

Causing death by dangerous driving

Road Traffic Act 1988 (section 1)

Triable only on indictment

Maximum: life imprisonment, minimum disqualification of 2 years with compulsory extended re-test

Offence range: 2 – 18 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.

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category. A combination of factors in any category may justify an increased starting point

A- High Culpability	<ul style="list-style-type: none"> • Deliberate decision to ignore the rules of the road and disregard for the risk of danger to others. • Prolonged, persistent and deliberate course of dangerous driving • Consumption of substantial amounts of alcohol or drugs leading to gross impairment • Offence committed in course of police pursuit • Racing or competitive driving against another vehicle • Disregarding warnings of others • Lack of attention to driving for a substantial period of time • Speed greatly in excess of speed limit
B- Medium culpability	<ul style="list-style-type: none"> • Brief but obviously highly dangerous manoeuvre • Engaging in a brief but avoidable distraction • Driving knowing that the vehicle has a dangerous defect or is dangerously loaded • Driving at a speed that is inappropriate for the prevailing road or weather conditions, although not greatly excessive • Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs • Disregarding advice relating to driving when taking medication or as a result of a known medical condition which significantly impaired the offender's driving skills • Driving when knowingly deprived of adequate sleep or rest • The offender's culpability falls between the factors as described in high and lesser culpability
C- Lower culpability	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving • Momentary lapse of concentration

HARM

For all cases the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

STEP TWO

The starting points and category ranges below relate to a single offence resulting in a single death. Where another offence or offences arise out of the same incident or facts, concurrent sentences reflecting the overall criminality will ordinarily be appropriate.

Where more than one death is caused, it will be appropriate to increase the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step six of this guideline.

Starting point and category range

Culpability	Starting point	Range
High	12 years	8 – 18 years
Medium	6 years	4 – 9 years
Lesser	3 years	2 – 5 years

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:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Other driving offences committed at the same time as the dangerous driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Vehicle poorly maintained

- Serious injury to one or more victims, in addition to the death(s) (see step 6 on totality when sentencing for more than one offence)
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- 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 Chapter 6 of Part 10 of the Sentencing Code it would be appropriate to impose an extended sentence (sections 266 and 279) When sentencing offenders to a life sentence under these provisions, the notional determinate sentence should be used as the basis for the setting of a minimum term.

STEP 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.

- 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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Causing death by careless or inconsiderate driving

Road Traffic Act 1988 (section 2B)

Triable either way

Maximum: 5 years' custody

Offence range: Community order – 4 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Standard of driving was just below threshold for dangerous driving and/or includes extreme example of a medium culpability factor

Medium

- Unsafe manoeuvre or positioning
- Engaging in a brief but avoidable distraction
- Driving at a speed that is inappropriate for the prevailing road or weather conditions
- Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs
- Driving vehicle which is unsafe or where visibility or controls are obstructed
- Driving in disregard of advice relating to the effects of medical condition or medication
- Driving whilst ability to drive impaired as a result of a known medical condition
- Driving when deprived of adequate sleep or rest
- The offender's culpability falls between the factors as described in high and lesser culpability

Lesser

- Standard of driving was just over threshold for careless driving
- Momentary lapse of concentration

HARM

For all cases the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

STEP TWO

The starting points and category ranges below relate to a single offence resulting in a single death. Where another offence or offences arise out of the same incident or facts, concurrent sentences reflecting the overall criminality will ordinarily be appropriate.

Where more than one death is caused, it will be appropriate to increase the starting

point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step five of this guideline.

Starting point and category range		
Culpability	Starting point	Range
High	2 years	1 – 4 years
Medium	1 year	26 weeks – 3 years
Lesser	26 weeks	Medium level community order – 1 year

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:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Disregarding warnings of others
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Other driving offences committed at the same time as the careless driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Serious injury to one or more victims, in addition to the death(s) (see step 5 on totality when sentencing for more than one offence)
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- Alcohol or drugs consumed unwittingly

- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision or death
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- 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.

