

Common assault / Racially or religiously aggravated Common Assault

Crime and Disorder Act 1998, s.29, Criminal Justice Act 1988, s.39

Effective from: 1 July 2021

Common Assault, Criminal Justice Act 1988 (section 39)

Racially/religiously aggravated common assault, Crime and Disorder Act 1998 (section 29)

Section 39

Triable only summarily

Maximum: 6 months' custody

Section 29

Triable either way

Maximum: 2 years' custody

Offence range: Discharge – 26 weeks' custody

Racially or religiously aggravated common assault is a specified offence for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

STEP ONE**Determining the offence category**

Culpability demonstrated by one or more of the following:

The level of culpability is determined by weighing up all the factors of the case. **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 - High culpability:

- Intention to cause fear of serious harm, including disease transmission
- ~~Targeting of vulnerable victim, where victim vulnerable by personal characteristics or circumstances~~
- Victim obviously vulnerable due to age, personal characteristics or circumstances
- Prolonged/persistent assault
- Use of substantial force
- Strangulation/Suffocation/Asphyxiation
- Threatened or actual use of weapon or weapon equivalent*
- Leading role in group activity

B – Lesser culpability

- Lesser role in group activity
- Mental disorder or learning disability, where linked to the commission of the offence
- Excessive self defence
- All other cases not captured by category A factors

*Examples of a weapon equivalent can include but are not limited to: a shod foot, use of acid, use of animal in commission of offence.

Harm

The court should consider the factors set out below to determine the level of harm that has been caused or was intended to be caused to the victim. **In assessing the level of harm, consideration should be given to:**

- the number of injuries
- severity of injury and pain suffered and
- the duration or longevity of any psychological harm or distress caused.

Category 1	More than minor physical or psychological harm/distress
Category 2	Minor physical or psychological harm/distress
Category 3	No/very low level of physical harm and/or distress

STEP TWO

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

HARM	CULPABILITY	
	A	B
Harm 1	<p>Starting point High level community order</p> <p>Category Range Low level community order - 26 weeks' custody</p>	<p>Starting point Medium level community order</p> <p>Category Range Low level community order - 16 weeks' custody</p>
Harm 2	<p>Starting point Medium level community order</p> <p>Category Range Low level community order - 16 weeks' custody</p>	<p>Starting point Band B fine Low level community order</p> <p>Category Range Band C Fine – High level community order</p>
Harm 3	<p>Starting point Band B fine Low level community order</p> <p>Category Range Band C Fine - High level community order</p>	<p>Starting point Band A Fine Band C Fine</p> <p>Category Range Discharge – Low 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) 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 or presumed characteristics of the victim: disability, sexual orientation or transgender identity

Other aggravating factors:

Spitting or coughing

Offence committed against those working in the public sector or providing a service to the public or against person coming to the assistance of emergency worker

Offence committed in prison

Offence committed in domestic context

Presence of children

Gratuitous degradation of victim

Abuse of power and/or position of trust

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

Factors reducing seriousness or reflecting personal mitigation

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Significant degree of provocation

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

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

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

RACIALLY OR RELIGIOUSLY AGGRAVATED OFFENCES ONLY

Having determined the category of the basic offence to identify the sentence of a non-aggravated offence, the court should now consider the level of racial or religious aggravation involved and apply an appropriate uplift to the sentence in accordance with the guidance below. The following is a list of factors which the court should consider to determine the level of aggravation. Where there are characteristics present which fall under different levels of aggravation, the court should balance these to reach a fair assessment of the level of aggravation present in the offence.

Maximum sentence for the aggravated offence on indictment is 2 years' custody (maximum when tried summarily is 6 months' custody)

Care should be taken to avoid double counting factors already taken into account in assessing the level of harm at step one
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HIGH LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"> ▪ Racial or religious aggravation was the predominant motivation for the offence. ▪ Offender was a member of, or was associated with, a group promoting hostility based on race or religion. ▪ Aggravated nature of the offence caused severe distress to the victim or the victim's family (over and above the distress already considered at step one). ▪ Aggravated nature of the offence caused serious fear and distress throughout local community or more widely. 	<p>Increase the length of custodial sentence if already considered for the basic offence or consider a custodial sentence, if not already considered for the basic offence.</p>
MEDIUM LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"> ▪ Racial or religious aggravation formed a significant proportion of the offence as a whole. ▪ Aggravated nature of the offence caused some distress to the 	<p>Consider a significantly more onerous penalty of the same type <u>or consider</u> a more severe type of sentence than for the basic offence.</p>

