody Category range 4 – 8 years' custody	Starting point 3 years' custody Category range 2 – 5 years' custody	Starting point 18 months' custody Category range 1 – 3 years' custody
Category 2	Starting point 3 years 6 months' custody Category range 2 – 5 years' custody	Starting point 18 months' custody Category range 1 – 3 years' custody	Starting point 26 weeks' custody Category range 12 weeks' – 18 months' custody
Category 3	Starting point 18 months' custody Category range 1 – 3 years' custody	Starting point 26 weeks' custody Category range 12 weeks' – 18 months' custody	Starting point High level community order Category range Low level community order – 12 weeks' custody
Category 4	Starting point 26 weeks' custody Category range High level community order – 18 months' custody	Starting point High level community order Category range Low level community order – 12 weeks' custody	Starting point Low level community order Category range Band A fine – medium 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 and upward or downward adjustment from the starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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

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

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

Factors increasing seriousness

Statutory aggravating factors:

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

- Offence committed on bail

Other aggravating factors include:

- Exploitation of children and/or vulnerable persons to assist in drug-related activity
- Exercising control over the home of another person for drug-related activity
- Involving an innocent agent in the commission of the offence
- Offender was supplying or involved in the supply of drugs into prison
- Targeting of any premises where children or other vulnerable persons are likely to be present
- Exposure of drug user to the risk of serious harm over and above that expected by the user, for example, through the method of production or subsequent adulteration of the drug
- Exposure of those involved in drug dealing to the risk of serious harm, for example through method of transporting drugs
- Exposure of third parties to the risk of serious harm, for example, through the location of the drug-related activity
- Attempts to conceal or dispose of evidence, where not charged separately
- Presence of others, especially children and/or non-users
- Presence of weapons, where not charged separately
- Use of violence (where not charged as separate offence or taken into account at step one)
- Failure to comply with current court orders
- Offending took place in prison (unless already taken into consideration at step 1)
- Offence committed on licence or post sentence supervision
- Established evidence of community impact
- Use of sophisticated methods or technologies in order to avoid or impede detection

Factors reducing seriousness or reflecting personal mitigation

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

STEP THREE

Minimum Terms

For class A cases, section 110 of the Powers of Criminal Courts (Sentencing) Act 2000 provides that a court should impose an appropriate custodial sentence of at least seven years for a third class **A** trafficking offence except where the court is of the opinion that there are particular

circumstances which (a) relate to any of the offences or to the offender; and (b) would make it unjust to do so in all the circumstances.

Unjust in all of the circumstances

In considering whether a statutory minimum sentence would be 'unjust in all of the circumstances' the court must have regard to the particular circumstances of the offence and the offender. If the circumstances of the offence, the previous offences or the offender make it unjust to impose the statutory minimum sentence then the court **must impose either a shorter custodial sentence than the statutory minimum provides or an alternative sentence.**

The offence

Having reached this stage of the guideline the court should have made a provisional assessment of the seriousness of the current offence. In addition, the court must consider the seriousness of the previous offences and the period of time that has elapsed between offences. Where the seriousness of the combined offences is such that it falls below the custody threshold, or where there has been a significant period of time between the offences, the court may consider it unjust to impose the statutory minimum sentence.

The offender

The court should consider the following factors to determine whether it would be unjust to impose the statutory minimum sentence;

- any strong personal mitigation;
- whether there is a realistic prospect of rehabilitation;
- whether custody will result in significant impact on others.

STEP FOUR

Consider any factors which indicate a reduction, such as 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 potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the guideline for Reduction in Sentence for a Guilty Plea (where first hearing is [on or after 1 June 2017](#), or first hearing [before 1 June 2017](#)).

In circumstances where an appropriate custodial sentence of 7 years falls to be imposed under section 110 of the Powers of Criminal Courts (Sentencing) Act 2000 (third Class A drug trafficking offences), the court may impose any sentence in accordance with this guideline which is not less than **80 per cent** of the **appropriate** custodial period.

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 offending behaviour. See [Totality](#) guideline.

STEP SEVEN

Confiscation and ancillary orders

In all cases, the court is required to consider confiscation where the Crown invokes the process or where the court considers it appropriate. It should also consider whether to make ancillary orders.

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.