Ancillary orders – Crown Court Compendium

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 (tagged curfew)

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

Causing death by careless driving whilst under the influence of drink or drugs

Causing death by careless driving when under the influence of drink or drugs or having failed either to provide a specimen for analysis or to permit analysis of a blood sample

Road Traffic Act 1988 (section 3A)

Triable on indictment only

Maximum: life imprisonment

Offence range: 26 weeks – 18 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.

STEP ONE**Determining the offence category****HARM**

For all cases the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

STEP ONE – DETERMINING THE OFFENCE CATEGORY

There are two aspects to assessing culpability for this offence.

1) The court should first determine the standard of driving with reference to the factors below, which comprise the principal factual elements of the offence.

High

- Standard of driving was just below threshold for dangerous driving and/or includes extreme example of a medium culpability factor

Medium

- Unsafe manoeuvre or positioning
- Engaging in a brief but avoidable distraction
- Driving at a speed that is inappropriate for the prevailing road or weather conditions, although not greatly excessive
- Driving vehicle which is unsafe or where drivers visibility or controls are obstructed
- Driving in disregard of advice relating to the effects of medical condition or medication (where the medication does not form a basis of the offence)
- Driving whilst ability to drive impaired as a result of a known medical condition
- Driving when deprived of adequate sleep or rest
- The offender's culpability falls between the factors as described in high and lesser culpability

Lesser

- Standard of driving was just over threshold for careless driving
- Momentary lapse of concentration

2) Factors relevant to the presence of alcohol or drugs or a failure to provide a sample for analysis should then be considered to identify the appropriate offence category and starting point of sentence in accordance with the table below

The starting points and category ranges below relate to a single offence resulting in a single death. Where another offence or offences arise out of

<p>the same incident or facts, concurrent sentences reflecting the overall criminality will ordinarily be appropriate.</p> <p>Where more than one death is caused, it will be appropriate to increase the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step six of this guideline</p>			
<p>The legal limit of alcohol is 35µg breath (80mg in blood and 107mg in urine)</p>	<p>Careless driving -High culpability</p>	<p>Careless driving -Medium culpability</p>	<p>Careless driving -Lesser culpability</p>
<p>H71µ or above of alcohol OR Deliberate refusal to provide specimen for analysis OR Evidence of substantial impairment and/or multiple drugs or combination of drugs and alcohol</p>	<p>Starting point: 12 years</p> <p>Sentencing range: 8 – 18 years</p>	<p>Starting point: 9 years</p> <p>Sentencing range: 6 – 12 years</p>	<p>Starting point: 6 years</p> <p>Sentencing range: 5 – 10 years</p>
<p>51- 70 µg of alcohol OR Any quantity of a single drug detected</p>	<p>Starting point: 9 years</p> <p>Sentencing range: 6 – 12 years</p>	<p>Starting point: 6 years</p> <p>Sentencing range: 4 – 9 years</p>	<p>Starting point: 4 years</p> <p>Sentencing range: 3 – 7 years</p>
<p>35-50 µg of alcohol</p>	<p>Starting point: 6 years</p> <p>Sentencing range: 4 – 9 years</p>	<p>Starting point: 3 years</p> <p>Sentencing range: 2 – 5 years</p>	<p>Starting point: 1 year 6 months</p> <p>Sentencing range: 26 weeks - 4 years</p>

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:

- 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
- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Disregarding warnings of others
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Other driving offences committed at the same time as the careless driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Serious injury to one or more victims, in addition to the death(s) (see step 6 on totality when sentencing for more than one offence)
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- Alcohol or drugs consumed unwittingly
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision or death
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- 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 Chapter 6 of Part 10 of the Sentencing Code it would be appropriate to impose an extended sentence (sections 266 and 279) When sentencing offenders to a life sentence under these provisions, the notional determinate sentence should be used as the basis for the setting of a minimum term.

STEP 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.

