

Sentencing Council

Sentencing Council meeting: 19 November 2021
Paper number: SC(21)NOV06 – Burglary Revision
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1 ISSUE

1.1 This is the first meeting to discuss the burglary guideline post the consultation earlier this year. There are four meetings scheduled to discuss the guideline, ahead of publication in May, with an in force date of July 2022. These dates need to be adhered to as the data collection in the magistrates and Crown Courts starts in October 22, so the guideline needs to have been in force for three months prior to collecting data as part of the exercise.

2 RECOMMENDATION

2.1 That the Council:

- Considers the responses to culpability factors across the three guidelines
- Considers the responses in relation to equality and diversity issues

3 CONSIDERATION

3.1 The consultation ran from the 9th June to the 1st September. In total 32 responses were received, the list of respondents is at **Annex A**. In general, the proposals consulted on were well received, particularly the change to three levels of culpability and harm. Road testing was conducted on the proposals, the report is attached at **Annex B**. In road testing the guidelines tested well, with judges and magistrates finding the guidelines clear and useable.

3.2 As many of the comments that respondents made on culpability issues are applicable across the three guidelines, all culpability issues will be considered at this meeting, later meetings will look at harm, sentence levels and aggravating and mitigating factors across all three guidelines.

3.3 The first comments relate to targeting within non-domestic burglary (attached at **Annex C**). The Council may recall that due to concerns about too many cases

being captured within high culpability, non-domestic burglary does not refer to targeting within high culpability, and aggravated and domestic burglary have the factor 'of *targeting of vulnerable victim.*' The [original guideline](#) had a high culpability factor of deliberate targeting of pharmacies etc. A number of magistrates and the Magistrates Association (MA) questioned this, saying they think the reference to deliberate targeting should be retained, and that this type of offending would not always be captured by the significant degree of planning factor, and that the deliberate nature of offending was key here.

3.4 West London Magistrates Bench discuss the effect of this type of targeted offending on the local community, with temporary or permanent closure of pharmacies or corner shops as a result. They suggest that a distinction should be made between premises that provide an essential service and those that do not, and that there should be a new medium culpability factor of: '*deliberate targeting of premises providing an essential service*', thus acknowledging the concern about too many cases going into high culpability so suggesting it goes into medium culpability. However the definition of what is an essential service and what isn't may prove problematic, and could vary over time, thinking about how 'essential services' was defined during the pandemic.

3.5 The JCS argue that targeting of a vulnerable victim should be added to high culpability in non-domestic burglary, that this type of offending goes beyond being an aggravating feature, and that sentencers could be trusted to only use this factor in appropriate cases. The Justice Committee (JC) also thought that targeting of a vulnerable victim should be added to high culpability in non-domestic burglary.

3.6 One magistrates' bench suggested that there should be an additional high culpability factor related to repeat deliberate targeting, of the same premises by the same offender, within domestic burglary (**Annex D**). This is done after a short space of time, often with elderly victims, but after having allowed sufficient time to pass so that the victim has replaced the stolen items. There could be a new factor of '*vulnerable victim and/or repeat targeting of same premises.*'

Question 1: Does the Council wish to add targeting of a vulnerable victim to high culpability in non-domestic burglary?

Question 2: Does the Council wish to add a new medium culpability factor of '*deliberate targeting of premises providing an essential service*' within non domestic burglary?

Question 3: Does the Council want to add a new high culpability factor relating to repeat targeting of same premises in domestic burglary? Or if not as a culpability factor, as an aggravating factor instead?

3.7 The CPS suggest that the wording 'where not charged separately' is removed from the high culpability factor *'knife or other weapon carried (where not charged separately)* within domestic and non-domestic burglary, stating that carrying a weapon or knife may make a burglary more serious, depending on the facts, whether or not possession is charged separately. They say the appropriate way for any issue of double counting to be addressed is by application of the principles of totality.

Question 4: Does the Council wish to remove the wording 'where not charged separately' in domestic and non-domestic burglary'?

3.8 The Criminal Law Solicitors' Association (CLSA) query whether if what should be classed as a weapon, (as opposed to a piece of equipment used in order to commit the offence) should be defined or not. The JCS also state that there is potential for inconsistent categorisation of implements, such as Stanley knives and screwdrivers. Some sentencers may see the presence of these as an indication that the offender was equipped for burglary, to strip copper wiring, loosen door hinges etc, so medium culpability. However, other sentencers may determine items such as Stanley knives to fall into 'other weapon carried', so high culpability. The JCS concede these instances may be rare and in most cases it will be obvious which category the items fall into.

3.9 If the Council wished to clarify this issue, it could place an asterisk next to weapon in the guideline, and add text in a footnote, for example:

* for the purposes of this guideline a weapon is any article which is made or adapted for use for causing injury, or is intended by the person having it with him for such use'.

Question 5: Does the Council wish to define what should be classed as a weapon, perhaps by way of the footnote shown?

3.10 The Prison Reform Trust (PRT) queried the need for *'equipped for burglary'* to be included as a medium culpability factor in both domestic and non-domestic burglary, stating that it could already be captured within the planning factor, and so potentially could lead to double counting. A couple of magistrates also questioned going equipped, suggesting that most offences needed some form of being equipped, so were likely to be captured within planning.

Question 6: Should 'equipped for burglary' be removed from domestic and non domestic burglary?

3.11 A small number of magistrates queried the lower culpability factor across all three guidelines of '*offence committed on impulse, with limited intrusion into property*'. This factor was in the original guideline. They suggest that they are two separate considerations, and should be separated, that limited intrusion is more relevant to harm, an offender could commit the offence on the spur of the moment but could go through ransacking an entire property looking for items of value. So the suggestion is that just '*offence committed on impulse*' remains in low culpability, with '*limited intrusion*' being added to the category three harm factor so it becomes '*limited damage or disturbance or intrusion into property*.'

Question 7: Does the Council wish to separate the offence committed on impulse factor in the way suggested across the three guidelines? And add reference to limited intrusion to the harm factor?

3.12 PRT made a number of suggestions for additions to lower culpability. They suggest that '*severe financial hardship when linked to the commission of the offence*' should be added, they say in recognition that people from lower socio-economic backgrounds are over represented within the criminal justice system, with acquisitive crime seen by some as necessary for survival.

3.13 They also feel that age and lack of maturity should be referred to not just at step two, but at culpability at step one, that where maturity is linked to the commission of the offence, it should be recognised as a factor indicating lower culpability. They cite various sources of evidence which recognise that development of the brain does not cease until 25 and point to the fact that the factor is a lesser culpability factor in the child cruelty guideline: '*offender's responsibility substantially reduced by mental disorder or learning disability or lack of maturity*'.

3.14 However, as the Council may recall, the factor was at step one in the child cruelty guideline for specific reasons relating to that offence, and these reasons do not apply in this context. Other than the sources of evidence PRT refer to regarding brain development, they offer few other compelling reasons to support their suggestions for changes to culpability.

Question 8: Does the Council wish to add severe financial hardship as a lower culpability factor?

Question 9: Does the Council want to add age/lack of maturity to the lower culpability factors across all three guidelines?

The Council may recall that the existing guideline had ‘*member of a group or gang*’ as a high culpability factor, but this was moved to become a step two factor due to concerns that it would increase the amount of offenders falling into high culpability. The word gang was removed due to the negative connotations associated with this word, as has been done in other guidelines. A magistrate and barrister commented on this, saying it should remain as a high culpability factor.

Question 10: Does the Council want the factor relating to group to remain an aggravating factor or move to step one?

3.15 ‘*Offence committed at night*’ is an aggravating factor across all three guidelines, one Crown Court Judge stated that if a domestic or aggravated burglary was committed at night, this ought to be a specific feature of culpability, and hence attract a greater sentence, rather than being aggravated within a range at step two.

Question 11: Should offence committed at night remain as an aggravating factor or be moved to become a culpability factor?

3.16 PRT in their response raise concerns around extended determinate sentences (EDS), saying that one could be imposed for a domestic and non-domestic burglary which involved damage to property, even in cases where no physical harm was caused to a victim. This is technically true but is a consequence of legislation, not the guidelines. They also mention that our resource assessments generally contain no analysis of EDS. The A&R team can add more clarity into resource assessments on assumptions around EDS. There is wider work in progress on a review of resource assessment methodology which this issue could feed into, if the data is found to be of sufficient quality.

4 EQUALITIES

4.1 The consultation paper outlined the findings of the available data in relation to volumes of offenders sentenced grouped by sex, self-identified ethnicity and age. The data had shown that Black offenders seemed to represent a larger proportion of those sentenced for aggravated burglary. Further analysis of police recorded crime statistics and prosecution statistics found that Black defendants were over-represented in all three types of burglary, suggesting that the over-representation is happening further upstream of sentencing, at the prosecution stage and possibly before. It seemed that the differences observed are in the volumes of offenders coming before the courts and not in sentencing practice itself.