Production of a controlled drug

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

Cultivation of cannabis plant

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

Triable either way unless the defendant could receive the minimum sentence of seven years for a third drug trafficking offence under section 110 Powers of Criminal Courts (Sentencing) Act 2000 in which case the offence is triable only on indictment.

Production of a controlled drug

Class A

Maximum: Life imprisonment

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

Class B

Maximum: 14 years' custody and/ or unlimited fine

Offence range: Band B fine – 10 years' custody

Class C

Maximum: 14 years' custody and/ or unlimited fine

Offence range: Discharge – 8 years' custody

Cultivation of cannabis plant

Maximum: 14 years' custody

Offence range: Band A fine – 8 years' custody

This offence is subject to statutory minimum sentencing provisions.

See **STEP THREE** for further details.

STEP ONE

Determine the offence category

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

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

Culpability demonstrated by the offender's role

One or more of these characteristics may demonstrate the offender's role. These lists are not exhaustive.

Leading role:

- Directing or organising production/cultivation on a commercial scale
- Substantial links to, and influence on, others in a chain
- Close links to original source
- Expectation of substantial financial or other advantage
- Uses business as cover
- Abuses a position of trust or responsibility

Significant role:

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

Lesser role:

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

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

Harm

In assessing harm, output or potential output are determined by the weight of the product or number of plants/scale of operation.

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

Category 1	<ul style="list-style-type: none"> • Heroin, cocaine – 5kg • Ecstasy –7,000 tablets* • MDMA – 5kg • LSD – 250,000 squares • Amphetamine – 20kg • Cannabis – operation capable of producing industrial quantities for commercial use • Ketamine – 5kg • Synthetic cannabinoid receptor agonists (for example 'spice') – very large quantity indicative of an industrial scale operation
Category 2	<ul style="list-style-type: none"> • Heroin, cocaine – 1kg • Ecstasy – 1,300 tablets* • MDMA – 1kg • LSD – 25,000 squares • Amphetamine – 4kg • Cannabis – operation capable of producing significant quantities for commercial use • Ketamine – 1kg • Synthetic cannabinoid receptor agonists (for example 'spice') – large quantity indicative of a commercial operation
Category 3	<ul style="list-style-type: none"> • Heroin, cocaine – 150g • Ecstasy –200 tablets (see note below) • MDMA – 150g • LSD – 2,500 squares • Amphetamine – 750g • Cannabis – 20 plants** • Ketamine – 150g • Synthetic cannabinoid receptor agonists (for example 'spice') – smaller quantity between categories 2 and 4

Category 4	<ul style="list-style-type: none"> • Heroin, cocaine – 5g • Ecstasy – 13 tablets* • MDMA – 5g • LSD – 170 squares • Amphetamine – 20g • Cannabis – 7 plants** • Ketamine – 5g • Synthetic cannabinoid receptor agonists (for example ‘spice’) – very small quantity
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*Ecstasy tablet quantities based on a typical quantity of 150mg MDMA per tablet³

**with an assumed yield of 55g per plant

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. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.</p> <p>Where the operation is on the most serious and commercial scale, involving a quantity of drugs significantly higher than category 1, sentences of 20 years and above may be appropriate, depending on the offender’s role.</p>			
CLASS A	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 14 years’ custody Category range 12 – 16 years’ custody	Starting point 10 years’ custody Category range 9 – 12 years’ custody	Starting point 7 years’ custody Category range 6 – 9 years’ custody
Category 2	Starting point 11 years’ custody Category range 9 – 13 years’ custody	Starting point 8 years’ custody Category range 6 years 6 months’ – 10 years’ custody	Starting point 5 years’ custody Category range 3 years 6 months’ – 7 years’ custody
Category 3	Starting point 8 years 6 months’ custody Category range 6 years 6 months’ – 10 years’ custody	Starting point 4 years 6 months’ custody Category range 3 years 6 months’ – 7 years’ custody	Starting point 3 years’ custody Category range 2 – 4 years 6 months’ custody
Category 4	Starting point	Starting point	Starting point 18 months’ custody

³ NB. In the earlier guidelines, published in 2012, ecstasy tablet quantities were based on a typical quantity of 100mg MDMA per tablet