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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Causing serious injury by dangerous driving

Road Traffic Act 1988 (section 1A)

Triable either way

Maximum: 5 years' custody, [minimum disqualification of 2 years with compulsory extended re-test]

Offence range: 26 weeks – 5 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category. A combination of factors in any category may justify an increased starting point

A- High Culpability	<ul style="list-style-type: none"> • Deliberate decision to ignore the rules of the road and disregard for the risk of danger to others. • Prolonged, persistent and deliberate course of dangerous driving • Consumption of substantial amounts of alcohol or drugs leading to gross impairment • Offence committed in course of police pursuit • Racing or competitive driving against another vehicle • Disregarding warnings of others • Lack of attention to driving for a substantial period of time • Speed greatly in excess of speed limit
B- Medium culpability	<ul style="list-style-type: none"> • Brief but obviously highly dangerous manoeuvre • Engaging in a brief but avoidable distraction • Driving knowing that the vehicle has a dangerous defect or is dangerously loaded • Driving at a speed that is inappropriate for the prevailing road or weather conditions, although not greatly excessive • Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs • Disregarding advice relating to driving when taking medication or as a result of a known medical condition which significantly impaired the offender's driving skills • Driving when knowingly deprived of adequate sleep or rest • The offender's culpability falls between the factors as described in high and lesser culpability
C- Lower culpability	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving • Momentary lapse of concentration

HARM	
Category 1	<ul style="list-style-type: none"> • Particularly grave and/or life-threatening injury caused • Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment • Offence results in a permanent, irreversible injury or condition which has a substantial and long term effect on the victim's ability to carry out normal day to day activities or on their ability to work
Category 2	<ul style="list-style-type: none"> • All other cases

STEP TWO**Starting point and category range**

	Culpability		
	A	B	C
Harm 1	Starting Point: 4 years Category range: 3 – 5 years	Starting Point: 3 years Category range: 2 – 4 years	Starting Point: 2 years Category range: 1 – 3 years
Harm 2	Starting Point: 3 years Category range: 2 – 4 years	Starting Point: 2 years Category range: 1 – 3 years	Starting Point: 1 year Category range: 26 weeks – 2 years

Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Offences Taken into Consideration and Totality* guideline and step six of this guideline.

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:

- 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
- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Other driving offences committed at the same time as the dangerous driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Vehicle poorly maintained
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- 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.

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

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 (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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Causing serious injury by careless or inconsiderate driving

Road Traffic Act 1988 (section 2C)

Triable either way

Maximum: 2 years' custody

Offence range: Community order – 2 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Standard of driving was just below threshold for dangerous driving and/or includes extreme example of a medium culpability factor

Medium

- Unsafe manoeuvre or positioning
- Engaging in a brief but avoidable distraction
- Driving at a speed that is inappropriate for the prevailing road or weather conditions
- Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs
- Driving vehicle which is unsafe or where visibility or controls are obstructed
- Driving in disregard of advice relating to the effects of medical condition or medication
- Driving whilst ability to drive impaired as a result of a known medical condition
- Driving when deprived of adequate sleep or rest
- The offender's culpability falls between the factors as described in high and lesser culpability

Lesser

- Standard of driving was just over threshold for careless driving
- Momentary lapse of concentration

HARM**Category 1**

- Particularly grave and/or life-threatening injury caused
- Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment
- Offence results in a permanent, irreversible injury or condition which has a substantial and long term effect on the victim's ability to carry out normal day to day activities or on their ability to work

Category 2

- All other cases

STEP TWO

Starting point and category range

	Culpability		
	A	B	C
Harm 1	Starting Point: 1 year 6 months Category range: 1 - 2 years	Starting Point: 1 year Category range: 26 weeks – 1 year 6 months	Starting Point: 26 weeks Category range: High level community order – 1 year
Harm 2	Starting Point: 1 year Category range: 26 weeks – 1 year 6 months	Starting Point: 26 weeks Category range: High level community order – 1 year	Starting Point: High level community order Category range: Low level community order – 26 weeks

Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to *Totality* guideline and step five of this guideline.

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
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Other aggravating factors:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Disregarding warnings of others
- Driving for commercial purposes
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- Other driving offences committed at the same time as the careless driving
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- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children

- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- Alcohol or drugs consumed unwittingly
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision or death
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
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- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

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STEP SIX

Compensation and ancillary orders

In all cases the court should consider whether to make compensation and/or other ancillary orders.

