

Sentencing Council meeting:
Paper number:

22 October 2021
**SC(21)OCT05 - Perverting the Course of
Justice and Witness intimidation**

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1 ISSUE

1.1 This is the third meeting to discuss the guidelines and will focus on matters regarding an assisting an offender guideline. The Council are also asked to note the changes made to the perverting the course of justice (PTCJ) and witness intimidation guidelines following the last meeting. The next meeting will look at sentence levels in detail so the Council are not asked to consider these at the meeting.

2 RECOMMENDATION

2.1 At today's meeting the Council are asked:

- To consider the problems regarding an assisting an offender guideline
- To note the changes made to the PTCJ and witness intimidation guidelines following the last meeting

3 CONSIDERATION

Assisting an Offender

3.1 At the July meeting the Council agreed to include assisting an offender offences within the project - there is no current guideline for assisting an offender offences. This offence (section 4 of the Criminal Law Act 1967) occurs when someone who knows or believes another person has committed an offence (and that person **has** committed that or another offence) does something to impede the arrest or prosecution of the other person. The offence of assisting an offender can be an alternative to the principal offence – so, for example, if two defendants are charged with murder it is possible that one might be convicted of the murder and the other of assisting an offender.

3.2 The offence can only be committed where a relevant offence (that is an offence carrying a term of five years or more) has previously been committed by the person assisted, and proof of that person's guilt is an essential element in proof of this offence – although this does not necessarily mean that the other person has to have been convicted of the principal offence. Where there are issues around proving that the principal offence was committed an

alternative would be to charge perverting the course of justice. The maximum sentence depends upon the offence committed by the other person:

- Where the principal offence is murder: maximum is 10 years
- Where the principal offence is subject to a sentence of 14 years, the maximum is 7 years
- Where the principal offence is subject to a sentence of 10 years, the maximum is 5 years
- In other cases: the maximum is 3 years

3.3 The different statutory maxima means this is a complicated guideline to develop. The aim was to try to create one guideline, with one set of harm/culpability factors, but with four sentencing tables, one for each of the different statutory maxima, we have other guidelines with more than one sentence table. However we have been faced with a number of challenges in trying to do so. Firstly, the volumes involved are very small, 79 offenders sentenced in 2019, and 42 sentenced in 2020. This means the available data for the current sentencing of these offences, which we use to create the sentence ranges is very small.

3.4 There is a further problem in that the Court Proceedings Database (CPD), which provides the sentencing data, does not differentiate the data in the four different groupings that we need (set out in 3.2 above), instead the data is broken down into three groupings, murder, indictable offence (except murder) and triable either way offences. This means that the offence of assisting an offender where the offence committed was murder maps from the legislation to the CPD, however, the three other sections from the legislation are covered by only two sections in the CPD. We are unable to identify which is which from the data, i.e. we don't know the statutory maximum sentence of the underlying offence so don't know what the maximum sentence for the assisting offence should be. This presents a problem when we need to understand sentencing outcomes and sentence lengths to be able to have a sentencing table for each different statutory maximum under the legislation.

3.5 In order to try and find a potential solution to this we ordered all the sentencing transcripts for one year's worth of sentenced cases and created a mini data set. This involved ascertaining from reading the sentencing remarks, firstly what offence the offender assisted had committed, then noting what the corresponding statutory maximum was for the offender being sentenced, then what their sentence was. This is quite a time consuming process and as the transcripts from 2020 were ordered, this only produced 42 cases, so the data set has considerable limitations. In addition, it is not always possible to identify the offence from the transcripts due to the limited detail in some of them, so this resulted in a very small dataset of offences in which we could identify the corresponding offence and statutory maximum. An option would be to order the 79 transcripts from 2019 in order to

build a bigger data set in order to develop the sentence ranges with more confidence, but this comes at a financial and time cost, and would still produce a small set of data. Also, as noted above it is not always possible to identify the offence the offender assisted had committed, to see which statutory maximum applied.

3.6 In discussion with Juliet about ways of dealing with these difficulties she has suggested that we could possibly come to an accurate estimate of the correct sentences by a combination of pro-rata comparison with the murder data and the Council's combined experience. This is something we could of course try to do, although using the murder data has limitations as such a small number are sentenced each year, 16 in 2020.