	5 years 6 months' custody Category range 4 years 6 months' – 7 years 6 months' custody	3 years 6 months' custody Category range 2 – 5 years' custody	Category range High level community order – 3 years' custody
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CLASS B	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 8 years' custody Category range 7 – 10 years' custody	Starting point 5 years 6 months' custody Category range 5 – 7 years' custody	Starting point 3 years' custody Category range 2 years 6 months' – 5 years' custody
Category 2	Starting point 6 years' custody Category range 4 years 6 months' – 8 years' custody	Starting point 4 years' custody Category range 2 years 6 months' – 5 years' custody	Starting point 1 year's custody Category range 26 weeks' – 3 years' custody
Category 3	Starting point 4 years' custody Category range 2 years 6 months' – 5 years' custody	Starting point 1 year's custody Category range 26 weeks' – 3 years' custody	Starting point High level community order Category range Low level community order – 26 weeks' custody
Category 4	Starting point 18 months' custody Category range 26 weeks' – 3 years' custody	Starting point High level community order Category range Medium level community order – 26 weeks' custody	Starting point Low level community order Category range Band B fine – medium level community order

CLASS C	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 5 years' custody Category range 4 – 8 years' custody	Starting point 3 years' custody Category range 2 – 5 years' custody	Starting point 18 months' custody Category range 1 – 3 years' custody
Category 2	Starting point 3 years 6 months' custody Category range 2 – 5 years' custody	Starting point 18 months' custody Category range 1 – 3 years' custody	Starting point 26 weeks' custody Category range 12 weeks' – 18 months' custody
Category 3	Starting point 18 months' custody Category range 1 – 3 years' custody	Starting point 26 weeks' custody Category range 12 weeks' – 18 months' custody	Starting point High level community order Category range Low level community order – 12 weeks' custody
Category 4	Starting point 26 weeks' custody Category range High level community order – 18 months' custody	Starting point High level community order Category range Low level community order – 12 weeks' custody	Starting point Low level community order Category range Band A fine – medium 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 and upward or downward adjustment from the starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Factors increasing seriousness

Statutory aggravating factors:

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

Other aggravating factors include:

- Exploitation of children and/or vulnerable persons to assist in drug-related activity
- Exercising control over the home of another person for drug-related activity
- Nature of any likely supply
- Level of any profit element
- Use of premises accompanied by unlawful access to electricity/other utility supply of others, where not charged separately
- Ongoing/large scale operation as evidenced by presence and nature of specialist equipment
- Exposure of drug user to the risk of serious harm over and above that expected by the user, for example, through the method of production or subsequent adulteration of the drug

- Exposure of those involved in drug production/cultivation to the risk of serious harm, for example through method of production/cultivation
- Exposure of third parties to the risk of serious harm, for example, through the location of the drug-related activity
- Attempts to conceal or dispose of evidence, where not charged separately
- Presence of others, especially children and/or non-users
- Presence of weapons, where not charged separately
- Use of violence (where not charged as separate offence or taken into account at step one)
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Offending took place in prison (unless already taken into consideration at step 1)
- Established evidence of community impact
- Use of sophisticated methods or technologies in order to avoid or impede detection

Factors reducing seriousness or reflecting personal mitigation

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

STEP THREE

Minimum Terms

For class A cases, section 110 of the Powers of Criminal Courts (Sentencing) Act 2000 provides that a court should impose an appropriate custodial sentence of at least seven years for a third class **A** trafficking offence except where the court is of the opinion that there are particular circumstances which (a) relate to any of the offences or to the offender; and (b) would make it unjust to do so in all the circumstances.

Unjust in all of the circumstances

In considering whether a statutory minimum sentence would be 'unjust in all of the circumstances' the court must have regard to the particular circumstances of the offence and the offender. If the circumstances of the offence, the previous offences or the offender make it unjust to impose the statutory minimum sentence then the court **must impose either a shorter custodial sentence than the statutory minimum provides or an alternative sentence.**

The offence

Having reached this stage of the guideline the court should have made a provisional assessment of the seriousness of the current offence. In addition, the court must consider the seriousness of the previous offences and the period of time that has elapsed between

offences. Where the seriousness of the combined offences is such that it falls below the custody threshold, or where there has been a significant period of time between the offences, the court may consider it unjust to impose the statutory minimum sentence.

The offender

The court should consider the following factors to determine whether it would be unjust to impose the statutory minimum sentence;

- any strong personal mitigation;
- whether there is a realistic prospect of rehabilitation;
- whether custody will result in significant impact on others.