4.2 The consultation asked for views on equality and diversity issues and the guidelines, if there was a risk that the guideline could be interpreted in ways which could lead to discrimination against any particular group. Very few people answered this question, the Howard League being one of them. They noted that the overrepresentation may be occurring 'upstream' from sentencing but point out that nothing is being suggested to remedy the over representation at the point of sentencing. They suggest that the aggravated burglary guideline should expressly remind sentencers that Black people are disproportionately charged with aggravated burglary offences and sentencers should take this into account. As variances in volumes of offenders coming before the courts are not the responsibility of the Council, it is suggested that it is not appropriate to act on this suggestion by PRT. We have previously added wording to guidelines on disparities within sentencing, but this would be on a completely different point.

Question 12: Does the Council agree not to include the reference suggested by the Howard League within aggravated burglary?

4.3 They also point to the data within the [data tables](#) published alongside the consultation which showed that 95 per cent of Black offenders sentenced for aggravated burglary were given immediate custodial sentences (20 out of 21), compared to 90 per cent of White offenders, (101 out of 112), although the sample size was too small to tell whether this is a significant difference. They suggest that the Council should analyse sentencing outcomes for aggravated burglary over a longer period, to assess whether Black people are also more likely to be sentenced to immediate custody. The A&R team will be considering the latest data on burglary offences, including looking at a longer time series and volumes for 2020, in preparation for the publication of the definitive guidelines. If there has been any change in trends from the evidence considered at the draft stage, these will be highlighted for discussion at a future meeting

4.4 The Howard League also suggest that the guideline reminds sentencers of the accumulated disadvantage that Black defendants¹ may have faced which should be explored and factored in as a mitigating factor. This suggestion needs careful consideration, and it could apply to other guidelines, as well as burglary. Therefore, instead of considering this suggestion at pace and in isolation within burglary, it is suggested that this point is considered by the Equality and Diversity sub-group.

¹ [A-guide-for-antiracist-lawyers.pdf \(howardleague.org\)](#)

Question 13: Does the Council agree that this issue should be remitted to the Equality and Diversity sub- group for detailed consideration?

4.5 PRT also commented on the findings and asked that the Council do not just pay attention to individual factors or how they are expressed but actively work with criminal justice partners such as the Judicial College to ensure that possible factors underlying disproportionate outcomes are properly addressed, through better training and guidance to sentencers. In the response document we could discuss some of the work we have done in this area, such as the seminar with sentencers that Juliet and Amber spoke at regarding the research into disparities in the drugs guideline.

4.6 They also suggest that the Council seeks to ensure that its own procedures for recording and analysing data meet the standards set by the Lammy review. The Lammy review made a number of recommendations for the CJS, including around collecting and publishing data on all protected characteristics. We do not have control over the variables recorded in the CPD and are limited by the data that is collected at the police station, which covers just age, sex and ethnicity. MOJ and HMCTS are aware of the limitations in this area. In terms of our data collections, we have committed to an action on equality and diversity in our five year strategy around collecting, analysing and publishing data, where this is available, and undertaking more in-depth analytical work where resources permit, as was done with drugs offences.

4.7 The Howard League also point to the statistics in the bulletin that accompanied the consultation that showed that young adults under the age of 21 make up a significant proportion of those sentenced for burglary offences. They point to the [expanded explanation for age and/or lack of maturity](#) which instructs courts to consider young adult's development stage in assessing their culpability and the impact of sentence. They suggest that the guideline should contain a reference reminding sentencers to refer to the expanded explanation in the case of young adults, that offenders sentenced for burglary are likely to have previous convictions for the same offence, and that these convictions should be viewed differently in the case of young adults, as the expanded explanation states: '*a young adult's previous convictions may not be indicative of a tendency for further offending.*'

Question 14: Does the Council wish to include a reference relating to young adults and previous convictions?

4.8 PRT commented that they were concerned with the lack of consistent reliable data on disability, particularly with regards to mental health and learning disability.

However, there is a lack of data on this issue as the data is not recorded at the police station.

List of consultation respondents- Annex A

1. Colette
2. Suffolk Magistrates Bench
3. Sentencing Academy
4. Prison Reform Trust
5. Justices' Legal Advisers
6. HM Council of District Judges
7. Rory Kelly
8. Chief Magistrate
9. West London Magistrates Bench
10. CLSA
11. Council of HM Circuit Judges
12. MA
13. Association of Convenience Stores
14. CPS
15. Howard league for Penal Reform
16. Historic England
17. North London Bench
18. East Kent Bench
19. Fiona Levack JP
20. Alan Atkinson JP
21. Emir Felsal JP
22. HHJ Mark Weekes
23. Kyle Brown JP
24. Benjamyn Damazer JP
25. John Marr JP
26. Nargis Alsadiq
27. Guy Cecil JP
28. Neil King
29. Janet Kemp JP
30. Martin Alderman JP
31. HHJ Rupert Lowe
32. Justice Committee

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Road testing with Crown Court judges and magistrates: Domestic, Non-domestic and Aggravated burglary

Introduction

The current burglary guidelines were published by the Council in January 2012. At this time, the resource assessment did not predict any impact on prison and probation services. However, when reviewed in 2016, the initial assessment indicated that since the guidelines had come into force, sentencing severity had increased for domestic (s.9), non-domestic (s.9) and aggravated burglary (s.10). Further research indicated that the increase in sentence severity for non-domestic burglary in the magistrates' court and Crown Court, could be attributable to the guideline, though for domestic burglary this appeared to be part of a longer-term trend rather than resulting from the guideline. Due to low volumes of cases of aggravated burglary, it was not possible to conclude if this increase was caused by the implementation of the guideline.

Alongside amendments to some factors, as outlined below, the draft guidelines update the existing guidelines to reflect the stepped approach used in more recent guidelines produced by the Council and introduces new medium levels of culpability/harm. Therefore, research was needed to understand how amendments to the structure of the guideline, and changes to factors could impact sentencing practice; and to ensure the draft guidelines are clear and usable. As they were new elements to the guidelines, particular attention was paid to the following elements of the draft guidelines to understand:

Domestic burglary: How sentencers interpreted guidance on the application of flexibility regarding cases of particular gravity and whether guidance wording in relation to imposing community orders with drug or alcohol treatment requirements is clear.

Non-domestic burglary: What, if any, are the issues being seen by magistrates when sentencing cases of non-domestic burglary, that could contribute to the increase in sentence severity in this court.

Aggravated burglary: How sentencers applied new guidance on carrying a weapon on entry of the premises as an aggravating factor as compared with a factor used in assessing culpability.

Methodology

Twenty-one interviews were conducted, consisting of nine magistrates and twelve Crown Court judges. Participants were selected by random sample from the Council's research pool. Qualitative interviews were conducted via MS Teams with sentencers from across England and Wales. Judges considered three scenarios (summarised below) and magistrates, two, relating to the Non-domestic burglary guideline only. Participants received the draft guidelines a week prior to the interview and sentenced each scenario twice, using the draft and existing guidelines.