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

STEP 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 (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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Dangerous driving

Road Traffic Act 1988 (section 2)

Triable either way

Maximum: 2 years' custody

Offence range: Community order – 2 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category. A combination of factors in any category may justify an increased starting point

A- High Culpability	<ul style="list-style-type: none"> • Deliberate decision to ignore the rules of the road and disregard for the risk of danger to others. • Prolonged, persistent and deliberate course of dangerous driving • Consumption of substantial amounts of alcohol or drugs leading to gross impairment • Offence committed in course of police pursuit • Racing or competitive driving against another vehicle • Disregarding warnings of others • Lack of attention to driving for a substantial period of time • Speed greatly in excess of speed limit
B- Medium culpability	<ul style="list-style-type: none"> • Brief but obviously highly dangerous manoeuvre • Engaging in a brief but avoidable distraction • Driving knowing that the vehicle has a dangerous defect or is dangerously loaded • Driving at a speed that is inappropriate for the prevailing road or weather conditions, although not greatly excessive • Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs • Disregarding advice relating to driving when taking medication or as a result of a known medical condition which significantly impaired the offender's driving skills • Driving when knowingly deprived of adequate sleep or rest • The offender's culpability falls between the factors as described in high and lesser culpability
C- Lower culpability	<ul style="list-style-type: none"> • Standard of driving was just over threshold for dangerous driving • Momentary lapse of concentration

HARM	
Category 1	<ul style="list-style-type: none"> • Offence results in injury to others • Circumstances of offence created a high risk of serious harm to others • Damage caused to vehicles or property
Category 2	<ul style="list-style-type: none"> • All other cases

STEP TWO**Starting point and category range**

	Culpability		
	A	B	C
Harm 1	<p>Starting Point: 1 year 6 months</p> <p>Category range: 1 – 2 years</p>	<p>Starting Point: 1 year</p> <p>Category range: 26 weeks – 1 year 6 months</p>	<p>Starting Point: 26 weeks</p> <p>Category range: High level community order – 1 year</p>
Harm 2	<p>Starting Point: 1 year</p> <p>Category range: 26 weeks – 1 year 6 months</p>	<p>Starting Point: 26 weeks</p> <p>Category range: High level community order – 1 year</p>	<p>Starting Point: High level community order</p> <p>Category range: Low level community order – 26 weeks</p>

Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Totality* guideline and step five of this guideline.

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:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Other driving offences committed at the same time as the dangerous driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Vehicle poorly maintained
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- 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.

Ancillary orders – Magistrates' Court

Ancillary orders – Crown Court Compendium

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 (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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Causing death by driving; disqualified drivers

Road Traffic Act 1988 (section 3ZC)

Triable only on indictment

Maximum: 10 years' custody

Offence range: Community order – 7 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.

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Driving shortly after disqualification imposed
- Vehicle obtained during disqualification period
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Significant distance driven

Medium

- Cases falling between higher and lesser culpability because:
 - Factors are present in higher and lesser culpability which balance each other out and/or
 - The offender's culpability falls between the factors as described in higher and lesser culpability

Lesser

- The offender genuinely believed that he or she was not disqualified to drive
- Decision to drive was brought about by a genuine and proven emergency
- Forced to drive whilst disqualified by pressure, coercion or intimidation

HARM

For all cases the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

STEP TWO

The starting points and category ranges below relate to a single offence resulting in a single death. Where another offence or offences arise out of the same incident or facts, concurrent sentences reflecting the overall criminality will ordinarily be appropriate

Where more than one death is caused, it will be appropriate to increase the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step six of this guideline.

