

**Sentencing Council meeting:**  
**Paper number:**

**24 September 2021**  
**SC(21)SEP07- Perverting the Course of  
Justice and Witness intimidation**

**Lead Council member:**  
**Lead official:**

**Juliet May**  
**Mandy Banks**  
**0207 071 5785**

## **1 ISSUE**

1.1 This is the second meeting to discuss the guidelines and will focus on draft perverting the course of justice (PTCJ) and witness intimidation guidelines. Future meetings will look at a draft assisting an offender guideline.

## **2 RECOMMENDATION**

2.1 At today's meeting the Council are asked:

- To consider and agree the draft PTCJ guideline
- To consider and agree the draft witness intimidation guideline
- To note the volumes of Serious Crime Act offences and agree that they should not be included within the project.

## **3 CONSIDERATION**

### *Perverting the Course of Justice*

3.1 A draft guideline has been developed and is attached at **Annex A**. The Council may recall from the last meeting that there isn't a guideline currently for this offence. It is a common law offence, triable only on indictment, with a maximum penalty of life imprisonment. In 2019, around 580 offenders were sentenced for this offence, with the majority receiving a custodial sentence (51 per cent received immediate custody and 43 per cent suspended). The ACSL was around 14 months. The draft guideline has been developed by examining transcripts of sentencing remarks and considering case law.

3.2 The elements of the offence are:

- doing an act or series of acts (the offence cannot be committed by failing to do something);
- which has or have a tendency to pervert; and
- which is or are intended to pervert;
- the course of public justice.

3.3 The act does not have to give rise to some other independent criminal wrongdoing nor be concerned with a particular trial or investigation. Acts tending and intended to obstruct, divert or disrupt criminal proceedings or police investigations generally may suffice. PTCJ covers a wide range of conduct – examples include: avoiding prosecution, concealing evidence, helping an offender, offences connected to domestic abuse, and interfering with Jurors/witnesses where there can be a crossover with witness intimidation.

3.4 A sentence for doing an act tending to pervert the course of justice should normally be **consecutive** to any sentence for the substantive offence in relation to which the act was committed: Att.-Gen.'s Reference (No.1 of 1990) 12 Cr. App. R. (S.).

3.5 *Abdulwahab* [2018] EWCA Crim 1399 reviewed sentencing authorities and noted:

1. Conduct which tends and is intended to pervert the course of justice strikes at the heart of the administration of justice and almost invariably calls for a custodial sentence. Deterrence is an important aim of sentencing in such cases but the necessary deterrence may sometimes be achieved by the imposition of an immediate custodial sentence without necessarily requiring a sentence of great length.
2. The appropriate sentence depends on the particular circumstances of the specific case. The circumstances vary across a very wide range.
3. Relevant factors include:
  - a. the seriousness of the underlying offence,
  - b. the nature of the deceptive conduct,
  - c. the period of time over which it was continued,
  - d. whether it cast suspicion upon or led to the arrest of an innocent person, and
  - e. the success or otherwise of the attempt to pervert the course of justice.

These factors are frequently referenced in other cases.

3.6 The draft guideline is mainly based on the factors outlined in *Abdulwahab*, some reflected within the assessment of harm and some within culpability. Starting with high culpability on page two, the first three proposed factors reflect the factors outlined above:

- Conduct over a sustained period of time
- Extremely sophisticated nature of conduct
- Underlying offence extremely serious

3.7 The last factor proposed in high culpability, '*offence committed in the context of other serious criminal activity*' has been included to reflect offences that relate to other serious

offences- for example organised crime groups who commit the offence in order to protect large scale criminal enterprises, and/or evade detection or halt trials.

3.8 Careful thought has been to the wording of the factors in medium culpability, as we know that sentencers value specific factors in this category, rather than just a catch all of *'offending which falls between higher and lower culpability.'* However, it can be quite difficult to articulate exactly the kinds of conduct that fall into this category, it is generally much easier to define higher and lower culpability factors. And it has proved difficult to find the right wording for medium factors for this offence. The wording of factors may not yet be exactly right, but hopefully they are a starting point for discussion at the meeting.