<p>victim or the victim's family (over and above the distress already considered at step one).</p> <ul style="list-style-type: none"> ▪ Aggravated nature of the offence caused some fear and distress throughout local community or more widely. 	
<p>LOW LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION</p>	<p>SENTENCE UPLIFT</p>
<ul style="list-style-type: none"> ▪ Aggravated element formed a minimal part of the offence as a whole. ▪ Aggravated nature of the offence caused minimal or no distress to the victim or the victim's family (over and above the distress already considered at step one). 	<p>Consider a more onerous penalty of the same type identified for the basic offence.</p>

Magistrates may find that, although the appropriate sentence for the basic offence would be within their powers, the appropriate increase for the aggravated offence would result in a sentence in excess of their powers. If so, they must commit for sentence to the Crown Court. **The sentencer should state in open court that the offence was aggravated by reason of race or religion, and should also state what the sentence would have been without that element of aggravation.**

Step 3 – Consider any other factors which indicate a reduction, such as assistance to the prosecution

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 4 – Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with [section 73 of the Sentencing Code](#) and the [Reduction in Sentence for a Guilty Plea](#) guideline.

Step 5 – Dangerousness

Racially or religiously aggravated common assault is a specified offence. The court should consider whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#)).

Step 6 – 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 7 – Compensation and ancillary orders

In all cases, the court should consider whether to make [compensation](#) and/or other ancillary orders.

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

Step 8 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 9 – Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

ASSAULT ON EMERGENCY WORKER**STEP ONE****Determining the offence category**

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

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

Culpability demonstrated by one or more of the following:	
A - High culpability:	
<ul style="list-style-type: none"> • Intention to cause fear of serious harm, including disease transmission • Prolonged/persistent assault • Use of substantial force • Threatened or actual use of weapon or weapon equivalent* • Strangulation/Suffocation/Asphyxiation • Leading role in group activity 	
B – Lesser culpability	
<ul style="list-style-type: none"> • Lesser role in group activity • Mental disorder or learning disability, where linked to the commission of the offence • All other cases not captured by category 1 factors 	
*Examples of a weapon equivalent can include but are not limited to: a shod foot, use of acid, use of animal in commission of offence.	

Harm	
The court should consider the factors set out below to determine the level of harm that has been caused or was intended to be caused to the victim.	
Category 1	More than minor physical or psychological harm/distress
Category 2	Minor physical or psychological harm/distress
Category 3	No/very low level of physical harm and/or distress

STEP TWO

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

HARM	CULPABILITY	
	A	B
Harm 1	<p>Starting point 8 months</p> <p>Category Range 26 weeks' – 1 years' custody</p>	<p>Starting point 16 weeks</p> <p>Category Range High level Community Order - 26 weeks' custody</p>
Harm 2	<p>Starting point 16 weeks</p> <p>Category Range High level Community Order - 26 weeks' custody</p>	<p>Starting point HL CO</p> <p>Category Range Low Level Community Order – 16 weeks</p>
Harm 3	<p>Starting point HL CO</p> <p>Category Range Low Level Community Order – 16 weeks</p>	<p>Starting point ML CO</p> <p>Category Range Band B Fine – HL CO</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) 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 or presumed characteristics of the victim: race, religion, disability, sexual orientation or transgender identity

Other aggravating factors:

Spitting or coughing

Victim isolated and/or had no opportunity to escape situation

Presence of children

Gratuitous degradation of victim

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

Factors reducing seriousness or reflecting personal mitigation

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

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

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

Assault with intent to resist arrest

Offences against the Person Act 1861, s.38

Effective from:

Triable either way

Maximum: 2 years' custody

Offence Range: Fine –1 year 3 months' custody

This is a specified offence for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

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 demonstrated by one or more of the following:

The level of culpability is determined by weighing up all the factors of the case. **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 - High culpability:

- Intention to cause fear of serious harm, including disease transmission
- Prolonged/persistent assault
- Use of substantial force
- Threatened or actual use of weapon or weapon equivalent*
- Strangulation/Suffocation/Asphyxiation
- Leading role in group activity

B – Lesser culpability

- Lesser role in group activity
- Mental disorder or learning disability, where linked to the commission of the offence
- All other cases not captured by category A factors

*Examples of a weapon equivalent can include but are not limited to: a shod foot, use of acid, use of animal in commission of offence.