Starting point and category range
--

Culpability	Starting point	Range
High	5 years	4 – 7 years
Medium	3 years	2 – 5 years
Lesser	1 year 6 months	High level community order to 2 years

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
- **Note:** An offender convicted of this offence will always have at least one relevant previous conviction for the offence that resulted in disqualification. The starting points and ranges take this into account; any other previous convictions should be considered in the usual way.
- Offence committed whilst on bail

Other aggravating factors:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- History of disobedience to disqualification orders (where not already taken into account as a previous conviction)
- Disregarding warnings of others about driving whilst disqualified
- Blame wrongly placed on others
- False details given
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Serious injury to one or more victims, in addition to the death(s) (see step 6 on totality when sentencing for more than one offence)
- Offence committed on licence or while subject to court order(s) (not including the current order for disqualification)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision or death
- Efforts made to assist or seek assistance for victim(s)

- Remorse
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relative(s)

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 Chapter 6 of Part 10 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.

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.

Causing serious injury by driving: disqualified drivers

Road Traffic Act 1988 (section 3ZD)

Triable either way

Maximum: 4 years' custody

Offence range: Community order – 4 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Driving shortly after disqualification imposed
- Vehicle obtained during disqualification period
- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Significant distance driven

Medium

- Cases falling between higher and lesser culpability because:
 - Factors are present in higher and lesser culpability which balance each other out and/or
 - The offender's culpability falls between the factors as described in higher and lesser culpability

Lesser

- The offender genuinely believed that he or she was not disqualified to drive
- Decision to drive was brought about by a genuine and proven emergency
- Forced to drive whilst disqualified by pressure, coercion or intimidation

HARM

Category 1

- Particularly grave and/or life-threatening injury caused
- Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment
- Offence results in a permanent, irreversible injury or condition which has a substantial and long term effect on the victim's ability to carry out normal day to day activities or on their ability to work

Category 2

- All other cases

STEP TWO

Starting point and category range

	Culpability		
	A	B	C
Harm 1	Starting Point: 3 years Category range: 2 – 4 years	Starting Point: 2 years Category range: 1 – 3 years	Starting Point: 1 year Category range: High level community order – 2 years
Harm 2	Starting Point: 2 years Category range: 1 – 3 years	Starting Point: 1 year Category range: High level community order – 2 years	Starting Point: 26 weeks Category range: Low level community order – 1 year

Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Totality* guideline and step five of this guideline.

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
- **Note:** An offender convicted of this offence will always have at least one relevant previous conviction for the offence that resulted in disqualification. The starting points and ranges take this into account; any other previous convictions should be considered in the usual way.
- Offence committed whilst on bail

Other aggravating factors:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- History of disobedience to disqualification orders (where not already taken into account as a previous conviction)
- Disregarding warnings of others about driving whilst disqualified
- Blame wrongly placed on others
- False details given
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Offence committed on licence or while subject to court order(s) (not including the current order for disqualification)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision or death
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relative(s)

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.

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

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 (tagged curfew)

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

Causing death by driving: unlicensed or uninsured drivers

Road Traffic Act 1988 (section 3ZB)

Triable either way

Maximum: 2 years' custody

Offence range: Community order – 2 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Driving for commercial purposes
- Driving LGV, HGV, PSV
- Significant distance driven

Medium

- Cases falling between higher and lesser culpability because:
 - Factors are present in higher and lesser culpability which balance each other out and/or
 - The offender's culpability falls between the factors as described in higher and lesser culpability

Lesser

- The offender genuinely believed that he or she was insured or licensed to drive
- Decision to drive was brought about by a genuine and proven emergency
- Forced to drive unlicensed or uninsured by pressure, coercion or intimidation

HARM

For all cases the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

STEP TWO

The starting points and category ranges below relate to a single offence resulting in a single death. Where another offence or offences arise out of the same incident or facts, concurrent sentences reflecting the overall criminality will ordinarily be appropriate.

Where more than one death is caused, it will be appropriate to increase the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step five of this guideline.

Starting point and category range
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Culpability	Starting point	Range
High	1 year	36 weeks to 2 years
Medium	26 weeks	High level community order – 36 weeks
Lesser	Medium level community order	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:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Disregarding warnings of others about driving whilst unlicensed or uninsured
- Blame wrongly placed on others
- False details given
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Serious injury to one or more victims, in addition to the death(s) (see step 5 on totality when sentencing for more than one offence)
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision or death
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- 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.