The proposed factors are: *'conduct of more than a brief duration'*, *'conduct was somewhat sophisticated,'* and *'underlying offence reasonably serious'*. Also there is:

- Other cases that fall between categories A and C because:
  - 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

3.9 In lower culpability there is: *'conduct was of a brief duration'*, *'unsophisticated nature of conduct'* and *'underlying offence was not serious'*. Also proposed is: *'Involved through coercion, intimidation or exploitation'* as offenders are sometimes pressured into committing the offence by others. *'Offender's responsibility substantially reduced by mental disorder or learning disability'* is included as it is a more relevant consideration than the similar factor sometimes used of: *'mental disorder or learning disability, where linked to the commission of the offence'*.

***Question 1: Does the Council agree with the proposed culpability factors? Are there any that should be added or amended?***

3.10 Turning now to harm, the first two category one factors reflect the factor mentioned in *Abdulwahab*, whether suspicion was cast upon or led to the arrest of an innocent person. The harm has been separated out firstly into the more physical harm caused, such as time spent in custody/arrest, and then the more psychological, the distress caused, for example loss of reputation. There is also a factor that refers to the high level of costs that can be caused to the justice system by serious examples of this type of offence, and *'conduct succeeded in perverting the course of justice'*, another one of the factors referred to in *Abdulwahab*.

3.11 Category two has a proposed factor of '*suspicion cast upon an innocent person as a result of the offence*' suspicion being not as serious as the harm caused by actual arrest or time spent in custody as a result of the offence. There is also a proposed factor of '*some costs incurred as a result of the offence*', and '*conduct partially successful in perverting the course of justice*'. 'In category three there is: '*conduct did not succeed in perverting the course of justice*' and '*limited effects of the offence on victim/costs incurred*' which it is proposed will cover the other less serious harm caused by the offence.

**Question 2: Does the Council agree with the proposed harm factors? Are there any that should be added or amended?**

3.12 The proposed sentence ranges are just indicative at this stage-they will be finalised once the factors have been agreed, so the Council are not asked to consider these today. The aggravating and mitigating factors proposed are standard ones that are used in guidelines, it has not been clear from reading cases that there needs to be any offence specific ones included, but of course the Council may wish to suggest some.

**Question 3: Are there any offence specific aggravating or mitigating factors that the Council thinks should be included?**

**Question 4: Does the Council feel that the draft adequately captures the types of offending which can be varied for this serious offence?**

#### *Witness Intimidation*

3.13 The draft witness intimidation guideline is at **Annex B**. This draft incorporates both s.51 and s.52 offences (as set out below), as agreed at the last Council meeting. Both offences are triable either way, with a maximum penalty of five years imprisonment. In 2019, around 210 offenders were sentenced for the s.51(1) offence, with the majority receiving a custodial sentence (60 per cent received immediate custody and 31 per cent suspended). The ACSL was around 10 months. In 2019 for the s.51(2) offence only around 20 offenders were sentenced.

- S.51(1) creates an offence directed at acts against a person assisting in the investigation of an offence or a witness or potential witness or juror or potential juror whilst an **investigation or trial is in progress**; and
- 51(2) creates an offence directed at acts against a person who assisted in an investigation of an offence or who was a witness or juror **after an investigation or trial has been concluded**.

3.14 The draft is based on the existing MCSG guideline for the [s.51\(1\) offence](#), suitably adapted for use in all courts. The more serious instances of offending, '*threats of violence to*

*witnesses and/or their families;/deliberately seeking out witnesses*' is in high culpability, medium culpability contains the factor: '*Non-violent conduct amounting to a threat (for example staring at, approaching or following witnesses)*' with '*offence limited in scope and duration*' in low culpability. The last factor rewords the factor in the MCSG guideline which was '*sudden outburst in chance encounter*'. It is designed to capture brief, not planned or sophisticated incidents of offending. Other factors that the MCSG guideline had as indicating higher culpability: '*breach of bail conditions*' and '*offender involves others in the conduct*' have been placed in higher culpability. Also proposed are '*sustained period of conduct*' as it can make the offending more serious if the conduct is prolonged, compared to a one- off incident which would be in lesser culpability.

3.15 The higher culpability factor proposed in the PTCJ guideline '*Offence committed in the context of other serious criminal activity*' is also included here as a higher culpability factor, as witness intimidation can be seen in relation to other serious criminal activity.