Harm

The court should consider the factors set out below to determine the level of harm that has been caused or was intended to be caused to the victim. **In assessing the level of harm, consideration should be given to:**

- the number of injuries
- severity of injury and pain suffered and

the duration or longevity of any psychological harm or distress caused.

Category 1	More than minor physical or psychological harm/distress
Category 2	Minor physical or psychological harm/distress
Category 3	No/very low level of physical harm and/or distress

STEP TWO

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability in step one, could merit upward adjustment from the starting point 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 Mixed ethnicity offenders receive an immediate custodial sentence than White, Asian and Chinese or Other ethnicity 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](#).

HARM	CULPABILITY	
	A	B
Harm 1	<p>Starting point 36 weeks' custody</p> <p>Category Range 26 weeks' custody – 1 year 3 months' custody</p>	<p>Starting point 26 weeks' custody</p> <p>Category Range High level community order - 36 weeks' custody</p>
Harm 2	<p>Starting point 26 weeks' custody</p> <p>Category Range High level community order - 36 weeks' custody</p>	<p>Starting point High level community order</p> <p>Category Range Low level community order – 26 weeks' custody</p>
Harm 3	<p>Starting point High level community order</p> <p>Category Range Low level community order – 26 weeks' custody</p>	<p>Starting point Medium level community order</p> <p>Category Range Band B Fine – High 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) 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 or presumed characteristics of the victim: race, religion, disability, sexual orientation or transgender identity

Other aggravating factors:

Spitting or coughing

Victim isolated and/or had no opportunity to escape situation

Presence of children

Gratuitous degradation of victim

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

Factors reducing seriousness or reflecting personal mitigation

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

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

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

Step 3 – Consider any other factors which indicate a reduction, such as assistance to the prosecution

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 4 – Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with [section 73 of the Sentencing Code](#) and the [Reduction in Sentence for a Guilty Plea](#) guideline.

Step 5 – Dangerousness

The court should consider whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#)).

Step 6 – 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 7 – Compensation and ancillary orders

In all cases, the court should consider whether to make [compensation](#) and/or other ancillary orders.

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

Step 8 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 9 – Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

Assault occasioning actual bodily harm / Racially or religiously aggravated ABH

Crime and Disorder Act 1998, s.29, Offences against the Person Act 1861, s.47

Effective from: 1 July 2021

Assault occasioning actual bodily harm, Offences against the Person Act 1861 (section 47)

Racially or religiously aggravated ABH, Crime and Disorder Act 1998 (section 29)

Triable either way

Section 47 Maximum: 5 years' custody

Section 29 Maximum: 7 years' custody

Offence range: Fine – 4 years' custody

These are specified offences for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

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 demonstrated by one or more of the following:

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics giving appropriate weight to relevant factors to reach a fair assessment of the offender's culpability.**

A - High culpability

- Significant degree of planning or premeditation
- Victim obviously vulnerable due to age, personal characteristics or circumstances
- Use of a highly dangerous weapon or weapon equivalent*
- Strangulation/Suffocation/Asphyxiation
- Leading role in group activity
- Prolonged/persistent assault

B – Medium culpability

- Use of a weapon or weapon equivalent which does not fall within category A
- Lesser role in group activity
- Cases falling between category A or C because:
 - Factors in both high and lesser categories are present which balance each other out; and/or
 - The offender's culpability falls between the factors as described in high and lesser culpability

C – Lesser culpability

- No weapon used
- Excessive self defence
- Impulsive/spontaneous and short-lived assault
- Mental disorder or learning disability, where linked to the commission of the offence

* A highly dangerous weapon **can include** weapons such as knives and firearms. **Highly dangerous** weapon equivalents can include corrosive substances (such as acid), whose dangerous nature must be substantially above and beyond the legislative definition of an offensive weapon which is; '*any article made or adapted for use for causing injury, or is intended by the person having it with him for such use*'. The court must determine whether the weapon or weapon equivalent is highly dangerous on the facts and circumstances of the case.