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

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 (tagged curfew)

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

Causing injury by wanton or furious driving

Offences Against the Person Act 1861 (section 35)

Triable only on indictment

Maximum: 2 years' custody

Offence range: Fine – 2 years' custody

STEP ONE**Determining the offence category****CULPABILITY**

The court should determine culpability by reference only to the factors below, which comprise the principal factual elements of the offence.

High

- Deliberate decision to ignore the rules of the road and/or disregard for the risk of danger to others.
- Prolonged, persistent and deliberate course of driving or cycling likely to cause a danger to others
- Driving or cycling grossly impaired by consumption of alcohol or drugs
- Offence committed in course of police pursuit
- Racing or competitive driving or cycling against another vehicle or bicycle
- Disregarding warnings of others
- Lack of attention to driving or cycling for a substantial period of time
- Speed greatly in excess of speed limit
- Extreme example of a medium culpability factor

Medium

- Unsafe manoeuvre or positioning
- Engaging in a brief but avoidable distraction
- Inappropriate speed for the prevailing conditions
- Driving or cycling impaired by consumption of alcohol or drugs
- Visibility or controls obstructed
- Driving or cycling impaired as a result of a known medical condition
- Disregarding advice relating to the effects of medical condition or medication
- Driving or cycling when deprived of adequate sleep or rest

Lesser

- All other cases

HARM

HARM	
Category 1	<ul style="list-style-type: none"> • Death • Grave and/or life-threatening injury caused • Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment • Offence results in a permanent, irreversible injury or condition
Category 2	<ul style="list-style-type: none"> • Other cases of serious harm
Category 3	<ul style="list-style-type: none"> • All other cases

STEP TWO

Starting point and category range

	Culpability		
	A	B	C
Harm 1	Starting Point: 1 year 6 months Category range: 1 - 2 years	Starting Point: 1 year Category range: 26 weeks – 1 year 6 months	Starting Point: 26 weeks Category range: High level community order – 1 year
Harm 2	Starting Point: 1 year Category range: 26 weeks – 1 year 6 months	Starting Point: 26 weeks Category range: High level community order – 1 year	Starting Point: High level community order Category range: Low level community order – 26 weeks
Harm 3	Starting Point: 26 weeks Category range: High level community order – 1 year	Starting Point: High level community order Category range: Low level community order – 26 weeks	Starting Point: Low level community order Category range: Band B fine – High level community order

Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Totality* guideline and step five of this guideline.

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:

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving or cycling for commercial purposes
- Driving LGV, HGV, PSV
- Other driving offences committed at or about the same time
- Blame wrongly placed on others

- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Offence committed on licence or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- Alcohol or drugs consumed unwittingly
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to collision
- Offence due to inexperience rather than irresponsibility
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- 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.

- Ancillary orders – Magistrates' Court
- Ancillary orders – Crown Court Compendium

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 (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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Comparison of sentencing tables

Annex K

Causing death by dangerous driving

Current:

Culpability	Starting point	Range
High	8 years	7 – 14 years
Medium	5 years	4 – 7 years
Lesser	3 years	2 – 5 years

Proposed:

Culpability	Starting point	Range
High	12 years	8 – 18 years
Medium	6 years	4 – 9 years
Lesser	3 years	2 – 5 years

Causing death by careless driving

Current:

Culpability	Starting point	Range
High	15 months	36 weeks – 3 years
Medium	36 weeks	High level community order – 2 years
Lesser	Medium level community order	Low level community order – high level community order

Proposed:

Culpability	Starting point	Range
High	2 years	12 months – 4 years
Medium	12 months	26 weeks – 3 years
Lesser	26 weeks	Medium level community order – 12 months

Causing death by careless driving under the influence

Current:

The legal limit of alcohol is 35µg breath (80mg in blood and 107mg in urine)	High culpability	Medium culpability	Lesser culpability
H71µ or above of alcohol OR Deliberate refusal to provide specimen for analysis OR Evidence of substantial impairment and/or multiple drugs or combination of drugs and alcohol	Starting point: 8 years Sentencing range: 7 - 14 years	Starting point: 7 years Sentencing range: 6 – 12 years	Starting point: 6 years Sentencing range: 5 – 10 years
51- 70 µg of alcohol OR Any quantity of a single drug detected	Starting point: 6 years Sentencing range: 5 – 9 years	Starting point: 5 years Sentencing range: 4 – 8 years	Starting point: 4 years Sentencing range: 3 – 7 years
35-50 µg of alcohol	Starting point: 4 years Sentencing range: 3 years – 6 years	Starting point: 3 years Sentencing range: 2 – 5 years	Starting point: 18 months Sentencing range: 26 weeks – 4 years

Proposed:

The legal limit of alcohol is 35µg breath (80mg in blood and 107mg in urine)	High culpability	Medium culpability	Lesser culpability
H71µ or above of alcohol OR Deliberate refusal to provide specimen for analysis OR Evidence of substantial impairment and/or multiple drugs or combination of drugs and alcohol	Starting point: 12 years Sentencing range: 8 – 18 years	Starting point: 9 years Sentencing range: 6 – 12 years	Starting point: 6 years Sentencing range: 5 – 10 years
51- 70 µg of alcohol OR Any quantity of a single drug detected	Starting point: 9 years Sentencing range: 6 – 12 years	Starting point: 6 years Sentencing range: 4 – 9 years	Starting point: 4 years Sentencing range: 3 – 7 years
35-50 µg of alcohol	Starting point: 6 years Sentencing range: 4 – 9 years	Starting point: 3 years Sentencing range: 2 – 5 years	Starting point: 18 months Sentencing range: 26 weeks - 4 years

Dangerous driving

Current:

Examples of nature of activity	Starting point	Range
<p>Prolonged bad driving involving deliberate disregard for safety of others; OR</p> <p>Incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area, by disqualified driver;</p> <p>OR</p> <p>Driving as described in box above while being pursued by police</p>	Crown Court	Crown Court
<p>Incident(s) involving excessive speed or showing off, especially on busy roads or in built-up area; OR</p> <p>Single incident where little or no damage or risk of personal injury but offender was disqualified driver</p>	12 weeks custody	High level community order to 26 weeks custody Disqualify 15 – 24 months
<p>Single incident where little or no damage or risk of personal injury</p>	Medium level community order	Low level community order to high level community order Disqualify 12 – 15 months

Proposed:

	Culpability		
	A	B	C
Harm 1	<p>Starting Point: 18 months</p> <p>Category range: 12 months – 2 years</p>	<p>Starting Point: 12 months</p> <p>Category range: 6 – 18 months</p>	<p>Starting Point: 6 months</p> <p>Category range: High level community order – 12 months</p>
Harm 2	<p>Starting Point: 12 months</p> <p>Category range: 6 – 18 months</p>	<p>Starting Point: 6 months</p> <p>Category range: High level community order – 12 months custody</p>	<p>Starting Point: High level community order</p> <p>Category range: Low level community order – 6 months</p>

Causing death whilst disqualified

Current:

Examples of nature of activity	Starting point	Range
The offender was disqualified from driving [...]	12 months' custody	36 weeks – 2 years' custody

Causing death whilst unlicensed/uninsured

Current:

Examples of nature of activity	Starting point	Range
[...] the offender was unlicensed or uninsured plus two or more aggravating factors	12 months' custody	36 weeks – 2 years' custody
The offender was unlicensed or uninsured plus at least one aggravating factor	26 weeks' custody	High level community order – 36 weeks' custody
The offender was unlicensed or uninsured – no aggravating factors	Medium level community order	Low level community order – high level community order

Proposed:

Culpability	Starting point	Range
High	5 years	4 – 7 years
Medium	3 years	2 – 5 years
Lesser	18 months	High level Community Order to 2 years

Proposed:

Culpability	Starting point	Range
High	12 months	36 weeks to 2 years
Medium	26 weeks	High level community order – 36 weeks
Lesser	Medium level community order	Low level community order – high level community order

Animal Cruelty

Animal Welfare Act 2006, s.4 (unnecessary suffering), **s.5 (mutilation)**, **s.6 (docking of dogs' tails)**, **s.7 (administration of poisons etc)**, s.8 (fighting etc)

Effective from: XXXXXXXXX

Triable either way

Maximum: 5 years' custody

Offence range: Band A fine – 3 years' custody

Step 1 – Determining the offence category

The court should determine culpability and harm caused with reference **only** to the factors below. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category.