STEP FOUR

Consider any factors which indicate a reduction, such as 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 potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the guideline for Reduction in Sentence for a Guilty Plea (where first hearing is [on or after 1 June 2017](#), or first hearing [before 1 June 2017](#)).

In circumstances where an appropriate custodial sentence of 7 years falls to be imposed under section 110 of the Powers of Criminal Courts (Sentencing) Act 2000 (third Class A drug trafficking offences), the court may impose any sentence in accordance with this guideline which is not less than **80 per cent** of the **appropriate** custodial period.

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 offending behaviour. See [Totality](#) guideline.

STEP SEVEN

Confiscation and ancillary orders

In all cases, the court is required to consider confiscation where the Crown invokes the process or where the court considers it appropriate. It should also consider whether to make ancillary orders.

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.

Permitting premises to be used

Misuse of Drugs Act 1971 (section 8)

Triable either way unless the defendant could receive the minimum sentence of seven years for a third drug trafficking offence under section 110 Powers of Criminal Courts (Sentencing) Act 2000 in which case the offence is triable only on indictment.

Class A

Maximum: 14 years' custody

Offence range: Low level community order – 4 years' custody

Class B

Maximum: 14 years' custody

Offence range: Band A fine – 18 months' custody

Class C

Maximum: 14 years' custody

Offence range: Discharge – 26 weeks' custody

This offence is subject to statutory minimum sentencing provisions.

See STEP 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

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.

A - Higher culpability:

- Participates in the exploitation of a child or vulnerable person including one who is also involved in the drugs operation
- Permits premises to be used primarily for drug activity
- Permits use in expectation of substantial financial gain
- Uses legitimate business premises to aid and/or conceal illegal activity

B – Lower culpability

- Permits use for limited or no financial gain
- No active role in drug activity taking place
- Involved due to intimidation or coercion
- Offender's vulnerability has been exploited

Harm

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 caused or likely to be caused

Category 1

- Regular drug-related activity and/or premises used for drug activity over a long period
- Higher quantity of drugs (substantially higher than the quantities given for Category 2)

Category 2

- Infrequent drug-related activity and/or premises used for drug activity over a short period
- Lower quantity of drugs

[Drop-down box] Indicative quantities

	<ul style="list-style-type: none"> • Heroin, cocaine – 5g • Ecstasy – 13 tablets • MDMA – 5g • LSD – 170 squares • Amphetamine – 20g • Cannabis – 100g • Ketamine – 5g • Synthetic cannabinoid receptor agonists (for example 'spice') – very small quantity
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STEP TWO**Starting point and category range**

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

CLASS A	CULPABILITY	
	A	B
HARM 1	<p>Starting point 2 years 6 months' custody</p> <p>Category range 18 months' – 4 years' custody</p>	<p>Starting point 36 weeks' custody</p> <p>Category range High level community order - 18 months' custody</p>
HARM 2	<p>Starting point 36 weeks' custody</p> <p>Category range High level community order - 18 months' custody</p>	<p>Starting point Medium level community order</p> <p>Category range Low level community order - High level community order</p>

CLASS B	CULPABILITY	
	A	B
HARM 1	<p>Starting point 1 year's custody</p> <p>Category range 26 weeks' – 18 months' custody</p>	<p>Starting point High level community order</p> <p>Category range Low level community order - 26 weeks' custody</p>
HARM 2	<p>Starting point High level community order</p>	<p>Starting point Band C fine</p>

	Category range Low level community order - 26 weeks' custody	Category range Band A fine - low level community order
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CLASS C	CULPABILITY	
	A	B
HARM 1	Starting point 12 weeks' custody Category range High level community order – 26 weeks' custody*	Starting point Low level community order Category range Band C fine - high level community order
HARM 2	Starting point Low level community order Category range Band C fine - high level community order	Starting point Band A fine Category range Discharge - low level community order

*When tried summarily, the maximum penalty is 12 weeks' custody.

Where the defendant is dependent on or has a propensity to misuse drugs and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under section 209 of the Criminal Justice Act 2003 can be a proper alternative to a short or moderate length custodial sentence.