Harm	
<p>To assess the level of harm caused by the offence, the court must consider;</p> <ul style="list-style-type: none"> • The range of injuries (including physical and psychological injury) that can occur in cases of assault occasioning actual bodily harm • Where in that range of injuries the injury caused falls 	
Category 1	<p>High level of physical or psychological harm</p> <p>Serious physical injury or serious psychological harm and/or substantial impact upon victim</p>
Category 2	<p>Medium level of physical or psychological harm</p> <p>Harm falling between categories 1 and 3</p>
Category 3	<p>Low level of physical or psychological harm</p> <p>Some level of physical injury or psychological harm with limited impact upon victim</p>

STEP TWO

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability in step one, could merit upward adjustment from the starting point 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 Mixed ethnicity offenders receive an immediate custodial sentence than White, Asian and Chinese or Other ethnicity 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](#).

HARM	CULPABILITY		
	A	B	C
Harm 1	<p>Starting point</p> <p>2 years 6 months' custody</p> <p>Category Range 1 year 6 months' – 4 years' custody</p>	<p>Starting point</p> <p>1 year 6 months' custody</p> <p>Category Range 36 weeks' – 2 years 6 months' custody</p>	<p>Starting point</p> <p>36 weeks' custody</p> <p>Category Range High level community order - 1 year 6 months' custody</p>
Harm 2	<p>Starting point</p> <p>1 year 6 months' custody</p> <p>Category Range 36 weeks' – 2 years 6 months' custody</p>	<p>Starting point</p> <p>36 weeks' custody</p> <p>Category Range High level community order - 1 year 6 months' custody</p>	<p>Starting point High level community order</p> <p>Category Range Low level community order – 36 weeks' custody</p>
Harm 3	<p>Starting point</p> <p>36 weeks' custody</p> <p>Category Range High level community order - 1 year 6 months' custody</p>	<p>Starting point High level community order</p> <p>Category Range Low level community order – 36 weeks' custody</p>	<p>Starting point Medium level community order</p> <p>Category Range Band B Fine – 26 weeks' custody</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) 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 or presumed characteristics of the victim: disability, sexual orientation or transgender identity

Offence was committed against an emergency worker acting in the exercise of functions as such a worker.

Other aggravating factors:

Spitting or coughing

Offence committed against those working in the public sector or providing a service to the public or against person coming to the assistance of emergency worker

Offence committed in prison (where not taken into account as a statutory aggravating factor)

Offence committed in domestic context

History of violence or abuse towards victim by offender

Presence of children

Gratuitous degradation of victim

Abuse of power and/or position of trust

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

Factors reducing seriousness or reflecting personal mitigation

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Significant degree of provocation

History of significant violence or abuse towards the offender by the victim

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

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

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

RACIALLY OR RELIGIOUSLY AGGRAVATED OFFENCES ONLY

Having determined the category of the basic offence to identify the sentence of a non-aggravated offence, the court should now consider the level of racial or religious aggravation involved and apply an appropriate uplift to the sentence in accordance with the guidance below. The following is a list of factors which the court should consider to determine the level of aggravation. Where there are characteristics present which fall under different levels of aggravation, the court should balance these to reach a fair assessment of the level of aggravation present in the offence.

Maximum sentence for the aggravated offence on indictment is 7 years' custody (maximum when tried summarily is 6 months' custody)

Care should be taken to avoid double counting factors already taken into account in assessing the level of harm at step one
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HIGH LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"> ▪ Racial or religious aggravation was the predominant motivation for the offence. ▪ Offender was a member of, or was associated with, a group promoting hostility based on race or religion. ▪ Aggravated nature of the offence caused severe distress to the victim or the victim's family (over and above the distress already considered at step one). ▪ Aggravated nature of the offence caused serious fear and distress throughout local community or more widely. 	<p>Increase the length of custodial sentence if already considered for the basic offence or consider a custodial sentence, if not already considered for the basic offence.</p>
MEDIUM LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"> ▪ Racial or religious aggravation formed a significant proportion of the offence as a whole. ▪ Aggravated nature of the offence caused some distress to the 	<p>Consider a significantly more onerous penalty of the same type <u>or consider</u> a more severe type of sentence than for the basic offence.</p>