3.16 Medium culpability also contains the factor '*attempts to alter or stop evidence*' and:

- Other cases that fall between categories A and C because:
  - 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

In lower culpability there are two further factors in addition to the one described above:

- Involved through coercion, intimidation or exploitation
- Offender's responsibility substantially reduced by mental disorder or learning disability

These may be relevant as sometimes offenders commit the offence under duress from others, or their responsibility for the offence is reduced.

***Question 5: Does the Council agree with the proposed culpability factors? Are there any others that should be added or amended?***

3.17 Now turning to harm factors, category one harm has: '*Considerable detrimental impact on administration of justice*' and '*contact made at or in vicinity of victim's home*' these are based on factors from the MCSG that indicated greater harm. It is proposed that category one also has '*considerable distress caused to the victim*'. Category two harm contains the factors: '*Some detrimental impact on administration of justice*' and '*some distress caused to the victim*'. Category three harm contains the factor '*limited effect of the offence.*'

***Question 6: Does the Council agree with the proposed harm factors? Are there any that should be added or amended?***

3.18 Again the sentence ranges are indicative only at this stage, and will be finalised once the factors are settled, so the Council does not need to focus on these at the meeting. Turning to aggravating and mitigating factors, the general aggravating and mitigating factors have been included, but it has proved difficult to think of any offence specific ones. The Council may wish to propose some.

**Question 7: Are there any offence specific aggravating or mitigating factors that the Council think should be added?**

#### *Serious Crime Act offences*

3.19 At the last meeting it was suggested that certain offences under the Serious Crime Act could be considered within the scope of the project. These are set out below, with the different statutory maxima involved and with the volumes of these offences for 2019 included in brackets:

#### **Serious Crime Act 2007**

s44 Intentionally encouraging or assisting an offence (around 30);

- Where the anticipated offence is murder, max sentence is life
- Otherwise the maximum sentence is that available for the full anticipated offence if it had been committed

s 45 Encouraging or assisting an offence believing it will be committed (around 10);

- Where one of the anticipated offences is murder, max sentence is life
- Otherwise the maximum sentence is that available for the full anticipated offence if it had been committed

s46 Encouraging or assisting offences believing one or more will be committed (around 10)

- Where the anticipated offence is murder, max sentence is life
- Otherwise if the one of the offences is imprisonable the maximum sentence is that available for the anticipated offence with the highest stat max
- Otherwise max is a fine

#### **Serious Crime Act 2015**

s45 Offence of participating in activities of organised crime group (12)

- Max sentence 5 years

3.20 As can be seen the volumes for these offences are very low. Contact was made with the Head of Legal Services at CPS to ask whether charges for these offences were likely to remain at around current levels or were likely to see any significant increase in the near future. The response was that there is no reason to suspect that there will be a marked increase or decrease in the use of them. They also commented that S45 of the 2015 Act can

be a difficult offence in practice and is not widely used as the substantive conduct is usually preferred. They said they would be surprised if there was a wide variation in the volumes for these offences.

3.21 Given the low volumes, the response from the CPS and the fact that these are preparatory offences which do not really fit with the rest of the guidelines being developed, it is recommended that these are not included within the scope of the project. They would also be quite complicated to develop, given the different disposals- there would need to be different sentencing tables within each guideline, which would be based on very few cases and for the volumes involved it is suggested that it is not a priority to be developed.

***Question 8: Does the Council agree not to include the Serious Crime Act offences within the scope of this project?***

#### **4 EQUALITIES**

4.1 Statistics showing sentencing outcomes by demographic group, (sex, age group and ethnicity of offenders) are attached at **Annex C**.

4.2 In 2020, the majority of adult offenders sentenced for perverting the course of justice were male (around three quarters). However, female offenders made up a larger proportion of offenders than the overall average for indictable offences. Across all offenders sentenced for indictable offences in 2020, 8 per cent were female compared to 26 per cent of perverting the course of justice offenders. This suggests that female offenders are over-represented for this offence compared with other indictable offences, however, the volumes of female offenders are still low.

4.3 When looking at sentencing outcomes, a higher proportion of males received an immediate custodial sentence than females (58 per cent compared to 31 per cent of females), whereas a higher proportion of females received a suspended sentence (56 per cent compared to 37 per cent of males). The ACSL was fairly consistent between the sexes, at around 14 months.