3.7 Due to the low volumes and the inability to correctly identify the offences in question it is problematic to produce sentencing ranges for the guideline based on the data available to us, with a potential outcome being that the guideline may have an impact on the sentencing severity of this offence. Most offenders sentenced for assisting an offender (where the offence is not murder) receive a custodial sentence (77% immediate custody/suspended sentence in 2020) so the potential to impact prison resources is slightly higher despite the low volumes. The ACSL is considerably lower than the statutory maximum for these offences, around 1 year in 2020, compared to the statutory maximum sentence of 7,5 or 3 based on the offence in question, this may make it difficult to produce sentence ranges that incorporate the statutory maximum sentence.

3.8 From an A&R perspective, it may also be difficult to produce a resource assessment based on the limited data available, and it may be difficult to identify in future if the guideline has had an impact on sentencing for each section of the legislation, making evaluation of the guideline difficult.

3.9 This raises concerns about developing a guideline for this offence. There are concerns about the reliability/limitations of the available sentencing data with which to use to develop the ranges, so the ranges might not reflect current sentencing practice. Generally when we develop guidelines the intention is not to change sentencing practice, but to promote consistency of approach and consolidate sentencing practice. The risk here is that the guideline might possibly alter current sentencing practice as we can't exactly be sure what current sentencing practice is.

3.10 Previously we have created guidelines where there has been no sentencing data, but this has been for new offences or offences where there have been no cases sentenced. In those cases we have looked to see what Parliament intended in creating the offences, and created sentence ranges accordingly. This situation is different, it is an established offence so the risk is that the ranges we would create based on incomplete data might be different to

current sentencing practice. On the other hand, a way forward would to construct the three sentence tables would be to estimate current sentencing practice using a combination of pro-rata comparison with the murder data and Council's combined experience, as per Juliet's suggestion, along with the limited available data we do have from using transcript analysis to inform the CPD data regarding legislation.

3.11 There are risks in creating a guideline for this offence, due to the problems with data. It may be worth noting that there have been no calls for a guideline for this offence, and courts could use the PTCJ guideline as an analogous offence instead, if the Council chose not to do it. It is likely in any event that an assisting an offender guideline would be very similar to the PTCJ guideline. Some work has started to develop a draft guideline, this is attached at **Annex A**, and Council will see that the draft culpability and harm factors are very similar to those in the PTCJ guideline attached at **Annex B**. The sentence table is blank at this stage pending a decision on the development of the guideline. The factors in the draft guideline at **Annex A** reflect what the CACD said in *A-G's Ref (No. 16 of 2009) (Yates) [2009] EWCA Crim 2439, [2010] 2 Cr App R (S) 11 (64)* that when assessing sentence for an offence of assisting an offender the issues were likely to be:

1. The nature and extent of the criminality of the offender for whom assistance was provided.
2. The nature and extent of the assistance provided.
3. The extent to which the efforts to assist the offender damaged the interests of justice

The available data we have for this offence is at **Annex D**.

Question 1: What is the Council's view about the risks involved in developing a guideline for this offence? Does the Council think the risks in creating sentence ranges due to the limitations of the data are ones that can be satisfactorily overcome? Or are they such that the risks could outweigh the benefits of developing a guideline?

3.12 Turning now to the changes made to the PTCJ guideline attached at **Annex B**. The changes made following the last meeting can be seen in track changes, mainly changes to the wording of some of the factors, with some deletions, including the factors in medium culpability which the Council agreed did not work for this offence.