<p>victim or the victim's family (over and above the distress already considered at step one).</p> <ul style="list-style-type: none"> ▪ Aggravated nature of the offence caused some fear and distress throughout local community or more widely. 	
<p>LOW LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION</p>	<p>SENTENCE UPLIFT</p>
<ul style="list-style-type: none"> ▪ Aggravated element formed a minimal part of the offence as a whole. ▪ Aggravated nature of the offence caused minimal or no distress to the victim or the victim's family (over and above the distress already considered at step one). 	<p>Consider a more onerous penalty of the same type identified for the basic offence.</p>

Magistrates may find that, although the appropriate sentence for the basic offence would be within their powers, the appropriate increase for the aggravated offence would result in a sentence in excess of their powers. If so, they must commit for sentence to the Crown Court. **The sentencer should state in open court that the offence was aggravated by reason of race or religion, and should also state what the sentence would have been without that element of aggravation.**

Step 3 – Consider any other factors which indicate a reduction, such as assistance to the prosecution

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 4 – Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with [section 73 of the Sentencing Code](#) and the [Reduction in Sentence for a Guilty Plea](#) guideline.

Step 5 – Dangerousness

The court should consider whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#)).

Step 6 – 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 7 – Compensation and ancillary orders

In all cases, the court should consider whether to make [compensation](#) and/or other ancillary orders.

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

Step 8 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 9 – Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

Inflicting grievous bodily harm/ Unlawful wounding/ Racially or religiously aggravated GBH/ Unlawful wounding

Offences against the Person Act 1861, s.20, Crime and Disorder Act 1998, s.29

Effective from: 1 July 2021

Inflicting grievous bodily harm/unlawful wounding, Offences against the Person Act 1861 (section 20)

Racially or religiously aggravated GBH/unlawful wounding, Crime and Disorder Act 1998 (section 29)

Triable either way

Section 20

Maximum: 5 years' custody

Section 29

Maximum: 7 years' custody

Offence range: Community order – 4 years 6 months' custody

These are specified offences for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

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 demonstrated by one or more of the following:

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics giving appropriate weight to relevant factors to reach a fair assessment of the offender's culpability.**

A - High culpability

- Significant degree of planning or premeditation
- Victim obviously vulnerable due to age, personal characteristics or circumstances
- Use of a highly dangerous weapon or weapon equivalent*
- Strangulation/Suffocation/Asphyxiation
- Leading role in group activity
- Prolonged/persistent assault

B – Medium culpability

- Use of a weapon or weapon equivalent which does not fall within category A
- Lesser role in group activity
- Cases falling between category A or C because:
 - Factors in both high and lesser categories are present which balance each other out; and/or
 - The offender's culpability falls between the factors as described in high and lesser culpability

C – Lesser culpability

- No weapon used
- Excessive self defence
- Impulsive/spontaneous and short-lived assault
- Mental disorder or learning disability, where linked to the commission of the offence

* A highly dangerous weapon **can include** weapons such as knives and firearms. **Highly dangerous** weapon equivalents can include corrosive substances (such as acid), whose dangerous nature must be substantially above and beyond the legislative definition of an offensive weapon which is; '*any article made or adapted for use for causing injury, or is intended by the person having it with him for such use*'. The court must determine whether the weapon or weapon equivalent is highly dangerous on the facts and circumstances of the case.

Harm	
All cases will involve 'really serious harm', which can be physical or psychological, or wounding. The court should assess the level of harm caused with reference to the impact on the victim	
Category 1	<p>Particularly grave and/or life-threatening injury caused</p> <p>Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment</p> <p>Offence results in a permanent, irreversible injury or condition which has a substantial and long term effect on the victim's ability to carry out their normal day to day activities or on their ability to work</p>
Category 2	<p>Grave injury</p> <p>Offence results in a permanent, irreversible injury or condition not falling within category 1</p>
Category 3	<p>All other cases of really serious harm</p> <p>All other cases of wounding</p>

STEP TWO

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability in step one, could merit upward adjustment from the starting point 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, Mixed and Chinese or Other ethnicity offenders receive an immediate custodial sentence than White and Asian 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](#).