Scenario	Summary of scenario
A – Domestic	<p>K, with another defendant, broke into a home of an elderly couple at night by smashing glass in the back door. The resident confronted K who threatened him with a screwdriver. Keys, a wallet, jewellery and a brand new Motability car valued at £23,000 were stolen. The couple felt violated and felt they had to install extra security measures to make them feel safe.</p> <p>CCTV captured the defendant approaching the property, alongside the number plate of the vehicle, with his hood up partially obscuring his face, using a torch and holding a screwdriver. CCTV from the day before captured K loitering outside the house, peering through the window.</p> <p>The court heard that K had been on a burglary expedition that evening, with two other attempted burglaries taking place nearby (subject to separate charges), both of which were foiled by passers-by. K was convicted after trial. He has over 100 previous convictions for theft, burglary and robbery and was out on licence at the time of the offence.</p>
B – Domestic	<p>A, 21, entered a home through an open ground floor window during the afternoon. He had been drinking for most of the day and needed money to buy alcohol, which led to the offence. He was disturbed by the victim, who found him in the living room, going through her handbag but left emptyhanded. He pleaded guilty at the first opportunity and has one previous conviction for domestic burglary. The pre-sentence report detailed that he has had a troubled background and suffered a trauma which led to him having problems with alcohol addiction. He is now willing to accept he has an alcohol problem and wants to tackle it. The victim was very upset and scared by the incident, leaving her anxious about security and being at home on her own.</p>
C – Aggravated	<p>R, 21, forced his way into a convenience store, along with two others, just as it was closing for the night and the shutters were being rolled down. R was carrying a machete which he used to force the shutters back up. Two staff members had seen this on CCTV and retreated to a locked back room and called the police. R and the others emptied the tills and contents of the cigarette store into bags they had brought with them for that purpose. Police came in time to apprehend them.</p> <p>Damage was done to the shutters, costing around £500 to repair. R pleaded guilty at the first opportunity. He has two previous unrelated convictions. The victim impact statements said they were terrified in the incident.</p>
D - Non-domestic	<p>W, 50, stole a handbag from behind a reception desk at a local hospital whilst there for an appointment. The receptionist was in the back room. The handbag (an expensive one) contained a purse with £70 cash, bank cards and the victim's driving licence and the only copy of an assignment for the receptionist's college course. The bag was found in a nearby alleyway, minus the cash, cards and licence. The handbag and assignment were ruined by heavy rain. W pleaded guilty at the first opportunity. He had many previous convictions for dishonesty. The victim was upset by what had happened and had the inconvenience of having to cancel all her cards, wait for new ones, and apply for a new licence. She was also upset by the loss of the handbag (a 21st Birthday gift).</p>
E – Non-domestic	<p>P, aged 29, and a friend who had been drinking most of the day, broke into an office on a new housing development. They vandalised some of the walls, damaged some furnishings, and broke a window. P said he committed the offence on impulse whilst walking past on the way home. He has one unrelated previous conviction and pleaded guilty at the first possible opportunity.</p>

Key Points

- The guidelines road tested well, and judges and magistrates found the draft guidelines clear and usable. The update to the stepped approach was highly favoured across each of the draft guidelines, especially three levels of culpability and harm.
- Under the s.9 Domestic and Non-domestic draft guidelines, a theme of concern arose surrounding assessment of two harm factors: ‘much greater emotional impact on the victim than would normally be expected’ and ‘greater emotional impact on the victim than would normally be expected’. Multiple sentencers thought this to be highly subjective and thought the harm categories lacked a position for a normal level of emotional impact.
- One scenario (A – Domestic burglary) was sentenced consistently across the draft and existing guidelines and between judges. Sentences for scenarios B-E remained largely consistent between the draft and existing guidelines however, varied depending on sentencer. For the most part, the differences are small.¹
- Domestic burglary: Additional wording relating to cases of particular gravity was found to be clear and usable. Additional wording on Alcohol Treatment Requirements (ATR) as an alternative to short or moderate custodial sentences was not opposed although some judges stated they would have to be persuaded to apply this in the case of domestic burglary or they would need evidence that addiction was the root cause of the offending behaviour.
- Aggravated burglary: On the whole, there was not opposition to the movement of the ‘weapon carried when entering premises’ from a factor of culpability to an aggravating factor. Five of the nine judges that considered the Aggravated burglary scenario (C), applied this factor under aggravation, hence double counting the factor, and two judges applied it at step one. One did so on the basis that it may need to be taken into account when considering taking the sentence outside of the guideline and the other was initially undecided on harm categories, but focused on the weapon element of the harm factor: ‘Violence used or threatened against the victim, particularly involving a weapon’, and thought the carrying of the machete to be applicable to the factor. When reading the aggravating factor of ‘weapon carried when entering premises’, they said ‘that effectively confirms it’s category one [harm]’.
- Magistrates reported they had not perceived changes to the types of non-domestic burglary cases seen in court and there were no particular difficulties in sentencing non-domestic burglaries.

¹ A breakdown of the sentences can be seen at the end of this document.

s.9 Domestic burglary

Scenario A (s.9 Domestic burglary)

Sentencing as expected by policy:

In Scenario A, the offender was expected to be placed in Category 1A, with a 3 year starting point. The sentence could go above the top of the range, because it was a case of particular gravity, leading to a sentence of above 6 years.

- Eight of the nine judges assessed Scenario A, relating to Domestic burglary to be category A1 as expected. Due to uncertainty surrounding if the screwdriver would constitute a weapon, one judge assessed this as B1. Five of the nine judges applied the wording 'for cases of particular gravity, sentences above the top of the range may be appropriate' and their final sentences ranged from 7-9 years. The four remaining sentences ranged between three and a half and six years.
 - It was agreed the wording was clear and workable.
 - To emphasise the additional wording, it was suggested this wording be highlighted or put in larger type.
- A point to note in relevance to the Domestic and Non-domestic draft guidelines is the assessment of 'much greater' or 'greater emotional harm than is normally expected'. Multiple judges and magistrates expressed concern about this element and felt this was highly subjective. One judge commented there was no categorisation of emotional impact on the victim that was not more than would normally be expected. They therefore felt the guideline would exclude a case of what would be thought to be a 'normal' level of emotional impact as this would automatically be assigned to a category three, which was thought to be too low to reflect the impact on victims. However, this did not appear to produce inconsistencies in the assessment of harm.

Scenario B (s.9 Domestic burglary)

Sentencing as expected by policy:

In Scenario B, the offender was expected to be placed in Category B1, with a starting point of 2 years and then a reduction for guilty plea. A community order with an alcohol treatment requirement may be a proper alternative to a short of moderate custodial sentence.

Two of the nine judges categorised Scenario B, relating to Domestic burglary, as B1 as expected. Three assessed it to be C1, three C2 and one B2. Five judges imposed suspended sentence orders (SSO) ranging between six months and one year and two months. Eight imposed custodial sentences ranging from one year to two years and six months. One judge did not state their sentence pre and post-guilty plea and imposed a suspended sentence of 6 months with an ATR and unpaid work.

- Those who assessed culpability to be category B (as expected) agreed that the offence was committed on impulse, but that there was more than 'limited intrusion'.

Those who assessed it as category C said there was limited intrusion, and some pointed out that there was no targeting in the case.

- Those categorising the offender under high harm (as expected) agreed this was due to the occupier being present. Those who assessed harm as category two agreed on the factor of the victim being present, but balanced this with the fact nothing was stolen.
- The wording in relation to imposing community orders with drug or alcohol treatment requirements was generally accepted, with judges saying they would be applied if alcohol was the root cause of the offending behaviour. However, two judges said they would need '*some persuasion*' that it would be an appropriate sentence for Domestic burglary. Another judge said they would be hesitant to impose non-custodial penalties due to this area being 'under sentenced': "*The impact on some of this sort of thing is just enormous, and to the extent that deterrence works for those who are inclined to commit offences, which is, I think very much in doubt, but to the extent it does work, they need to know that if you break into someone's house, you're going in.*"
- Participants were positive about the guideline and liked the flexibility of the stepped approach. Concerns were raised on the assessment of the '*normally expected*' emotional impact on victims included within the harm categorisation. Additional wording relating to cases of particular gravity was found to be clear and usable.
- Judges were happy with the culpability under the Domestic burglary guideline and favoured the addition of the third category of culpability, which was thought to give more flexibility and scope to analyse the case in a more critical and detailed way. '*The guidelines really identify the factors that touch upon culpability and harm.*'
- Aggravating and mitigating factors were widely accepted. One comment was made, suggesting the factors relating to the offence itself should be grouped together, followed by the remaining factors.

s.10 Aggravated burglary

Scenario C (s.10 Aggravated burglary)

Sentencing as expected by policy:

In Scenario C, the offender was expected to be placed in category B2 with a starting point of 6 years, with an increase within the range for aggravating factors.

- Four judges placed the offender in culpability A and five judges in culpability B. Those placing the offender in the higher category did so on the basis of a significant degree of planning and targeting of a vulnerable victim. Those placing the offender in category B did so on the basis of some degree of planning or organisation.
- Six judges assessed harm to be category one and three as category two. Those placing the offender in category one did so on the basis of the presence of the victim, trauma to the victim and a significant degree of loss. Those placing the offender in category two did so on the basis of some degree of loss and psychological impact to the victim.
- Five of nine judges applied the factor 'weapon carried when entering premises' under Step 2, double counting, and two applied the factor under Step 1. Of the two,

one did so on the basis that the factor should remain in culpability as, 'it might be the fact that you feel it should be taken into account when taking it outside of the guideline.' The other judge was initially undecided between harm categories one and two but focused on the weapon element of the harm factor: *'Violence used or threatened against the victim, particularly involving a weapon'*, and thought the carrying of the machete to be applicable to the factor. When reading the aggravating factor of *'weapon carried when entering premises'*, they said *'that effectively confirms it's category one [harm]'*.

