

Assisting an Offender

s.4(1) of the Criminal Law Act

Triable only on indictment (unless the principal offence is an either way offence, in which case the offence of assisting a principal offender is also triable either way.)

Criminal Law Act 1967, s. 4(3)(a)

Maximum: 10 years (Principal offence is murder)

Criminal Law Act 1967, s.4(3)(b)

Maximum: 7 years (Principal offence is subject to a sentence of 14 years)

Criminal Law Act 1967, s.4(3)(c)

Maximum: 5 years (Principal offence is subject to a sentence of 10 years)

Criminal Law Act 1967, s.4(3)(d)

Maximum: 3 years (All other cases)

Offence range: x – xx years' custody

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">• Conduct over a sustained period of time• Sophisticated and planned nature of conduct• Offence committed by the offender assisted very serious
B- Medium culpability	<ul style="list-style-type: none">• 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">• Unplanned and limited in scope and duration• Unsophisticated nature of conduct• Offence committed by the offender assisted not serious• Involved through coercion, intimidation or exploitation• Offender's responsibility substantially reduced by mental disorder or learning disability

HARM	
The level of harm is assessed by weighing up all the factors in the case.	
Category 1	<ul style="list-style-type: none">• Serious impact on the administration of justice• Serious effect on victims as a result of the offence (for example delay in identifying/bringing offender/s to justice)
Category 2	<ul style="list-style-type: none">• Some impact on the administration of justice• Some effect on victims as a result of the offence
Category 3	<ul style="list-style-type: none">• Limited effects of the offence

STEP TWO

Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions

Harm	Culpability		
	A	B	C
Category 1	Starting Point Category Range	Starting Point Category Range	Starting Point Category Range
Category 2	Starting Point Category Range	Starting Point Category Range	Starting Point Category Range
Category 3	Starting Point Category Range	Starting Point Category Range	Starting Point Category Range

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

Other aggravating factors:

- Offence committed in a domestic context
- Commission of offence whilst under the influence of alcohol or drugs
- Offender involves others in the conduct
- Any steps taken to prevent the victim reporting the incident or obtaining assistance and/or from assisting or supporting the prosecution
- Evidence concealed/destroyed-double counting
- Offence committed on licence or post sentence supervision or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder, learning disability (where not taken into account at step one)
- Age and/or lack of maturity
- 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

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 SIX

Compensation and ancillary orders

In all cases, the court should consider whether to make compensation and/or other ancillary orders. Where the offence has resulted in personal injury, loss or damage the court must give reasons if it decides not to order compensation ([Sentencing Code, s.55](#)).

STEP SEVEN

Reasons

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

STEP EIGHT

Consideration for time spent on bail

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 52 of the Sentencing Code](#)