HARM	CULPABILITY		
	A	B	C
Harm 1	<p>Starting point 4 years' custody</p> <p>Category Range 3 years– 4 years 6 months' custody</p>	<p>Starting point 3 years' custody</p> <p>Category Range 2 -4 years' custody</p>	<p>Starting point 2 years' custody</p> <p>Category Range 1-3 years' custody</p>
Harm 2	<p>Starting point 3 years' custody</p> <p>Category Range 2 -4 years' custody</p>	<p>Starting point 2 years' custody</p> <p>Category Range 1-3 years' custody</p>	<p>Starting point 1 year's custody</p> <p>Category Range High level community order - 2 years' custody</p>
Harm 3	<p>Starting point 2 years' custody</p> <p>Category Range 1-3 years' custody</p>	<p>Starting point 1 year's custody</p> <p>Category Range High level community order - 2 years' custody</p>	<p>Starting point 26 weeks' custody</p> <p>Category Range Medium level community order – 1 year's custody</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) 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 or presumed characteristics of the victim: disability, sexual orientation or transgender identity

Offence was committed against an emergency worker acting in the exercise of functions as such a worker.

Other aggravating factors:

Offence committed against those working in the public sector or providing a service to the public or against a person coming to the assistance of an emergency worker

Offence committed in prison (where not taken into account as a statutory aggravating factor)

Offence committed in domestic context

History of violence or abuse towards victim by offender

Presence of children

Gratuitous degradation of victim

Abuse of power and/or position of trust

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offences taken into consideration (TICs)

Offence committed whilst on licence or post sentence supervision

Failure to comply with current court orders

Factors reducing seriousness or reflecting personal mitigation

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Significant degree of provocation

History of significant violence or abuse towards the offender by the victim

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

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

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

RACIALLY OR RELIGIOUSLY AGGRAVATED OFFENCES ONLY

Having determined the category of the basic offence to identify the sentence of a non-aggravated offence, the court should now consider the level of racial or religious aggravation involved and apply an appropriate uplift to the sentence in accordance with the guidance below. The following is a list of factors which the court should consider to determine the level of aggravation. Where there are characteristics present which fall under different levels of aggravation, the court should balance these to reach a fair assessment of the level of aggravation present in the offence.

Maximum sentence for the aggravated offence on indictment is 7 years' custody (maximum when tried summarily is 6 months' custody)

Care should be taken to avoid double counting factors already taken into account in assessing the level of harm at step one
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HIGH LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"> ▪ Racial or religious aggravation was the predominant motivation for the offence. ▪ Offender was a member of, or was associated with, a group promoting hostility based on race or religion. ▪ Aggravated nature of the offence caused severe distress to the victim or the victim's family (over and above the distress already considered at step one). ▪ Aggravated nature of the offence caused serious fear and distress throughout local community or more widely. 	<p>Increase the length of custodial sentence if already considered for the basic offence or consider a custodial sentence, if not already considered for the basic offence.</p>
MEDIUM LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"> ▪ Racial or religious aggravation formed a significant proportion of the offence as a whole. ▪ Aggravated nature of the offence caused some distress to the 	<p>Consider a significantly more onerous penalty of the same type <u>or consider</u> a more severe type of sentence than for the basic offence.</p>

<p>victim or the victim's family (over and above the distress already considered at step one).</p> <ul style="list-style-type: none"> ▪ Aggravated nature of the offence caused some fear and distress throughout local community or more widely. 	
<p>LOW LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION</p>	<p>SENTENCE UPLIFT</p>
<ul style="list-style-type: none"> ▪ Aggravated element formed a minimal part of the offence as a whole. ▪ Aggravated nature of the offence caused minimal or no distress to the victim or the victim's family (over and above the distress already considered at step one). 	<p>Consider a more onerous penalty of the same type identified for the basic offence.</p>

Magistrates may find that, although the appropriate sentence for the basic offence would be within their powers, the appropriate increase for the aggravated offence would result in a sentence in excess of their powers. If so, they must commit for sentence to the Crown Court. **The sentencer should state in open court that the offence was aggravated by reason of race or religion, and should also state what the sentence would have been without that element of aggravation.**

Step 3 – Consider any other factors which indicate a reduction, such as assistance to the prosecution

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 4 – Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with [section 73 of the Sentencing Code](#) and the [Reduction in Sentence for a Guilty Plea](#) guideline.

Step 5 – Dangerousness

Racially or religiously aggravated common assault is a specified offence. The court should consider whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#)).

Step 6 – 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 7 – Compensation and ancillary orders

In all cases, the court should consider whether to make [compensation](#) and/or other ancillary orders.