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

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics of the victim: disability, sexual orientation or gender identity

Other aggravating factors:

- Premises adapted to facilitate drug activity
- Location of premises, for example proximity to school

- Attempts to conceal or dispose of evidence, where not charged separately
- Presence of others, especially children and/or non-users
- Presence of weapons, where not charged separately
- Failure to comply with current court orders
- Other offences taken into consideration (TICs)
- Offence committed whilst on licence or subject to post sentence supervision
- Established evidence of community impact

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Involved due to naivety
- Isolated incident
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability, where not linked to the commission of the offence
- Sole or primary carer for dependent relative(s)

STEP THREE

Minimum Terms

For class A cases, section 110 of the Powers of Criminal Courts (Sentencing) Act 2000 provides that a court should impose an appropriate custodial sentence of at least seven years for a third class **A** trafficking offence except where the court is of the opinion that there are particular circumstances which (a) relate to any of the offences or to the offender; and (b) would make it unjust to do so in all the circumstances.

Unjust in all of the circumstances

In considering whether a statutory minimum sentence would be 'unjust in all of the circumstances' the court must have regard to the particular circumstances of the offence and the offender. If the circumstances of the offence, the previous offences or the offender make it unjust to impose the statutory minimum sentence then the court **must impose either a shorter custodial sentence than the statutory minimum provides or an alternative sentence.**

The offence

Having reached this stage of the guideline the court should have made a provisional assessment of the seriousness of the current offence. In addition, the court must consider the seriousness of the previous offences and the period of time that has elapsed between offences. Where the seriousness of the combined offences is such that it falls below the custody threshold, or where there has been a significant period of time between the offences, the court may consider it unjust to impose the statutory minimum sentence.

The offender

The court should consider the following factors to determine whether it would be unjust to impose the statutory minimum sentence;

- any strong personal mitigation;

- whether there is a realistic prospect of rehabilitation;
- whether custody will result in significant impact on others.

STEP FOUR

Consider any factors which indicate a reduction, such as 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 potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the guideline for Reduction in Sentence for a Guilty Plea (where first hearing is [on or after 1 June 2017](#), or first hearing [before 1 June 2017](#)).

In circumstances where an appropriate custodial sentence of 7 years falls to be imposed under section 110 of the Powers of Criminal Courts (Sentencing) Act 2000 (third Class A drug trafficking offences), the court may impose any sentence in accordance with this guideline which is not less than **80 per cent** of the **appropriate** custodial period.

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 offending behaviour. See [Totality](#) guideline.

STEP SEVEN

Confiscation and ancillary orders

In all cases, the court is required to consider confiscation where the Crown invokes the process or where the court considers it appropriate. It should also consider whether to make ancillary orders.

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.

Possession of a controlled drug

Misuse of Drugs Act 1971 (section 5(2))

Triable either way

Class A

Maximum: 7 years' custody

Offence range: Fine – 51 weeks' custody

Class B

Maximum: 5 years' custody

Offence range: Discharge – 26 weeks' custody

Class C

Maximum: 2 years' custody

Offence range: Discharge – Medium community order

STEP ONE
Determining the offence category

The court should identify the offence category based on the class of drug involved.

Category 1	Class A drug
Category 2	Class B drug
Category 3	Class C drug

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. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.

Sentencers should be aware that there is evidence of a disparity in sentence outcomes for this offence which indicates that for Black and Asian offenders custodial sentence lengths have on average been longer than for White offenders.

There may be many reasons for these differences, but in order to apply the guidelines fairly sentencers may find useful information and guidance at Chapter 8 paragraphs 123 to 129 of the [Equal Treatment Bench Book](#).

Offence category	Starting Point (applicable to all offenders)	Category Range (applicable to all offenders)
Category 1 (class A)	Band C fine	Band A fine – 51 weeks’ custody
Category 2 (class B)	Band B fine	Discharge – 26 weeks’ custody*
Category 3 (class C)	Band A fine	Discharge – medium level community order

*NB where dealt with in the magistrates’ court the maximum is 3 months

Where the defendant is dependent on or has a propensity to misuse drugs and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under section 209 of the Criminal Justice Act 2003 may be a proper alternative to a custodial sentence.

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

In particular, possession of drugs in prison is 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

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

Other aggravating factors

- Possession of drug in prison
- Presence of others, especially children and/or non-users
- Possession of drug in a school or licensed premises
- Large quantity*
- Failure to comply with current court orders
- Offence committed on licence
- Attempts to conceal or dispose of evidence, where not charged separately
- Established evidence of community impact

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant or recent convictions
- Remorse
- Good character and/or exemplary conduct
- Small quantity*
- Offender is using cannabis to help with a diagnosed medical condition
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Isolated incident
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

*The court should bear in mind that different types of drug have different levels of potency and therefore the relevance of high or low quantity will depend on the drug concerned.