4.4 Of the adult offenders sentenced in 2020 whose ethnicity was known, 74 per cent were White and the majority of offenders of all ethnicities received a custodial sentence. The proportion of Black and Mixed ethnicity offenders receiving an immediate custodial sentence was higher than for White offenders (64 per cent compared to 53 per cent), however, the volume of Black and Mixed ethnicity offenders sentenced in 2020 was small, so care should be taken when drawing conclusions from this data.

4.5 The volume of adult offenders sentenced for intimidating a witness each year are low and in 2020 the majority of those sentenced were White males (making up 81 per cent of offenders where both sex and ethnicity was known in 2020).

4.6 To note, figures presented here are from 2020, for which volumes were affected by the COVID-19 pandemic, however, the volume of adult offenders sentenced for intimidating a witness each year are low and in 2020 the majority of those sentenced were White males (making up 81 per cent of offenders where both sex and ethnicity was known in 2020). pandemic, however, the demographic trends seen above are consistent with those seen in 2019.

4.7 The data for assisting an offender will be included in next month's paper when we look at the draft guideline.

***Question 9: Does the Council have any comments or questions around the contents of Annex C?***

## **5 IMPACT AND RISKS**

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



# **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.**

<b>CULPABILITY</b>	
Demonstrated by one or more of the following:	
<b>A-</b> High Culpability	<ul style="list-style-type: none"><li>• Conduct over a sustained period of time</li><li>• Extremely sophisticated nature of conduct</li><li>• Underlying offence extremely serious</li><li>• Offence committed in the context of other serious criminal activity</li></ul>
<b>B-</b> Medium culpability	<ul style="list-style-type: none"><li>• Conduct of more than a brief duration</li><li>• Conduct was somewhat sophisticated</li><li>• Underlying offence reasonably serious</li><li>• Other cases that fall between categories A and C because:<ul style="list-style-type: none"><li>○ Factors are present in A and C which balance each other out <b>and/or</b></li><li>○ The offender's culpability falls between the factors described in A and C</li></ul></li></ul>
<b>C-</b> Lower culpability	<ul style="list-style-type: none"><li>• Conduct was of a brief duration</li><li>• Unsophisticated nature of conduct</li><li>• Underlying offence was not serious</li><li>• Involved through coercion, intimidation or exploitation</li><li>• Offender's responsibility substantially reduced by mental disorder or learning disability</li></ul>

<b>HARM</b>	
<b>The level of harm is assessed by weighing up all the factors in the case.</b>	
Category 1	<ul style="list-style-type: none"><li>• Serious consequences for an innocent person(s) as a result of the offence (for example time spent in custody/arrest)</li><li>• Serious distress caused to innocent party (for example loss of reputation)</li><li>• High level of financial costs (police/prosecution/court) incurred as a result of the offence</li><li>• Conduct succeeded in perverting the course of justice</li></ul>
Category 2	<ul style="list-style-type: none"><li>• Suspicion cast upon an innocent person as a result of the offence</li><li>• Some costs incurred as a result of the offence</li></ul>

	<ul style="list-style-type: none"><li>• Conduct partially successful in perverting the course of justice</li></ul>
Category 3	<ul style="list-style-type: none"><li>• Conduct did not succeed in perverting the course of justice</li><li>• Limited effects of the offence on victim/costs incurred</li></ul>

## 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
<b>Category 1</b>	<b>Starting Point</b> 4 years' custody <b>Category Range</b> 2 - 6 years' custody	<b>Starting Point</b> 2 years' custody <b>Category Range</b> 1 -4 years' custody	<b>Starting Point</b> 1 years' custody <b>Category Range</b> 6 months - 2 years' custody
<b>Category 2</b>	<b>Starting Point</b> 2 years' custody <b>Category Range</b> 1 -4 years' custody	<b>Starting Point</b> 1 years' custody <b>Category Range</b> 6 months - 2 years' custody	<b>Starting Point</b> 6 months' custody <b>Category Range</b> High level community order - 1 years' custody
<b>Category 3</b>	<b>Starting Point</b> 1 years' custody <b>Category Range</b> 6 months -2 years' custody	<b>Starting Point</b> 6 months' custody <b>Category Range</b> High level community order - 1 years' custody	<b>Starting Point</b> High level community order <b>Category Range</b> 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:*