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

Step 8 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 9 – Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

Causing grievous bodily harm with intent to do grievous bodily harm / Wounding with intent to do GBH

Offences against the Person Act 1861, s.18

Effective from: 1 July 2021

Triable only on indictment

Maximum: Life imprisonment

Offence range: 2–16 years' custody

This is a [Schedule 19](#) offence for the purposes of sections [274](#) and [285](#) (required life sentence for offence carrying life sentence) of the Sentencing Code.

For offences committed on or after 3 December 2012, this is an offence listed in [Part 1 of Schedule 15](#) for the purposes of sections [273](#) and [283](#) (life sentence for second listed offence) of the Sentencing Code.

This is a specified offence for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

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 demonstrated by one or more of the following:

The level of culpability is determined by weighing up all the factors of the case. Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics giving appropriate weight to relevant factors to reach a fair assessment of the offender's culpability.

A - High culpability

- Significant degree of planning or premeditation
- Victim obviously vulnerable due to age, personal characteristics or circumstances
- Use of a highly dangerous weapon or weapon equivalent*
- Strangulation/Suffocation/Asphyxiation
- Leading role in group activity
- Prolonged/persistent assault
- Revenge

B – Medium culpability

- Use of a weapon or weapon equivalent which does not fall within category A
- Lesser role in group activity
- Cases falling between category high and low culpability because:
 - Factors in both high and lesser categories are present which balance each other out; **and/or**
 - The offender's culpability falls between the factors as described in high and lesser culpability

C – Lesser culpability

- No weapon used
- Excessive self defence
- Offender acted in response to prolonged or extreme violence or abuse by victim
- Mental disorder or learning disability, where linked to the commission of the offence

* A highly dangerous weapon **can include** weapons such as knives and firearms. **Highly dangerous** weapon equivalents can include corrosive substances (such as acid), whose dangerous nature must be substantially above and beyond the legislative definition of an offensive weapon which is; '*any article made or adapted for use for causing injury, or is intended by the person having it with him for such use*'. The court must determine whether the weapon or weapon equivalent is highly dangerous on the facts and circumstances of the case. Non-highly dangerous weapon equivalents may include but are not limited to a shod foot, headbutting, use of animal in commission of offence.

Harm	
All cases will involve 'really serious harm', which can be physical or psychological, or wounding. The court should assess the level of harm caused with reference to the impact on the victim	
Category 1	<p>Particularly grave or life-threatening injury caused</p> <p>Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment</p> <p>Offence results in a permanent, irreversible injury or psychological condition which has a substantial and long term effect on the victim's ability to carry out their normal day to day activities or on their ability to work</p>
Category 2	<p>Grave injury</p> <p>Offence results in a permanent, irreversible injury or condition not falling within category 1</p>
Category 3	<p>All other cases of really serious harm</p> <p>All other cases of wounding</p>

STEP TWO

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability in step one, could merit upward adjustment from the starting point 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 immediate custodial sentence lengths have on average been longer than for White, Mixed and Chinese or Other ethnicity 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](#).

For category A1 offences the extreme nature of one or more high culpability factors or the extreme impact caused by a combination of high culpability factors may attract a sentence higher than the offence category range

HARM	CULPABILITY		
	A	B	C
Harm 1	<p>Starting point 12 years' custody</p> <p>Category Range 10-16 years' custody</p>	<p>Starting point 7 years' custody</p> <p>Category Range 6-10 years' custody</p>	<p>Starting point 5 years' custody</p> <p>Category Range 4-7 years' custody</p>
Harm 2	<p>Starting point 7 years' custody</p> <p>Category Range 6-10 years' custody</p>	<p>Starting point 5 years' custody</p> <p>Category Range 4-7 years' custody</p>	<p>Starting point 4 years' custody</p> <p>Category Range 3 – 6 years' custody</p>
Harm 3	<p>Starting point 5 years' custody</p> <p>Category Range 4-7 years' custody</p>	<p>Starting point 4 years' custody</p> <p>Category Range 3-6 years' custody</p>	<p>Starting point 3 years' custody</p> <p>Category Range 2-4 years' custody</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) 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 or presumed characteristics of the victim: race, religion, disability, sexual orientation or transgender identity

Offence was committed against an emergency worker acting in the exercise of functions as such a worker.