3.13 The changes made to the witness intimidation guideline following the last meeting can be seen at **Annex C**. These again can be seen in track changes and are mainly small changes to wording with some additions and deletions. At the last meeting the Council discussed the extent to which the factors within both guidelines should be similar and asked

that where possible the factors should match. This has been considered and the Council will see that a number of the factors are the same within both guidelines, namely:

- Conduct over a sustained period of time
- Sophisticated and planned nature of offence
- Unplanned and limited in scope and duration
- Unsophisticated nature of conduct
- Serious impact on administration of justice
- Some impact on administration of justice

3.14 There are some factors however that it is proposed are distinct to each offence and so will be different between the guidelines. Witness Intimidation offences are more targeted and personal and cause direct harm to victims, through violence, threats and intimidation, causing real fear and anxiety. This is reflected in the offence specific factors such as:

- Threats of violence to witnesses and/or their families
- Deliberately seeking out witnesses
- Contact made at or in vicinity of victim's home

3.15 PTCJ however covers a much wider range of offending and are offences against the justice system as a whole, compared to offences against individual victims directly in witness intimidation offences. There can be victims, when innocent people are falsely accused by offenders, sometimes for minor driving offences, but sometimes for far more serious offences. This is why for this offence there are different harm factors of:

- Serious consequences for an innocent person(s) as a result of the offence (for example time spent in custody/arrest)
- Serious distress caused to innocent party (for example loss of reputation)
- Suspicion cast upon an innocent person as a result of the offence
- Some distress caused to the innocent party

If the Council wanted more synchronicity between offences the factors of '*serious distress caused to innocent party (for example loss of reputation)*' and '*some distress caused to the innocent party*' could be altered to '*serious distress caused to victim*' and '*some distress caused to victim*'. However as the range of offending is so wide for these offences it is suggested that the factors remain bespoke to this offence- as it will help identify the specific

harm caused by these offences and to whom, rather than just a generic '*distress caused to victim*'.

3.16 As noted at the last meeting although there is some crossover between these offences, they are distinct offences from one another, with considerably different statutory maxima. For PTCJ this is life imprisonment compared to five years for witness intimidation. Therefore although there can be some similar factors, it is suggested that there is a necessity for some factors to be tailored to each individual offence.

Question 2: Does the Council agree that there should be individual factors tailored to each offence within the two guidelines?

Question 3: Is the Council content with the rest of the changes made to the PTCJ guideline following the last meeting?

Question 4: Is the Council content with the rest of the proposed changes made to the witness intimidation guideline following the last meeting?

4 EQUALITIES

4.1 If the decision is to go ahead with an assisting an offender guideline, the available statistics showing sentencing outcomes by demographic group, (sex, age group and ethnicity of offenders) will be provided next month.

5 IMPACT AND RISKS

5.1 There have been no risks identified at this early stage of the project.

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](#)

Perverting the Course of Justice

Common law

Triable only on indictment

Maximum: Life imprisonment

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• Extremely <u>Sophisticated</u> <u>and planned</u> nature of conduct• Underlying offence <u>extremely very</u> serious• Offence committed in the context of other serious criminal activity |
| B- Medium culpability | <ul style="list-style-type: none">• Conduct of more than a brief duration• Conduct was somewhat sophisticated• Underlying offence reasonably serious• 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">• <u>Unplanned and limited in scope and duration</u> Conduct was of a brief duration• Unsophisticated nature of <u>conduct</u>• Underlying offence was 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 consequences for an innocent person(s) as a result of the offence (for example time spent in custody/arrest)• Serious <u>distress</u> caused to innocent party (for example loss of reputation)• <u>Serious impact on administration of justice</u>• <u>High level of financial costs (police/prosecution/court) incurred as a result of the offence</u>• <u>Conduct succeeded in perverting the course of justice</u> |

| | |
|------------|---|
| | <ul style="list-style-type: none"> • Substantially delayed the course of justice |
| Category 2 | <ul style="list-style-type: none"> • Suspicion cast upon an innocent person as a result of the offence • Some distress caused to innocent party • Some costs incurred as a result of the offence • Some impact on administration of justice • Conduct partially successful in perverting the course of justice • Some impact on delaying the course of justice |
| Category 3 | <ul style="list-style-type: none"> • Conduct did not succeed in perverting the course of justice • Limited effects of the offence on victim/costs incurred |

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 4 years' custody Category Range 2 - 6 years' custody | Starting Point 2 years' custody Category Range 1 -4 years' custody | Starting Point 1 years' custody Category Range 6 months - 2 years' custody |
| Category 2 | Starting Point 2 years' custody Category Range 1 -4 years' custody | Starting Point 1 years' custody Category Range 6 months - 2 years' custody | Starting Point 6 months' custody Category Range High level community order - 1 years' custody |
| Category 3 | Starting Point 1 years' custody Category Range 6 months -2 years' custody | Starting Point 6 months' custody Category Range High level community order - 1 years' custody | Starting Point High level community order Category Range Low level community order - 6 months custody |