STEP THREE

Consider any factors which indicate a reduction, such as assistance to the prosecution

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

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the guideline for Reduction in Sentence for a Guilty Plea (where first hearing is [on or after 1 June 2017](#), or first hearing [before 1 June 2017](#)).

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 offending behaviour. See [Totality](#) guideline.

STEP SIX

Ancillary orders

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

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.

Psychoactive Substance Guidelines

Importing or exporting a psychoactive substance

Psychoactive Substances Act 2016 (section 8)

Triable either way

Maximum: 7 years' custody

Offence range: Discharge – 6 years' custody

STEP ONE**Determine the offence category**

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

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

Culpability demonstrated by the offender's role

One or more of these characteristics may demonstrate the offender's role. These lists are not exhaustive.

Leading role:

- Directing or organising buying and selling on a commercial scale
- Substantial links to, and influence on, others in a chain
- Close links to original source
- Expectation of substantial financial or other advantage
- Uses business as cover
- Abuses a position of trust or responsibility

Significant role:

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

Lesser role:

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

Harm	
In assessing harm, the sentencer should consider the factors below. Where there are characteristics present which fall under different harm categories the court should balance these characteristics to reach a fair assessment of harm.	
Where evidence is available as to the potential effects of the substance and harm likely to be caused by those effects, the court should consider whether this affects the category of harm. Where the harm is very great, or very small, this may lead the court to move the starting point for the offence up or down within the category, or to place the offence in a higher or lower category than that indicated by the other factors listed.	
Category 1	<ul style="list-style-type: none"> • Large quantity indicative of commercial-scale operation
Category 2	<ul style="list-style-type: none"> • Quantity indicative of smaller-scale commercial operation
Category 3	<ul style="list-style-type: none"> • Very small quantity

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. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.

	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 4 years' custody Category range 3 – 6 years' custody	Starting point 2 years' custody Category range 12 months' – 3 years' 6 months' custody	Starting point 1 year's custody Category range 26 weeks' – 2 years' custody
Category 2	Starting point 2 years' custody Category range 12 months' – 3 years' 6 months' custody	Starting point 1 year's custody Category range 26 weeks' – 2 years' custody	Starting point High level community order Category range Low level community order – 26 weeks' custody
Category 3	Starting point 1 year's custody Category range 26 weeks' – 2 years' custody	Starting point High level community order Category range Low level community order – 26 weeks' custody	Starting point Band B fine Category range Discharge – high 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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Factors increasing seriousness

Statutory aggravating factors:

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

Other aggravating factors include:

- Exploitation of children and/or vulnerable persons to assist in the offending
- Involving an innocent agent in the commission of the offence
- Targeting of any premises where children or other vulnerable persons are likely to be present
- Exposure of psychoactive substance user to the risk of serious harm over and above that expected by the user, for example, through the method of production or subsequent adulteration of the **substance**
- Exposure of those involved in dealing in the psychoactive substance to the risk of serious harm, for example through method of transporting the substance
- Exposure of third parties to the risk of serious harm
- Attempts to conceal or dispose of evidence, where not charged separately
- Presence of weapons, where not charged separately
- Use of violence (where not charged as separate offence or taken into account at step one)
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Use of sophisticated methods or technologies in order to avoid or impede detection

Factors reducing seriousness or reflecting personal mitigation

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

STEP THREE

Consider any factors which indicate a reduction, such as assistance to the prosecution

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

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the guideline for Reduction in Sentence for a Guilty Plea (where first hearing is [on or after 1 June 2017](#), or first hearing [before 1 June 2017](#)).

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 offending behaviour. See [Totality](#) guideline.

STEP SIX

Confiscation and ancillary orders

In all cases, the court is required to consider confiscation where the Crown invokes the process or where the court considers it appropriate. It should also consider whether to make ancillary orders.

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.