- Judges imposed custodial sentences ranging from six to ten years.
- The guideline was well received and sentencers were in favour of the stepped approach. On the whole, there was not opposition to the movement of the factor *'weapon carried when entering premises'* from a factor of culpability to an aggravating factor. However, some clarification was called for on the wording and whether the weapon need be visible or concealed.
- Under Scenario C, no judges made an increase in their imposed sentence using the draft guideline in comparison to that using the existing guidelines. Five judges imposed sentences that were less than that under the existing guideline, the decreases range between one (three judges) and three years (one judge). One judge made a decrease of a year and a half.
- It was noted that the addition of the middle category was helpful to have in terms of starting points: *'It's a very useful area and there's a nice degree of overlap as well between the ranges with different categories, which is always good to see because it enables you to finesse things more than if the guideline categories were hard edged between the different brackets'*.
- There were no points to note on aggravating or mitigating factors. One judge commended the Council on the addition of the factor *'Offence committed in a dwelling'* – *'I think that's a very useful addition to reflect in the new guideline that isn't present in the old [existing] one.'*

s.9 Non-domestic burglary

Scenario D (s.9 Non-domestic burglary)

Sentencing as expected by policy:

In Scenario D, the offender was expected to be placed in category C1 with a starting point of 6 months, aggravated by previous convictions to around 1 year. Reduced to around 6 months following guilty plea.

- Nine judges and nine magistrates were asked to sentence scenario D. Thirteen judges and magistrates assessed Scenario D (Non-domestic burglary) to be category C2, three C1 (as expected), one B2 and one C1 or 2. Those categorising harm to be level two, did so on the basis of the factors of *'some degree of loss'*, *'greater emotional impact than expected'*, *'soiling of property'* and *'victim on premises'*.
- Sentences imposed by judges ranged from a Community Order to 8 months custody. Pre-GP sentences by magistrates ranged from Medium-Level Community Order to six months custody. Five judges' sentences remained consistent across the existing and draft guidelines and two of the magistrates sentences remained consistent.

- Two judges made increases of two months to their sentences using the draft guideline. Three magistrates made increases using the draft guideline. Two increased their sentence by one and a half months and one increased from a high-level community order to six months custody. One judge and three magistrates made a decrease using the draft guideline, all of which reduced a custodial sentence to community orders.

Scenario E (s.9 Non-domestic burglary)

Sentencing as expected by policy:

In Scenario E, the offender was expected to be placed in category C2 with a starting point of a medium-level community order. This could be aggravated to a high-level community order however, credit for a guilty plea could reduce the sentence back to a medium-level community order.

- Four of nine magistrates assessed Scenario E (Non-domestic burglary) to be category C2 as expected, four as B2, and one as C3. Those categorising under category C based the decision on the factor of the offence being committed on impulse with limited intrusion. Three of four of those under category B based this on the offence committed on impulse but with more than limited intrusion.
- Most (8 of 9) magistrates assessed harm to be category 2 based on 'some degree of loss' and 'ransacking or vandalism'. One magistrate categorised the scenario as category 3 and alongside 'some degree of loss', applied the factor of 'nothing stolen'.
- Sentences included Band B fine (2), medium-level community order (4) and 6 months custody (4). Four magistrates imposed a higher sentence using the draft guideline. Increases range from one and a half months to four months. One magistrate increased their sentence from a low-level community order to six months custody. Four magistrates sentences remained consistent and one made a decrease from four and a half months custody to a MLCO.

Comments on the s.9 Non-domestic burglary guideline:

- It was generally thought the guideline worked well and was relatively easy to follow. A point to note in relevance to the Domestic and Non-domestic draft guidelines is the assessment 'much greater' or 'greater emotional harm than is normally expected'. It was felt this was highly subjective. One judge commented there was no categorisation of emotional impact on the victim that was not more than would normally be expected. They therefore felt the guideline would exclude a case of what would be thought to be a 'normal' level of emotional impact as this would automatically be assigned to a category three, which was thought to be too low to reflect the impact on victims.
- Other than the above note on emotional impact, most judges and magistrates were happy with the three levels of harm and culpability and felt that there was a greater range of factors 'which fit better with the nuanced nature of the offence'.
- One magistrate thought the draft guideline to be pitched at a better starting point than the existing Non-domestic burglary guideline.
- There were no objections to aggravating or mitigating factors.

- Magistrates reported they had not perceived changes to the types of non-domestic burglary cases seen in court and there were no particular difficulties in sentencing non-domestic burglaries.

Scenario A – Domestic burglary

Existing guideline		Draft guideline									
	SP (years)	Final sentence (years)	Culpability	Factors	Harm	Factors	SP (years)	Aggravating factors	Mitigating factors	Final sentence (years)	
Expected			A	<ul style="list-style-type: none"> Targeting of vulnerable victims Significant degree of planning Other weapon carried Equipped for burglary 	1	<ul style="list-style-type: none"> Occupier at home Violence used or threatened against the victim Substantial degree of loss 	3	<ul style="list-style-type: none"> Previous convictions Offence committed at night Vulnerable victim(s) Offence committed as part of a group Offence committed on licence 	None	Above 6 years	
	1	3.5 years	3.5 years	A	<ul style="list-style-type: none"> Targeting of vulnerable victim <i>Threat of violence**</i> 	1	<ul style="list-style-type: none"> Occupier at home Economic loss to victim 	3.5 years*	<ul style="list-style-type: none"> Previous convictions Offence committed as part of a group Offence committed on licence 	None	3.5 years
	2	4.5 years	6 years	A	<ul style="list-style-type: none"> Targeting of vulnerable victim Significant degree of planning 	1	<ul style="list-style-type: none"> Occupier at home Violence or threatened against victim 	6 years	<ul style="list-style-type: none"> Previous convictions Offence committed at night Offence committed as part of a group Steps taken to prevent the victim reporting Offence committed on licence 	None	7 years
	3	3 years	6 years	B	<ul style="list-style-type: none"> Culpability falls between A and C <i>Other weapon carried?</i> 	1	<ul style="list-style-type: none"> Occupier at home Violence threatened against victim 	3 years	<ul style="list-style-type: none"> Previous convictions Offence committed at night Offence was committed as part of a group Steps taken to prevent the victim reporting Offence committed on licence <i>Other offending</i> 	None	6 years
	4	3 years	7 years	A	<ul style="list-style-type: none"> Significant degree of planning Other weapon carried 	1	<ul style="list-style-type: none"> emotional impact Occupier at home Violence threatened against victim Substantial degree of loss 	3 years	<ul style="list-style-type: none"> Offence committed at night Offence committed as part of a group Offence committed on licence <i>Serious consequences for the victims</i> 	None	7 years
	5	6 years	6-8 years	A	<ul style="list-style-type: none"> Significant degree of planning Equipped for burglary 	1	<ul style="list-style-type: none"> Substantial degree of loss <i>Age of victims</i> <i>Significant impact on the victims</i> <i>Violation</i> 	6 years	<ul style="list-style-type: none"> Previous convictions Offence committed at night Offence committed on licence <i>Homeowner present</i> <i>Value of property stolen</i> 	None	6-8 years

									• <i>Evidence of bad character</i>		
6	6 years	9 years	A	<ul style="list-style-type: none"> • Degree of planning • Other weapon carried 	1	<ul style="list-style-type: none"> • Much greater emotional impact than expected • Occupier at home • Violence threatened against victim • Substantial degree of loss 	6 years	<ul style="list-style-type: none"> • Previous convictions • Offence committed at night • Vulnerable victim • Offence committed as part of a group • Offence committed on licence 	None	9 years	
7	3 years	4.5 years	A	<ul style="list-style-type: none"> • Planning • Other weapon carried 	1	<ul style="list-style-type: none"> • Greater emotional impact than expected • Occupier at home • Violence threatened against victim • Substantial degree of loss 	3 years	<ul style="list-style-type: none"> • Previous convictions • Offence committed at night • Offence committed on licence 	None	4.5-5 years	
8	5-6 years	5-6 years	A	<ul style="list-style-type: none"> • Targeting of vulnerable victims • Other weapon carried • Some degree of planning • Equipped for burglary 	1	<ul style="list-style-type: none"> • Occupier at home • Violence threatened against victim • Substantial degree of loss 	3 years	<ul style="list-style-type: none"> • Previous convictions • Offence committed at night • Vulnerable victim • Offence committed as part of a group • <i>Threatening</i> 	None	5-6 years	
9	3 years	8 years	A	<ul style="list-style-type: none"> • Significant degree of planning 	1	<ul style="list-style-type: none"> • Emotional impact • Occupier at home • Violence threatened against victim • <i>Significant</i> substantial loss 	3 years	<ul style="list-style-type: none"> • Offence committed at night • Vulnerable victim • Offence committed as part of a group • Offence committed on licence 	None	8 years	

* raised from 3 years to reflect previous convictions.