- 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.**

<b>CULPABILITY</b>	
Demonstrated by one or more of the following:	
<b>A- High Culpability</b>	<ul style="list-style-type: none"><li>• Threats of violence to witnesses and/or their families; deliberately seeking out witnesses</li><li>• Breach of bail conditions</li><li>• Sustained period of conduct</li><li>• Offender involves others in the conduct</li><li>• Offence committed in the context of other serious criminal activity</li></ul>
<b>B- Medium culpability</b>	<ul style="list-style-type: none"><li>• Non-violent conduct amounting to a threat (for example staring at, approaching or following witnesses)</li><li>• Attempts to alter or stop evidence</li><li>• Other cases that fall between categories A and C because:<ul style="list-style-type: none"><li>○ Factors are present in A and C which balance each other out <b>and/or</b></li><li>○ The offender's culpability falls between the factors described in A and C</li></ul></li></ul>
<b>C- Lower culpability</b>	<ul style="list-style-type: none"><li>• Offence limited in scope and duration</li><li>• Involved through coercion, intimidation or exploitation</li><li>• Offender's responsibility substantially reduced by mental disorder or learning disability</li></ul>
<b>HARM</b>	
The level of harm is assessed by weighing up all the factors in the case.	
Category 1	<ul style="list-style-type: none"><li>• Considerable detrimental impact on administration of justice</li><li>• Considerable distress caused to victim</li><li>• Contact made at or in vicinity of victim's home</li></ul>
Category 2	<ul style="list-style-type: none"><li>• Some detrimental impact on administration of justice</li><li>• Some distress caused to the victim</li></ul>
Category 3	<ul style="list-style-type: none"><li>• Limited effect of the offence</li></ul>



## 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
<b>Category 1</b>	<b>Starting Point</b> 2 years' custody <b>Category Range</b> 1 -4 years' custody	<b>Starting Point</b> 1 years' custody <b>Category Range</b> 6 months-2 years' custody	<b>Starting Point</b> 6 months' custody <b>Category Range</b> High level community order - 1 years' custody
<b>Category 2</b>	<b>Starting Point</b> 1 years' custody <b>Category Range</b> 6 months -2 years' custody	<b>Starting Point</b> 6 months' custody <b>Category Range</b> High level community order - 1 years' custody	<b>Starting Point</b> High level community order <b>Category Range</b> Medium level community order - 6 months' custody
<b>Category 3</b>	<b>Starting Point</b> 6 months' custody <b>Category Range</b> High level community order - 1 years' custody	<b>Starting Point</b> High level community order <b>Category Range</b> Medium level community order – 6 months' custody	<b>Starting Point</b> Medium level community order <b>Category Range</b> 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:*

- 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
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**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](#)

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**Annex C: Demographic data for perverting the course of justice and witness intimidation offences, 2020.**

**Perverting the course of justice**

Number and proportion of adult offenders sentenced for perverting the course of justice, by sex, 2020

<b>Sex</b>	<b>Number of adults sentenced</b>						<b>Total</b>
	<b>Absolute and conditional discharge</b>	<b>Fine</b>	<b>Community sentence</b>	<b>Suspended sentence</b>	<b>Immediate custody</b>	<b>Otherwise dealt with<sup>2</sup></b>	
Female	2	1	4	60	33	7	<b>107</b>
Male	0	0	11	111	173	2	<b>297</b>

<b>Sex</b>	<b>Proportion of adults sentenced</b>						<b>Total</b>
	<b>Absolute and conditional discharge</b>	<b>Fine</b>	<b>Community sentence</b>	<b>Suspended sentence</b>	<b>Immediate custody</b>	<b>Otherwise dealt with<sup>2</sup></b>	
Female	2%	1%	4%	56%	31%	7%	<b>100%</b>
Male	0%	0%	4%	37%	58%	1%	<b>100%</b>

Number and proportion of adult offenders sentenced for perverting the course of justice, by age group, 2020

<b>Age group</b>	<b>Number of adults sentenced</b>						<b>Total</b>
	<b>Absolute and conditional discharge</b>	<b>Fine</b>	<b>Community sentence</b>	<b>Suspended sentence</b>	<b>Immediate custody</b>	<b>Otherwise dealt with<sup>2</sup></b>	
18 to 21	0	0	1	8	13	1	<b>23</b>
22 to 29	2	0	3	50	78	5	<b>138</b>
30 to 39	0	0	2	43	68	1	<b>114</b>
40 to 49	0	1	4	40	28	1	<b>74</b>
50 to 59	0	0	3	26	15	1	<b>45</b>
60 and over	0	0	2	4	4	0	<b>10</b>