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:

- [Offender involves others in the conduct](#)
- [Vulnerable victim](#)
- Offence committed in a domestic context

- Commission of offence whilst under the influence of alcohol or drugs
- ~~Leading role in group~~
- Evidence concealed/destroyed
- 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
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction
- Physical disability or 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](#)

Witness Intimidation

Criminal Justice and Public Order Act 1994, s.51(1) and s.51(2)

Triable either way

Maximum when tried summarily: 6 months or level 5 fine

Maximum when tried on indictment: 5 years

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"> • Threats of violence to witnesses and/or their families • Deliberately seeking out witnesses • Breach of bail conditions • Conduct over a sustained period of time • Sophisticated and planned nature of conduct • Offender involves others in the conduct • Offence committed in the context of other serious criminal activity |
| B- Medium culpability | <ul style="list-style-type: none"> • Non-violent conduct amounting to a threat (for example staring at, approaching or following witnesses) • Attempts to alter or stop evidence • 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 Offence limited in scope and duration • Unsophisticated nature of conduct • 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 Considerable detrimental impact on administration of justice • Serious Considerable distress caused to victim • Contact made at or in vicinity of victim's home |
| Category 2 | <ul style="list-style-type: none"> • Some detrimental impact on administration of justice • Some distress caused to the victim |

Category 3

- 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 2 years' custody Category Range 1 -4 years' custody | Starting Point 1 years' custody Category Range 6 months-2 years' custody | Starting Point 6 months' custody Category Range High level community order - 1 years' custody |
| Category 2 | Starting Point 1 years' custody Category Range 6 months -2 years' custody | Starting Point 6 months' custody Category Range High level community order - 1 years' custody | Starting Point High level community order Category Range Medium level community order - 6 months' custody |
| Category 3 | Starting Point 6 months' custody Category Range High level community order - 1 years' custody | Starting Point High level community order Category Range Medium level community order – 6 months' custody | Starting Point Medium level community order Category Range Low level community order – High 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

Other aggravating factors:

- [Offender involves others in the conduct](#)
- [Use of social media](#)

- [Vulnerable victim](#)

- Offence committed in a domestic context
- Commission of offence whilst under the influence of alcohol or drugs

- ~~[Leading role in group](#)~~

- Evidence concealed/destroyed
- 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
 - ~~[Admissions to police in interview](#)~~
 - ~~[Ready co-operation with the authorities](#)~~
 - Good character and/or exemplary conduct
 - The offender was in a lesser or subordinate role if acting with others/performed limited role under direction
 - Physical disability or 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](#)

Number and proportion of adult offenders sentenced for **assisting an offender where the offence was indictable (except murder)**, 2010-2020

| | Number of adult offenders sentenced | | | | | | | | | | |
|----------------------|-------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| Discharge | 4 | 3 | 0 | 1 | 0 | 1 | 1 | 0 | 1 | 0 | 0 |
| Fine | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 0 | 1 | 1 |
| Community sentence | 12 | 7 | 6 | 10 | 4 | 3 | 3 | 1 | 5 | 7 | 1 |
| Suspended sentence | 20 | 12 | 14 | 22 | 22 | 18 | 18 | 15 | 7 | 17 | 10 |
| Immediate custody | 15 | 16 | 13 | 23 | 13 | 16 | 25 | 15 | 15 | 15 | 5 |
| Otherwise dealt with | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 3 | 1 | 1 |
| Total | 51 | 38 | 34 | 57 | 40 | 38 | 47 | 33 | 31 | 41 | 18 |