** a harm factor but applied in culpability

Scenario B – Domestic burglary

Existing guideline			Draft guideline								
	SP (years and months)	Pre-GP sentence (years and months)	Culpability	Factors	Harm	Factors	SP (years and months)	Aggravating	Mitigating	Pre – GP sentence	Final sentence, Post-GP (years)
Expected			B	<ul style="list-style-type: none"> Some degree of planning 	1	<ul style="list-style-type: none"> Occupier at home Confrontation 	2 years	<ul style="list-style-type: none"> Previous conviction Commission of offence whilst under the influence of alcohol 	<ul style="list-style-type: none"> Determination to address addiction Age 	2 years	Around 1 or CO with an ATR
1	1 year	1 year	B	<ul style="list-style-type: none"> Committed on impulse 	1	<ul style="list-style-type: none"> Occupier at home Nothing stolen 	1 year, 9 months	<ul style="list-style-type: none"> Commission of offence whilst under the influence of alcohol 	<ul style="list-style-type: none"> Determination to address addiction Age and/or lack of maturity 	1 year 9 months	1 year 2 months susp. 2 years
2	1 year	1 year	C	<ul style="list-style-type: none"> No targeting not equipped 	1	<ul style="list-style-type: none"> Occupier at home 	6 months	-	-	-	6 months susp. 1 year (ATR/UPW)
3	1 year	10-13 months	C	-	2	<ul style="list-style-type: none"> Occupier at home 	1 year	<ul style="list-style-type: none"> Previous conviction Commission of offence whilst under the influence of alcohol 	<ul style="list-style-type: none"> Determination to address addiction Age and/or lack of maturity 	1 year 3 months	10 months
4	1 year	1 year	C	<ul style="list-style-type: none"> Committed on impulse No targeting 	2	<ul style="list-style-type: none"> Occupier at home Property of low value stolen 	1 year	-	<ul style="list-style-type: none"> Determination to address addiction origins of problem guilty plea 	1 year	8 months susp. 2 years (RAR/UPW/curfew)
5	1 year	8 months susp. 2 years (ATR)	C	<ul style="list-style-type: none"> Committed on impulse with limited intrusion. 	1	<ul style="list-style-type: none"> Occupier at home Greater degree of emotional impact 	-	<ul style="list-style-type: none"> Previous conviction 	<ul style="list-style-type: none"> Remorse Determination of steps taken to address offending behaviour Age and/or lack of maturity 	1 year 6 months	1 year susp. 2 years
6	1 year 6 months	1 year 6 months	C	-	2	<ul style="list-style-type: none"> Nothing stolen or only property of 	1 year	<ul style="list-style-type: none"> Previous conviction 	<ul style="list-style-type: none"> Remorse Some indication to address 	1 year	9 months

						<ul style="list-style-type: none"> low value to the victim Limited damage to property 		<ul style="list-style-type: none"> Commission of offence whilst under the influence of alcohol 	<ul style="list-style-type: none"> addiction/offending behaviour Age 		
7	1 year	1 year 9 months	B	<ul style="list-style-type: none"> Committed on impulse <i>but not limited intrusion</i> 	1	<ul style="list-style-type: none"> Greater emotional impact than expected Nothing stolen 	2 year	<ul style="list-style-type: none"> Previous convictions Commission of offence whilst under the influence of alcohol 	<ul style="list-style-type: none"> <i>Willingness</i> to address addiction <i>Traumatic background</i> 	2 year 6 months	1 year 8 months
8	9 months	1 year	B	<ul style="list-style-type: none"> Committed on impulse <i>but not limited intrusion</i> 	2	<ul style="list-style-type: none"> Occupier at home Nothing stolen or only property of low value to the victim 	1 year	<ul style="list-style-type: none"> Previous convictions 	<ul style="list-style-type: none"> Remorse <i>Willingness</i> to address addiction 	1 year 3 months	1 year
9	1 year	1 year 3 months	C	<ul style="list-style-type: none"> Committed on impulse 	1	<ul style="list-style-type: none"> Occupier at home Much greater impact than expected 	1 year, 6 months	<ul style="list-style-type: none"> Previous convictions 	<ul style="list-style-type: none"> <i>Acceptance of alcohol problem</i> 	1 year 9 months	1 year 2 months susp. 2 years

Scenario C – Aggravated burglary

Existing guideline		Draft guideline									
SP (years)	Final Sentence Pre-GP (years and months)	Culpability	Factors	Harm	Factors	SP (years)	Aggravating	Mitigating	Pre-GP (years)	Final sentence Post-GP (years)	
Expected			B	<ul style="list-style-type: none"> Some degree of planning 	2	<ul style="list-style-type: none"> Some psychological harm Some degree of loss to the victim 	6 years	<ul style="list-style-type: none"> Use of face covering Offence committed at night Offence committed as part of a group 	<ul style="list-style-type: none"> No relevant previous convictions Age 	7 years	4 years, 8 months
1	10 years	9 years	A	<ul style="list-style-type: none"> Targeting of vulnerable victim Degree of planning 	1	<ul style="list-style-type: none"> Victim on the premises <i>Violence against property</i> Substantial degree of loss Psychological impact to the victim Ransacking or vandalism <i>Weapon carried</i> 	10 years	<ul style="list-style-type: none"> Weapon carried when entering premises Offence committed as part of a group 	<ul style="list-style-type: none"> No relevant convictions Age and lack of maturity 	7 years, 6 months	5 years
2	11 years	10 years	A	<ul style="list-style-type: none"> Some impact or loss <i>Victim on premises</i> 	1	<ul style="list-style-type: none"> Victim on the premises Some degree of loss 	10 years	<ul style="list-style-type: none"> Weapon carried when entering premises Use of face covering Offence committed at night Offence was committed as part of a group 	<ul style="list-style-type: none"> No relevant convictions Remorse Age and lack of maturity 	10 years	6 years, 6 months
3	10 years	10 years	A	<ul style="list-style-type: none"> Significant degree of planning 	1	<ul style="list-style-type: none"> Victim on the premises 	10 years	-	-	10 years	6 years, 8 months
4	10 years	8 years	A	<ul style="list-style-type: none"> Significant planning and targeting and <i>slight</i> vulnerability Weapon 	1 or 2	<ul style="list-style-type: none"> Victim on the premises Violence threatened <i>Attempt to steal what would be a substantial loss</i> 	10 years	<ul style="list-style-type: none"> Weapon carried when entering premises Use of face covering 	<ul style="list-style-type: none"> Nothing stolen No previous convictions 	8 years	5 years, 4 months

						<ul style="list-style-type: none"> • <i>Equipped for burglary</i> • Some psychological impact • <i>Weapon produced</i> 		<ul style="list-style-type: none"> • Offence committed in a dwelling • Offence committed as part of a group 	<ul style="list-style-type: none"> • Age and lack of maturity 		
5	10 years	9 years	B	-	1	<ul style="list-style-type: none"> • Significant psychological trauma to the victim • Victim on the premises • <i>Some degree of violence threatened, involving a weapon</i> 	8 years	<ul style="list-style-type: none"> • Use of face covering • Vulnerable victim • Offence committed as part of a group 	<ul style="list-style-type: none"> • No relevant previous conviction • Age and lack of maturity 	8 years	5 years, 4 months
6	10 years	9 years	B	<ul style="list-style-type: none"> • Some planning or organisation 	2	<ul style="list-style-type: none"> • Victim on the premises • <i>Significant degree of loss</i> • Vulnerable victim 	9 years	<ul style="list-style-type: none"> • Unrelated previous convictions • Weapon carried when entering premises • Use of face covering • Vulnerable victim (taken into account at step 1) • Committed at night 	<ul style="list-style-type: none"> • Age 	8 years	5 years, 4 months
7	10 years	9 years	B	<ul style="list-style-type: none"> • Some degree of planning • <i>Part of a group</i> • <i>Committed at night</i> 	1	<ul style="list-style-type: none"> • Violence used or threatened against the victim • Some psychological injury to the victim • Some degree of loss • Victim on the premises 	9 years	<ul style="list-style-type: none"> • <i>Unrelated previous convictions*</i> • Weapon carried when entering premises (taken into account at step 1) • Use of face covering • Committed at night 	<ul style="list-style-type: none"> • No relevant previous convictions • Age and lack of maturity 	9 years	6 years
8	9 years	9 years	B	<ul style="list-style-type: none"> • Some degree of planning 	1	-	8 years	-	-	8 years	5 years, 4 months
9	10 years	9 years	B	<ul style="list-style-type: none"> • Targeting of vulnerable victim • Some degree of planning or organisation 	2	<ul style="list-style-type: none"> • Victims on the premises • Some degree of loss • Some psychological injury or impact on the victim 	6 years	<ul style="list-style-type: none"> • Weapon carried when entering premises • Use of face covering • Offence committed at night • Offence committed as part of a group 	<ul style="list-style-type: none"> • No relevant previous convictions • Age 	6 years	4 years