Other aggravating factors:

Offence committed against those working in the public sector or providing a service to the public or against a person coming to the assistance of an emergency worker

Offence committed in prison (where not taken into account as a statutory aggravating factor)

Offence committed in domestic context

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

Presence of children

Gratuitous degradation of victim

Abuse of power and/or position of trust

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offences taken into consideration (TICs)

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

Factors reducing seriousness or reflecting personal mitigation

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Significant degree of provocation

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

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

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

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

Step 3 – Consider any other factors which indicate a reduction, such as assistance to the prosecution

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 4 – Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with [section 73 of the Sentencing Code](#) and the [Reduction in Sentence for a Guilty Plea](#) guideline.

Step 5 – Dangerousness

The court should consider:

- 1) whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose a life sentence (sections [274](#) and [285](#))
- 2) whether having regard to sections [273](#) and [283](#) of the Sentencing Code it would be appropriate to impose a life sentence.
- 3) whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#))

When sentencing offenders to a life sentence under these provisions, the notional determinate sentence should be used as the basis for the setting of a minimum term.

Step 6 – 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 7 – Compensation and ancillary orders

In all cases, the court should consider whether to make [compensation](#) and/or other ancillary orders.

- [Ancillary orders – Crown Court Compendium](#)

Step 8 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 9 – Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

Attempted murder

Criminal Attempts Act 1981, s.1(1)

Effective from: 1 July 2021

Triable only on indictment

Maximum: Life imprisonment

Offence range: 3 – 40 years' custody

This is a [Schedule 19](#) offence for the purposes of sections [274](#) and [285](#) (required life sentence for offence carrying life sentence) of the Sentencing Code.

For offences committed on or after 3 December 2012, this is an offence listed in [Part 1 of Schedule 15](#) for the purposes of sections [273](#) and [283](#) (life sentence for second listed offence) of the Sentencing Code.

This is a specified offence for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

Where the offence has a terrorist connection this is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

STEP ONE
Determining the offence category

The characteristics below are indications of the level of culpability that may attach to the offender's conduct. Where there are characteristics present which fall into both higher and lower categories, the court must carefully weigh those characteristics to reach a fair assessment of the category which best reflects the offender's overall culpability in all the circumstances of the case. The court may then adjust the starting point for that category to reflect the presence of characteristics from another category.

Culpability demonstrated by one or more of the following:

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

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

STEP TWO

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below 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](#).

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

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

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

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

Factors increasing seriousness

Statutory aggravating factors:

Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction

Offence committed whilst on bail

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

Other aggravating factors:

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

Offence committed in prison

Offence committed in domestic context

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

Abuse of position of trust

Gratuitous degradation of victim

Others put at risk of harm by the offence

Use of duress or threats against another person to facilitate the commission of the offence

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

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

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

Factors reducing seriousness or reflecting personal mitigation

No previous convictions or no relevant/recent convictions

Significant degree of provocation (including due to prolonged and/or excessive stress linked to circumstances of offence)

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

Attempt by offender to give assistance/summon help when the attempted murder failed

Remorse

Good character and/or exemplary conduct

Age and/or lack of maturity

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

Sole or primary carer for dependent relative(s)

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

Step 3 – Consider any other factors which indicate a reduction, such as assistance to the prosecution

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) 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 4 – Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with [section 73 of the Sentencing Code](#) and the [Reduction in Sentence for a Guilty Plea](#) guideline.

Step 5 – Dangerousness

The court should consider:

- 1) whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose a life sentence (sections [274](#) and [285](#))
- 2) whether having regard to sections [273](#) and [283](#) of the Sentencing Code it would be appropriate to impose a life sentence.
- 3) whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#))

When sentencing offenders to a life sentence under these provisions, the notional determinate sentence should be used as the basis for the setting of a minimum term.

Step 6 – Required special sentence for certain offenders of particular concern

Where the offence has a terrorist connection and satisfies the criteria in section [278](#) of the Sentencing Code and the court does not impose a sentence of imprisonment for life or an extended sentence, but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

Step 7 – 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 8 – Compensation and ancillary orders

In all cases, the court should consider whether to make [compensation](#) and/or other ancillary orders.

- [Ancillary orders – Crown Court Compendium](#)

Step 9 – Reasons

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 10 – Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).