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
18 to 21	0%	0%	4%	35%	57%	4%	100%
22 to 29	1%	0%	2%	36%	57%	4%	100%
30 to 39	0%	0%	2%	38%	60%	1%	100%
40 to 49	0%	1%	5%	54%	38%	1%	100%
50 to 59	0%	0%	7%	58%	33%	2%	100%
60 and over	0%	0%	20%	40%	40%	0%	100%

Number and proportion of adult offenders sentenced for perverting the course of justice, by age group, 2020

Ethnicity	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
Asian	0	0	3	14	14	0	31
Black	0	0	0	8	16	1	25
Mixed	0	0	0	4	9	1	14
Other	0	1	1	0	2	0	4
White	1	0	11	81	111	5	209
Not recorded/not known	1	0	0	64	54	2	121

Ethnicity	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
Asian	0%	0%	10%	45%	45%	0%	<b>100%</b>
Black	0%	0%	0%	32%	64%	4%	<b>100%</b>
Mixed	0%	0%	0%	29%	64%	7%	<b>100%</b>
Other	0%	25%	25%	0%	50%	0%	<b>100%</b>
White	0%	0%	5%	39%	53%	2%	<b>100%</b>
Not recorded/not known	1%	0%	0%	53%	45%	2%	<b>100%</b>

#### Intimidating a witness (section 51(1) and 51(2) combined)

Number and proportion of adult offenders sentenced for intimidating a witness, by sex, 2020

Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
Female	0	0	5	4	6	1	<b>16</b>
Male	0	1	8	42	103	4	<b>158</b>
Not recorded/not known	0	0	0	0	1	0	<b>1</b>

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
Female	0%	0%	31%	25%	38%	6%	<b>100%</b>
Male	0%	1%	5%	27%	65%	3%	<b>100%</b>
Not recorded/not known	0%	0%	0%	0%	100%	0%	<b>100%</b>

Number and proportion of adult offenders sentenced for intimidating a witness, by age group, 2020

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
18 to 21	0	1	4	8	15	0	<b>28</b>
22 to 29	0	0	3	11	28	3	<b>45</b>
30 to 39	0	0	5	17	44	1	<b>67</b>
40 to 49	0	0	1	5	12	0	<b>18</b>
50 to 59	0	0	0	4	7	1	<b>12</b>
60 and over	0	0	0	1	4	0	<b>5</b>

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
18 to 21	0%	4%	14%	29%	54%	0%	<b>100%</b>
22 to 29	0%	0%	7%	24%	62%	7%	<b>100%</b>
30 to 39	0%	0%	7%	25%	66%	1%	<b>100%</b>
40 to 49	0%	0%	6%	28%	67%	0%	<b>100%</b>
50 to 59	0%	0%	0%	33%	58%	8%	<b>100%</b>
60 and over	0%	0%	0%	20%	80%	0%	<b>100%</b>



Number and proportion of adult offenders sentenced for intimidating a witness, by ethnicity, 2020

Ethnicity	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
Asian	0	0	0	0	6	0	6
Black	0	0	1	1	3	0	5
Mixed	0	0	1	1	0	0	2
Other	0	0	0	0	0	0	0
White	0	1	9	37	77	4	128
Not recorded/not known	0	0	2	7	24	1	34

Ethnicity	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
Asian	0%	0%	0%	0%	100%	0%	100%
Black	0%	0%	20%	20%	60%	0%	100%
Mixed	0%	0%	50%	50%	0%	0%	100%
Other	-	-	-	-	-	-	-
White	0%	1%	7%	29%	60%	3%	100%
Not recorded/not known	0%	0%	6%	21%	71%	3%	100%

Source: Court Proceedings Database, Ministry of Justice

- = No proportions have been calculated as no offenders were sentenced.

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.

- 2) 2) The category 'Otherwise dealt with' includes victim surcharge, restraining order and otherwise dealt with on conviction.
- 3) 3) Ethnicity is the self-identified ethnicity as defined by the individual and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.