* a mitigating factor but applied under aggravation

Scenario D – Non-domestic burglary (judges)

	Existing guideline		Draft guideline							
	SP (mths)	Final Sentence (months)	Culpability	Factors	Harm	Factors	SP (mths)	Aggravating	Mitigating	Final sentence (years and mths)
Expected			C	<ul style="list-style-type: none"> Committed on impulse with limited intrusion 	1	<ul style="list-style-type: none"> Victim on premises Substantial degree of loss 	6 months	<ul style="list-style-type: none"> Previous convictions 	None	1 year
1	4.5 months	6 months	C	<ul style="list-style-type: none"> Committed on impulse 	1	<ul style="list-style-type: none"> Victim on premises Substantial degree of loss Limited damage or disturbance to property 	6 months	<ul style="list-style-type: none"> Previous convictions 	None	8 months
2	4.5 months	6 months	C	<ul style="list-style-type: none"> Committed on impulse 	2	<ul style="list-style-type: none"> Some degree of loss 	HLCO	<ul style="list-style-type: none"> Previous convictions 	None	6 months
3	MLCO	HLCO	C	<ul style="list-style-type: none"> Committed on impulse 	2	<ul style="list-style-type: none"> Some degree of loss 	MLCO	<ul style="list-style-type: none"> Previous convictions 	None	HLCO
4	CO	HLCO/SO	C	<ul style="list-style-type: none"> Committed on impulse 	2	<ul style="list-style-type: none"> Some degree of loss 	MLCO	None	None	CO
5	HLCO	-	C	<ul style="list-style-type: none"> Committed on impulse with limited intrusion into property 	2	<ul style="list-style-type: none"> Loss Impact on victim 	MLCO	<ul style="list-style-type: none"> Previous convictions 	None	HLCO (UW/RAR)
6	4.5 months/LLCO	6 months	C	<ul style="list-style-type: none"> Committed on impulse (<i>opportunistic</i>) 	2	<ul style="list-style-type: none"> Some degree of loss 	MLCO	<ul style="list-style-type: none"> Previous convictions 	None	6 months
7	4.5 months	6 months possibly susp.	C	<ul style="list-style-type: none"> Committed on impulse with limited intrusion into property 	2	<ul style="list-style-type: none"> Greater emotional impact 	CO	<ul style="list-style-type: none"> Previous convictions 	None	MLCO (curfew)
8	9 months	6 months (assuming GP)	C	<ul style="list-style-type: none"> Committed on impulse 	1/2	<ul style="list-style-type: none"> Substantial degree of loss Emotional impact (greater or much greater) 	6 months/MLCO	-	None	6 months

9	4.5 months/ MLCO	6 months	C	• Committed on impulse	1	• Substantial degree of loss	6 months/ MLCO	• Previous convictions	None	8 months
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Scenario D – Non-domestic burglary (Magistrates)

Existing guideline		Draft guideline									
Expected	SP (mths)	Final Sentence Pre-GP	Culpability	Factors	Harm	Factors	SP	Aggravating	Mitigating	Sentence (Pre-GP)	Final sentence (Post-GP)
				C	<ul style="list-style-type: none"> Committed on impulse, with limited intrusion 	1	<ul style="list-style-type: none"> Victim on premises Substantial degree of loss 	6 months	<ul style="list-style-type: none"> Previous convictions 	None	1 year
1	4.5 months	MLCO	C	<ul style="list-style-type: none"> Committed on impulse, with limited intrusion 	2	<ul style="list-style-type: none"> Some degree of loss 	MLCO	<ul style="list-style-type: none"> Previous convictions 	None	MLCO	MLCO
2	4.5 months	4.5 months	C	<ul style="list-style-type: none"> Committed on impulse, with limited intrusion 	2	<ul style="list-style-type: none"> Some degree of loss 	MLCO	<ul style="list-style-type: none"> Previous convictions 	None	HLCO (200hr UW)	HLCO (180hr UW)
3	HLCO	HLCO	C	<ul style="list-style-type: none"> Committed on impulse, with limited intrusion 	2	<ul style="list-style-type: none"> Greater emotional impact Damage of property causing some degree of loss 	MLCO	<ul style="list-style-type: none"> Previous convictions 	None	HLCO (UPW?)	HLCO (discount hrs)
4	4.5 months	3 months	C	<ul style="list-style-type: none"> Committed on impulse, with limited intrusion Victim on premises 	2	<ul style="list-style-type: none"> Greater emotional impact Some degree of loss 	MLCO	<ul style="list-style-type: none"> Previous convictions 	None	MLCO/ Band B fine (100hr UW)	MLCO/Band B fine (66% WI and 66hr UW)
5	4.5 months	2 months 1week	C	<ul style="list-style-type: none"> <i>Defendant was not an intruder as was at the hospital when the offence was committed</i> 	2	<ul style="list-style-type: none"> Greater emotional impact <i>Multiple items stolen</i> 	MLCO	<ul style="list-style-type: none"> Previous convictions Abuse of a position of trust 	<ul style="list-style-type: none"> <i>GP at earliest opportunity</i> 	Custody*	HLCO
6	MLCO	HLCO	B	<ul style="list-style-type: none"> Committed on impulse, with limited intrusion 	2	<ul style="list-style-type: none"> Some degree of loss 	6 months	<ul style="list-style-type: none"> Previous convictions 	None	6 months	4 months possibly susp

7	MLCO	4.5 months	C	<ul style="list-style-type: none"> Limited intrusion 	2	<ul style="list-style-type: none"> Victim on premises Soiling of property Some degree of loss Theft/damage to property 	MLCO	<ul style="list-style-type: none"> Previous convictions 	None	HLCO (victim comp)	HLCO (lower hours)
8	4.5 months	4.5 months	C	<ul style="list-style-type: none"> Committed on impulse, with limited intrusion <i>Little planning</i> 	1	<ul style="list-style-type: none"> Victim on premises Some degree of loss 	6 months	<ul style="list-style-type: none"> Previous convictions 	None	6 months	6 months (credit for GP is not sending to CC)
9	4.5 months	4.5 months	C	<ul style="list-style-type: none"> Committed on impulse, with limited intrusion 	2	<ul style="list-style-type: none"> Some degree of loss Emotional impact on victim 	6 months	<ul style="list-style-type: none"> Previous convictions <i>Emotional impact on the victim</i> <i>A place of work</i> <i>Public place</i> <i>Damage to property</i> 	<ul style="list-style-type: none"> <i>Committed on impulse with limited intrusion</i> <i>Low value property but high sentimental value</i> 	6 months	4 months sups. 1 year

* unspecified length.

Scenario E – Non-domestic burglary (Magistrates)

Existing guideline		Draft guideline								
SP (years)	Final Sentence Pre-GP (months)	Culpability	Factors	Harm	Factors	SP (mths)	Aggravating	Mitigating	Pre-GP (months)	Final sentence Post-GP (months)
Expected			<ul style="list-style-type: none"> Offence committed on impulse, with limited intrusion 	2	<ul style="list-style-type: none"> Some degree of loss Ransacking or vandalism 	MLCO	<ul style="list-style-type: none"> Part of a group Under the influence of alcohol 	None	HLCO	MLCO
1	4.5 months	MLCO	<ul style="list-style-type: none"> Committed on impulse 	2	<ul style="list-style-type: none"> Ransacking or vandalism 	MLCO	<ul style="list-style-type: none"> Part of a group Under influence of alcohol 	<ul style="list-style-type: none"> No relevant previous convictions <i>Guilty plea</i> 	MLCO	LLCO (ATR; RAR)
2	MLCO	MLCO	<ul style="list-style-type: none"> Committed on impulse 	2	<ul style="list-style-type: none"> Some degree of loss Ransacking or vandalism 	MLCO	<ul style="list-style-type: none"> Part of a group Under influence of alcohol 	<ul style="list-style-type: none"> No relevant previous convictions <i>Guilty plea</i> 	MLCO (100 hrs UPW)	MLCO (50 hrs UPW)
3	LLCO	LLCO	<ul style="list-style-type: none"> <i>More than limited intrusion</i> 	2	<ul style="list-style-type: none"> Some degree of loss 	6 months	<ul style="list-style-type: none"> Under influence of alcohol 	<ul style="list-style-type: none"> No relevant previous convictions <i>Guilty plea</i> 	6 months	HLCO
4	MLCO	MLCO (120hr UPW) and Band B fine	<ul style="list-style-type: none"> Committed on impulse 	2	<ul style="list-style-type: none"> Some degree of loss <i>Some degree of damage to property</i> 	MLCO	<ul style="list-style-type: none"> Part of a group Under influence of alcohol 	-	MLCO (120hr UPW) Band B fine (70% weekly income)	MLCO (80 hrs UPW) Band B fine (100% weekly income)
5	4.5 months	2 months	<ul style="list-style-type: none"> <i>Not limited intrusion</i> 	2	<ul style="list-style-type: none"> Some degree of loss Ransacking or vandalism 	6 months	-	<ul style="list-style-type: none"> No relevant previous convictions <i>Guilty plea</i> 	6 months	4 months