Supplying, or offering to supply, a psychoactive substance

Psychoactive Substances Act 2016 (sections 5(1) or 5(2))

Possession of psychoactive substance with intent to supply

Psychoactive Substances Act 2016 (section 7(1))

Maximum: 7 years' custody
Offence range: Band B Fine – 6 years' custody

STEP ONE

Determine the offence category

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

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

Culpability demonstrated by the offender's role

One or more of these characteristics may demonstrate the offender's role. These lists are not exhaustive.

Leading role:

- Directing or organising buying and selling on a commercial scale
- Substantial links to, and influence on, others in a chain
- Close links to original source
- Expectation of substantial financial or other advantage
- Uses business as cover
- Abuses a position of trust or responsibility

Significant role:

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

Lesser role:

- Performs a limited function under direction
- Engaged by pressure, coercion, intimidation, grooming and/or control
- Involvement through naivety, immaturity or exploitation
- No influence on those above in a chain
- Very little, if any, awareness or understanding of the scale of operation
- Expectation of limited, if any, financial or other advantage (including meeting the offender's own habit)

Harm	
<p><i>In assessing harm, the sentencer should consider the factors below. Where there are characteristics present which fall under different harm categories the court should balance these characteristics to reach a fair assessment of harm.</i></p> <p>Where evidence is available as to the potential effects of the substance and harm likely to be caused by those effects, the court should consider whether this affects the category of harm. Where the harm is very great, or very small, this may lead the court to move the starting point for the offence up or down within the category, or to place the offence in a higher or lower category than that indicated by the other factors listed.</p>	
Category 1	<ul style="list-style-type: none"> • Large quantity indicative of commercial-scale operation • Supply in a custodial institution
Category 2	<ul style="list-style-type: none"> • Supply directly to users
Category 3	<ul style="list-style-type: none"> • Very small quantity

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. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.

	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	<p>Starting point 4 years' custody</p> <p>Category range 3 – 6 years' custody</p>	<p>Starting point 2 years' custody</p> <p>Category range 12 months' – 3 years' 6 months' custody</p>	<p>Starting point 1 year's custody</p> <p>Category range 26 weeks' – 2 years' custody</p>
Category 2	<p>Starting point 2 years' custody</p> <p>Category range 12 months' – 3 years' 6 months' custody</p>	<p>Starting point 1 year's custody</p> <p>Category range 26 weeks' – 2 years' custody</p>	<p>Starting point High level community order</p> <p>Category range Low level community order – 26 weeks' custody</p>
Category 3	<p>Starting point 1 year's custody</p> <p>Category range 26 weeks' – 2 years' custody</p>	<p>Starting point High level community order</p> <p>Category range Low level community order – 26 weeks' custody</p>	<p>Starting point Low level community order</p> <p>Category range Band B fine – medium level community order</p>

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

Factors increasing seriousness

Statutory aggravating factors:

- *Previous convictions, having regard to a) nature of the offence to which condition relates and relevance to current offence; and b) time elapsed since conviction*
- *In connection with the offence, the offender used a courier who, at the time of the commission of the offence, was aged under 18 (except where taken into account at Step 1)*
- *The offence was committed on or in the vicinity of school premises at a relevant time*
- *The offence was committed in a custodial institution*
- *Offence committed on bail*

Other aggravating factors include:

- Exploitation of children and/or vulnerable persons to assist in the offending
- Exercising control over the home of another person for the purposes of the offending
- Targeting of any premises where children or other vulnerable persons are likely to be present
- Exposure of psychoactive substance user to the risk of serious harm over and above that expected by the user, for example, through the method of production or subsequent adulteration of the substance
- Exposure of those involved in dealing in the psychoactive substance to the risk of serious harm, for example through method of transporting the substance
- Exposure of third parties to the risk of serious harm
- Attempts to conceal or dispose of evidence, where not charged separately
- Presence of others, especially children and/or non-users
- Presence of weapons, where not charged separately
- Use of violence (where not charged as separate offence or taken into account at step one)
- Failure to comply with current court orders
- Offending took place in prison (unless already taken into consideration at step 1)
- Offence committed on licence or post sentence supervision
- Established evidence of community impact
- Use of sophisticated methods or technologies in order to avoid or impede detection

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

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

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

Factors reducing seriousness or reflecting personal mitigation

- Involvement due to pressure, intimidation or coercion falling short of duress, except where already taken into account at step one.

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

STEP THREE

Consider any factors which indicate a reduction, such as assistance to the prosecution

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

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the guideline for Reduction in Sentence for a Guilty Plea (where first hearing is [on or after 1 June 2017](#), or first hearing [before 1 June 2017](#)).