| | Proportion of adult offenders sentenced | | | | | | | | | | |
|----------------------|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| Discharge | 8% | 8% | 0% | 2% | 0% | 3% | 2% | 0% | 3% | 0% | 0% |
| Fine | 0% | 0% | 3% | 2% | 3% | 0% | 0% | 3% | 0% | 2% | 6% |
| Community sentence | 24% | 18% | 18% | 18% | 10% | 8% | 6% | 3% | 16% | 17% | 6% |
| Suspended sentence | 39% | 32% | 41% | 39% | 55% | 47% | 38% | 45% | 23% | 41% | 56% |
| Immediate custody | 29% | 42% | 38% | 40% | 33% | 42% | 53% | 45% | 48% | 37% | 28% |
| Otherwise dealt with | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 3% | 10% | 2% | 6% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Number and proportion of adult offenders sentenced for **assisting an offender where the offence was triable either way**, 2010-2020

| | Number of adult offenders sentenced | | | | | | | | | | |
|----------------------|-------------------------------------|-----------|-----------|-----------|-----------|-----------|----------|-----------|-----------|-----------|----------|
| | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| Discharge | 0 | 0 | 2 | 1 | 0 | 2 | 0 | 3 | 5 | 1 | 0 |
| Fine | 0 | 1 | 0 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 1 |
| Community sentence | 3 | 5 | 5 | 4 | 1 | 5 | 1 | 0 | 1 | 1 | 2 |
| Suspended sentence | 2 | 3 | 3 | 2 | 9 | 3 | 4 | 7 | 4 | 7 | 5 |
| Immediate custody | 0 | 6 | 4 | 7 | 3 | 4 | 2 | 7 | 0 | 3 | 0 |
| Otherwise dealt with | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Total | 5 | 15 | 14 | 14 | 15 | 17 | 7 | 17 | 10 | 12 | 8 |

| | Proportion of adult offenders sentenced | | | | | | | | | | |
|----------------------|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| Discharge | 0% | 0% | 14% | 7% | 0% | 12% | 0% | 18% | 50% | 8% | 0% |
| Fine | 0% | 7% | 0% | 0% | 13% | 12% | 0% | 0% | 0% | 0% | 13% |
| Community sentence | 60% | 33% | 36% | 29% | 7% | 29% | 14% | 0% | 10% | 8% | 25% |
| Suspended sentence | 40% | 20% | 21% | 14% | 60% | 18% | 57% | 41% | 40% | 58% | 63% |
| Immediate custody | 0% | 40% | 29% | 50% | 20% | 24% | 29% | 41% | 0% | 25% | 0% |
| Otherwise dealt with | 0% | 0% | 0% | 0% | 0% | 6% | 0% | 0% | 0% | 0% | 0% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

Average custodial sentence lengths (ACSL) received by adult offenders sentenced for assisting an offender under section 4 of the Criminal Law Act 1967 offences, 2010-2020

| | | ACSL (years) | | | | | | | | | | |
|--|---------------|--------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| | | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| Assisting an offender – murder | Mean | 2.8 | 2.3 | 3.0 | 3.8 | 2.3 | 3.2 | 2.8 | 2.2 | 2.8 | 3.1 | 3.0 |
| | Median | 2.8 | 2.8 | 3.5 | 2.8 | 1.8 | 2.5 | 2.0 | 2.0 | 2.5 | 2.5 | 2.7 |
| Assisting an offender - indictable offence (except murder) | Mean | 1.8 | 1.1 | 1.0 | 1.8 | 1.1 | 1.6 | 1.5 | 2.2 | 1.9 | 1.7 | 1.1 |
| | Median | 1.5 | 0.8 | 0.8 | 1.5 | 0.8 | 1.4 | 1.3 | 2.0 | 2.0 | 2.0 | 1.0 |
| Assisting an offender - triable either way offences only | Mean | - | 1.3 | * | 0.5 | * | * | * | 2.2 | - | * | - |
| | Median | - | 0.9 | * | 0.5 | * | * | * | 1.3 | - | * | - |
| Total | Mean | 2.1 | 1.5 | 1.4 | 2.3 | 1.5 | 2.3 | 2.0 | 2.2 | 2.3 | 2.3 | 2.5 |
| | Median | 2.0 | 1.0 | 0.8 | 1.5 | 1.1 | 1.8 | 1.5 | 2.0 | 2.3 | 2.0 | 2.4 |

Source: Court Proceedings Database, Ministry of Justice

Notes:

- 1) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

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