6	4.5 months	4.5 months	B	<ul style="list-style-type: none"> Committed on impulse <i>Intrusion on property</i> 	2	<ul style="list-style-type: none"> Some degree of loss <i>Some damage to property</i> 	6 months	<ul style="list-style-type: none"> previous convictions Under influence of alcohol 	-	6 months	4 months SSO
7	4.5 months	4.5 months	C	<ul style="list-style-type: none"> Offence committed on impulse 	2	<ul style="list-style-type: none"> Some degree of loss Ransacking or vandalism 	MLCO	<ul style="list-style-type: none"> Under influence of alcohol 	<ul style="list-style-type: none"> No relevant previous convictions 	MLCO	MLCO
8	LLCO (40hr UPW)	LLCO	C	<ul style="list-style-type: none"> Offence committed on impulse, with limited intrusion 	3	<ul style="list-style-type: none"> Some degree of loss Nothing stolen 	Band B fine	<ul style="list-style-type: none"> Under influence of alcohol 	<ul style="list-style-type: none"> No relevant previous convictions <i>Reasonably good character</i> <i>Guilty plea</i> 	Band B fine	Band B fine (1/3 reduction)
9	4.5 months	4.5 months	B	<ul style="list-style-type: none"> Offence committed on impulse, with limited intrusion 	2	<ul style="list-style-type: none"> Some degree of loss Ransacking or vandalism <i>Intrusion</i> 	6 months	<ul style="list-style-type: none"> Under influence of alcohol 	<ul style="list-style-type: none"> No relevant previous convictions 	6 months	M-HLCO

Annex C

Non-domestic burglary

Theft Act 1968 (section 9)

Triable either way (except as noted below)

Maximum: 10 years' custody

Offence range: Discharge – five years' 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 if it was committed with intent to:

- a. inflict grievous bodily harm on a person, or
- b. do unlawful damage to a building or anything in it.

This offence is **indictable only** where it is a burglary comprising the commission of, or an intention to commit, an offence which is triable only on indictment.

STEP ONE

Determining the offence category

The court should determine the offence category with reference only to the factors in the table 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">• A significant degree of planning or organisation• Knife or other weapon* carried (where not charged separately)
B- Medium culpability	<ul style="list-style-type: none">• Some degree of planning or organisation• Equipped for burglary (where not in high culpability)• Other cases that fall between categories A and C because:<ul style="list-style-type: none">○ Factors are present in A and C which balance each other out and/or○ The offender's culpability falls between the factors described in A and C
C- Lower culpability	<ul style="list-style-type: none">• Offence committed on impulse, with limited intrusion into property• Involved through coercion, intimidation or exploitation• Mental disorder or learning disability, where linked to the commission of the offence

* for the purposes of this guideline a weapon is any article which is made or adapted for use for causing injury, or is intended by the person having it with him for such use'.

Harm	
The level of harm is assessed by weighing up all the factors of the case	
Category 1	<ul style="list-style-type: none">• Much greater emotional impact on the victim than would normally be expected• Victim on the premises (or returns) while offender present• Violence used or threatened against the victim• Theft of/damage to property causing a substantial degree of loss to the victim (whether economic, commercial or personal value)• Soiling of property and/or extensive damage or disturbance to property• Context of public disorder
Category 2	<ul style="list-style-type: none">• Greater emotional impact on the victim than would normally be expected

	<ul style="list-style-type: none"> • Theft of/damage to property causing some degree of loss to the victim (whether economic, commercial or personal value) • Ransacking or vandalism of the property
Category 3	<ul style="list-style-type: none"> • Nothing stolen or only property of low value to the victim (whether economic, commercial or personal) • Limited damage or disturbance to property

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 conditions

Where the offender is dependent on or has a propensity to misuse drugs or alcohol and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under [part 10](#), or an alcohol treatment requirement under [part 11](#), of Schedule 9 of the Sentencing Code may be a proper alternative to a short or moderate custodial sentence.

Harm	Culpability		
	A	B	C
Category 1	Starting Point 2 years' custody Category Range 1 -5 years' custody	Starting Point 1 years' custody Category Range High level community order - 2 years' custody	Starting Point 6 months custody Category Range Medium level community order – 1 years' custody
Category 2	Starting Point 1 years' custody Category Range High level community order - 2 years' custody	Starting Point 6 months custody Category Range Medium level community order – 1 years' custody	Starting Point Medium level community order Category Range Low -high level community order
Category 3	Starting Point 6 months custody Category Range Medium level community order - 1 years' custody	Starting Point Medium level community order Category Range Low – high level community	Starting Point Band B fine Category Range Discharge – Low level community order

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

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: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Abuse of a position of trust
- Restraint, detention or additional gratuitous degradation of the victim
- Vulnerable victim
- Offence was committed as part of a group
- Offences taken into consideration
- Any steps taken to prevent the victim reporting the incident or obtaining assistance and/or from assisting or supporting the prosecution
- Offence committed on licence or post sentence supervision or while subject to court order(s)
- Commission of offence whilst under the influence of alcohol or drugs
- Established evidence of community impact

Factors reducing seriousness or reflecting personal mitigation

- Offender has made voluntary reparation to the victim
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction
- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Determination, and/or demonstration of steps taken to address addiction or offending behaviour
- Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder or learning disability, where not linked to the commission of the offence
- Age and/or lack of maturity
- Delay since apprehension
- Sole or primary carer for dependent relatives

STEP THREE

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

The court should take into account [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 FOUR

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 FIVE

Dangerousness

A burglary offence under section 9 Theft Act 1968 is a specified offence if it was committed with the intent to (a) inflict grievous bodily harm on a person, or (b) do unlawful damage to a building or anything in it. The court should consider whether having regard to the criteria contained [section 308 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#)).

STEP SIX

Totality principle

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

STEP SEVEN

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders. The court must give reasons if it decides not to order compensation ([Sentencing Code, s.55](#)).

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

STEP EIGHT

Reasons

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

STEP NINE

Consideration for time spent on bail (tagged curfew)

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

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Annex D

Domestic burglary

Theft Act 1968 (section 9)

Triable either way (except as noted below)

Maximum: 14 years' custody

Offence range: Low level community order- six years' 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 if it was committed with intent to:

- a. inflict grievous bodily harm on a person, or
- b. do unlawful damage to a building or anything in it.

This offence is **indictable only** where:

- a. it is a burglary comprising the commission of, or an intention to commit, an offence which is triable only on indictment; or
- b. any person in the dwelling was subjected to violence or the threat of violence; or
- c. if the defendant were convicted, it would be a third qualifying conviction for domestic burglary.

Where sentencing an offender for a qualifying **third domestic burglary**, the Court must apply [section 314 of the Sentencing Code](#) and impose a custodial term of at least three years, unless it is satisfied that there are particular circumstances which relate to any of the offences or to the offender which would make it unjust to do so.

STEP ONE**Determining the offence category**

The court should determine the offence category with reference only to the factors in the table 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"> • Targeting of vulnerable victim • A significant degree of planning or organisation • Knife or other weapon carried (where not charged separately)
B- Medium culpability	<ul style="list-style-type: none"> • Some degree of planning or organisation • Equipped for burglary (where not in high culpability) • Other cases that fall between categories A and C because: <ul style="list-style-type: none"> ○ Factors are present in A and C which balance each other out and/or ○ The offender's culpability falls between the factors described in A and C
C- Lower culpability	<ul style="list-style-type: none"> • Offence committed on impulse, with limited intrusion into property • Involved through coercion, intimidation or exploitation • Mental disorder or learning disability, where linked to the commission of the offence

Harm

The level of harm is assessed by weighing up all the factors of the case

Category 1	<ul style="list-style-type: none"> • Much greater emotional impact on the victim than would normally be expected • Occupier at home (or returns home) while offender present • Violence used or threatened against the victim • Theft of/damage to property causing a substantial degree of loss to the victim (whether economic, commercial or personal value) • Soiling of property and/or extensive damage or disturbance to property • Context of public disorder
Category 2	<ul style="list-style-type: none"> • Greater emotional impact on the victim than would normally be expected

	<ul style="list-style-type: none"> • Theft of/damage to property causing some degree of loss to the victim (whether economic, commercial or personal value) • Ransacking or vandalism to the property
Category 3	<ul style="list-style-type: none"> • Nothing stolen or only property of low value to the victim (whether economic, commercial or personal) • Limited damage or disturbance to property

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 conditions

Where sentencing an offender for a qualifying **third domestic burglary**, the Court must apply [section 314 of the Sentencing Code](#) and impose a custodial term of at least three years, unless it is satisfied that there are particular circumstances which relate to any of the offences or to the offender which would make it unjust to do so.