In circumstances where an appropriate custodial sentence of 7 years falls to be imposed under section 110 of the Powers of Criminal Courts (Sentencing) Act 2000 (third Class A drug trafficking offences), the court may impose any sentence in accordance with this guideline which is not less than **80 per cent** of the **appropriate** custodial period.

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 offending behaviour. See [Totality](#) guideline.

STEP SIX

Confiscation and ancillary orders

In all cases, the court is required to consider confiscation where the Crown invokes the process or where the court considers it appropriate. It should also consider whether to make ancillary orders.

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.

Producing a psychoactive substance

Psychoactive Substances Act 2016 (section 4)

Triable either way

Maximum: 7 years' custody

Offence range: Band B Fine – 6 years' custody

STEP ONE

Determining the offence category

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

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

Culpability demonstrated by the offender's role

One or more of these characteristics may demonstrate the offender's role. These lists are not exhaustive.

Leading role:

- Directing or organising production on a commercial scale
- Substantial links to, and influence on, others in a chain
- Close links to original source
- Expectation of substantial financial or other advantage
- Uses business as cover
- Abuses a position of trust or responsibility

Significant role:

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

Lesser role:

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

Harm

In assessing harm, the sentencer should consider the factors below. Where there are characteristics present which fall under different harm categories the court should balance these characteristics to reach a fair assessment of harm.

Where evidence is available as to the potential effects of the substance and harm likely to be caused by those effects, the court should consider whether this affects the category of harm. Where the harm is very great, or very small, this may lead the court to move the starting point for the offence up or down within the category, or to place the offence in a higher or lower category than that indicated by the other factors listed.

Category 1	<ul style="list-style-type: none"> Large quantity indicative of industrial scale operation
Category 2	<ul style="list-style-type: none"> Quantity indicative of smaller-scale commercial operation
Category 3	<ul style="list-style-type: none"> Very small quantity

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. A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.

	LEADING ROLE	SIGNIFICANT ROLE	LESSER ROLE
Category 1	Starting point 4 years' custody Category range 3 – 6 years' custody	Starting point 2 years' custody Category range 12 months' – 3 years' 6 months' custody	Starting point 1 year's custody Category range 26 weeks' – 2 years' custody
Category 2	Starting point 2 years' custody Category range 12 months' – 3 years' 6 months' custody	Starting point 1 year's custody Category range 26 weeks' – 2 years' custody	Starting point High level community order Category range Low level community order – 26 weeks' custody
Category 3	Starting point 1 year's custody Category range 26 weeks' – 2 years' custody	Starting point High level community order Category range Low level community order – 26 weeks' custody	Starting point Low level community order Category range Band B fine – medium 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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Factors increasing seriousness

Statutory aggravating factors:

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

Other aggravating factors include:

- Exploitation of children and/or vulnerable persons to assist in the offending
- Exercising control over the home of another person for the purposes of the offending
- Nature of any likely supply
- Level of any profit element
- Use of premises accompanied by unlawful access to electricity/other utility supply of others, where not charged separately
- Ongoing/large scale operation as evidenced by presence and nature of specialist equipment
- Exposure of psychoactive substance user to the risk of serious harm over and above that expected by the user, for example, through the method of production or subsequent adulteration of the substance
- Exposure of those involved in producing the psychoactive substances to the risk of serious harm, for example through method of production
- Exposure of third parties to the risk of serious harm
- Attempts to conceal or dispose of evidence, where not charged separately
- Presence of others, especially children and/or non-users
- Presence of weapons, where not charged separately
- Use of violence (where not charged as separate offence or taken into account at step one)
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Offending took place in prison (unless already taken into consideration at step 1)
- Established evidence of community impact
- Use of sophisticated methods or technologies in order to avoid or impede detection

Factors reducing seriousness or reflecting personal mitigation

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

STEP THREE**Consider any factors which indicate a reduction, such as assistance to the prosecution**

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

STEP FOUR**Reduction for guilty pleas**

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the guideline for Reduction in Sentence for a Guilty Plea (where first hearing is [on or after 1 June 2017](#), or first hearing [before 1 June 2017](#)).

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 offending behaviour. See [Totality](#) guideline.

STEP SIX**Ancillary orders**

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

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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