Where the offender is dependent on or has a propensity to misuse drugs or alcohol and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under [part 10](#), or an alcohol treatment requirement under [part 11](#), of Schedule 9 of the Sentencing Code may be a proper alternative to a short or moderate custodial sentence.

For cases of particular gravity, sentences above the top of the range may be appropriate.

Harm	Culpability		
	A	B	C
Category 1	Starting Point 3 years' custody Category Range 2 -6 years' custody	Starting Point 2 years' custody Category Range 1 -4 years' custody	Starting Point 1 year 6 months' custody Category Range 6 months – 3 years' custody
Category 2	Starting Point 2 years' custody Category Range 1 -4 years' custody	Starting Point 1 year 6 months' custody Category Range 6 months – 3 years' custody	Starting Point 1 years' custody Category Range High level community order-2 years' custody

Category 3	Starting Point 1 year 6 months' custody Category Range 6 months - 3 years' custody	Starting Point 1 years' custody Category Range High level community order-2 years' custody	Starting Point High level community order Category Range Low level community order-6 months custody
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Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

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: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Child at home (or returns home) when offence committed
- Offence committed at night
- Restraint, detention or additional gratuitous degradation of the victim
- Vulnerable victim (where not already taken into account at step one)
- Victim compelled to leave their home
- Offence was committed as part of a group
- Offences taken into consideration
- Any steps taken to prevent the victim reporting the incident or obtaining assistance and/or from assisting or supporting the prosecution
- Offence committed on licence or post sentence supervision or while subject to court order(s)
- Commission of offence whilst under the influence of alcohol or drugs
- Established evidence of community impact

Factors reducing seriousness or reflecting personal mitigation

- Offender has made voluntary reparation to the victim
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction

- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Determination, and/or demonstration of steps taken to address addiction or offending behaviour
- Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder or learning disability, where not linked to the commission of the offence
- Age and/or lack of maturity
- Delay since apprehension
- Sole or primary carer for dependent relatives

STEP THREE

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

The court should take into account [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 FOUR

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. Where a minimum sentence is imposed under [section 314 of the Sentencing Code](#), the sentence must not be less than 80 percent of the appropriate custodial period after any reduction for a guilty plea.

STEP FIVE

Dangerousness

A burglary offence under section 9 Theft Act 1968 is a specified offence if it was committed with the intent to (a) inflict grievous bodily harm on a person, or (b) do unlawful damage to a building or anything in it. The court should consider whether having regard to the criteria contained in [section 308 of the Sentencing Code](#) it would be appropriate to impose an extended sentence (sections [266](#) and [279](#)).

STEP SIX

Totality principle

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

STEP SEVEN

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders. The court must give reasons if it decides not to order compensation ([Sentencing Code, s.55](#)).

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

STEP EIGHT

Reasons

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

STEP NINE

Consideration for time spent on bail (tagged curfew)

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

Annex E

Aggravated burglary

Theft Act 1968 (section 10)

Triable only on indictment

Maximum: Life imprisonment

Offence range: 1 – 13 years' custody

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

STEP ONE

Determining the offence category

The court should determine the offence category with reference only to the factors in the table 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">• Targeting of vulnerable victim• A significant degree of planning or organisation
B- Medium culpability	<ul style="list-style-type: none">• Some degree of planning or organisation• Other cases that fall between categories A and C because:<ul style="list-style-type: none">○ Factors are present in A and C which balance each other out and/or○ The offender's culpability falls between the factors described in A and C
C- Lower culpability	<ul style="list-style-type: none">• Involved through coercion, intimidation or exploitation• Mental disorder or learning disability, where linked to the commission of the offence

Harm

The level of harm is assessed by weighing up all the factors of the case

Category 1	<ul style="list-style-type: none">• Substantial physical or psychological injury or other substantial impact on the victim• Victim at home or on the premises (or returns) while offender present• Violence used or threatened against the victim, particularly involving a weapon• Theft of/damage to property causing a substantial degree of loss to the victim (whether economic, commercial or personal value)• Soiling of property and/or extensive damage or disturbance to property• Context of public disorder
Category 2	<ul style="list-style-type: none">• Some physical or psychological injury or some other impact on the victim• Theft of/damage to property causing some degree of loss to the victim (whether economic, commercial or personal value)

	<ul style="list-style-type: none"> • Ransacking or vandalism to the property
Category 3	<ul style="list-style-type: none"> • No violence used or threatened and a weapon is not produced • Limited physical or psychological injury or other limited impact on the victim

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 conditions

Harm	Culpability		
	A	B	C
Category 1	Starting Point 10 years' custody Category Range 9 -13 years' custody	Starting Point 8 years' custody Category Range 6 -11 years' custody	Starting Point 6 years' custody Category Range 4 – 9 years' custody
Category 2	Starting Point 8 years' custody Category Range 6 -11 years' custody	Starting Point 6 years' custody Category Range 4– 9 years' custody	Starting Point 4 years' custody Category Range 2-6 years' custody
Category 3	Starting Point 6 years' custody Category Range 4-9 years' custody	Starting Point 4 years' custody Category Range 2-6 years' custody	Starting Point 2 years' custody Category Range 1-4 years' custody

<https://www.sentencingcouncil.org.uk/overarching-guides/crown-court/item/imposition-of-community-and-custodial-sentences/>.

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account at step one

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: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Weapon carried when entering premises
Care should be taken to avoid double counting in these cases. If an offender commits an aggravated burglary with intent to steal/inflict GBH/ do criminal damage [a 9(1)(a) burglary], they commit the offence at the point of the trespass when they enter the building. So for these offences, all aggravated burglaries would have the weapon present on entry. For the aggravated version of s.9(1)(b) the offence is not committed until the point of the theft/attempted theft or GBH/attempt GBH and therefore the offender may have the weapon on entry or have picked it up in the address. *R v Sage (AG's ref SAGE [2019] EWCA Crim 934, [2019] 2 Cr App R (S) 50)* sets out that having a weapon present on entry is an essential element of an aggravated s.9(1)(a) offence and so care needs to be taken in s.9(1)(a) cases that the fact the offender has a weapon present on entry is not taken into account a second time. In s.9(1)(b) cases, however, the fact that the offender had taken a weapon to the premises, and was in possession of it when entering, will normally aggravate the offence (unless already taken into account at step 1).
- Use of face covering or disguise
- Offence committed in a dwelling
- Child at home (or returns home) when offence committed
- Offence committed at night
- Abuse of power and/or position of trust
- Restraint, detention or additional gratuitous degradation of the victim
- Vulnerable victim (where not captured at category one)
- Victim compelled to leave their home
- Offence was committed as part of a group
- Offences taken into consideration
- Any steps taken to prevent the victim reporting the incident or obtaining assistance and/or from assisting or supporting the prosecution
- Offence committed on licence or post sentence supervision or while subject to court order(s)
- Commission of offence whilst under the influence of alcohol or drugs
- Established evidence of community impact

Factors reducing seriousness or reflecting personal mitigation

- Nothing stolen or only property of low value to the victim (whether economic, commercial or personal)
- Offender has made voluntary reparation to the victim
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction
- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Determination, and/or demonstration of steps taken to address addiction or offending behaviour
- Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder or learning disability, where not linked to the commission of the offence
- Age and/or lack of maturity
- Delay since apprehension
- Sole or primary carer for dependent relatives

STEP THREE

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

The court should take into account [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 FOUR

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 FIVE

Dangerousness

The court should consider whether having regard to the criteria contained in [section 308 of the Sentencing Code](#) it would be appropriate to impose a life sentence (sections [274](#) and [285](#)) or 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 SIX

Totality principle

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

STEP SEVEN

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders. The court must give reasons if it decides not to order compensation. ([Sentencing Code, s.55](#)).

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

STEP EIGHT

Reasons

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

STEP NINE

Consideration for time spent on bail (tagged curfew)

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