Culpability demonstrated by one or more of the following

The court should weigh all the factors set out below in determining the offender's culpability. 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.

<p>A High Culpability</p>	<ul style="list-style-type: none"> ● Prolonged and/or multiple incidents of serious cruelty and/or sadistic behaviour ● Use of very significant force ● Leading role in illegal activity ● A category B offence may also be elevated to category A by: <ul style="list-style-type: none"> ○ the extreme nature of one or more factors ○ the extreme impact caused by a combination of factors
<p>B Medium culpability</p>	<ul style="list-style-type: none"> ● Deliberate or gratuitous attempt to cause suffering ● Prolonged and/or multiple incidents of cruelty or neglect ● Use of significant force ● Ill treatment in a commercial context ● Deliberate disregard for the welfare of the animal (including failure to seek treatment) ● Other cases that fall between categories A or 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 as described in A and C

C Lower culpability	<ul style="list-style-type: none"> • Well intentioned but incompetent care • Momentary or brief lapse in judgement • Involved through coercion, intimidation or exploitation • Mental disorder or learning disability, where linked to the commission of the offence
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Harm demonstrated by one or more of the following

The court should consider the factors set out below to determine the level of harm that has been caused or was intended to be caused to the victim.

Category 1	<ul style="list-style-type: none"> • Death (including injury necessitating euthanasia) • Particularly grave or life-threatening injury or condition caused • Very high level of pain and/or suffering caused
Category 2	<ul style="list-style-type: none"> • Offence results in an injury or condition which has a substantial and/or lasting effect (including cases of tail docking, ear clipping and similar forms of mutilation) • Substantial level of pain and/or suffering caused
Category 3	<ul style="list-style-type: none"> • Little or no physical, developmental harm or distress • All other levels of pain and/or suffering

Step 2 – 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. A case of particular gravity, reflected by a **combination of high culpability factors or significant numbers of animals**, could merit upward adjustment from the starting point, before further adjustment for aggravating or mitigating features, set out below, **and may attract a sentence higher than the category range**.

	High culpability	Medium culpability	Low culpability
Category 1	Starting point 18 months' custody	Starting point 26 weeks' custody	Starting point Low level community order
	Category range 26 weeks' custody – 3 years' custody	Category range 18 weeks' – 12 months' custody	Category range Band B fine – Medium level community order
Category 2	Starting point 26 weeks' custody	Starting point 12 weeks' custody	Starting point Band C fine
	Category range 18 weeks' – 12 months' custody	Category range Medium level community order – 26 weeks' custody	Category range Band B fine – Low level community order

Category 3	Starting point 12 weeks' custody	Starting point Medium level community order	Starting point Band B fine
	Category range Medium level community order – 26 weeks' custody	Category range Low level community order – High level community order	Category range Band A fine – Band C fine

The court should then consider further adjustment for any aggravating or mitigating factors. The following is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the 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 owner/keeper of the animal: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors

- Distress caused to owner where not responsible for the offence
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- **Significant number of animals involved**
- Use of a weapon
- Allowing person of insufficient experience or training to have care of animal(s)
- Use of technology, **including circulating details/photographs/videos etc of the offence on social media, to record**, publicise or promote cruelty
- Ignores warning/professional advice/declines to obtain professional advice
- Use of another animal to inflict death or injury
- Offender in position of **professional responsibility for animal**
- **Offence committed in the presence of other(s), especially children**
- Animal requires significant intervention to recover
- Animal being used in public service or as an assistance dog

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity

- Mental disorder or learning disability, where not linked to the commission of the offence
- Sole or primary carer for dependent relatives
- Offender has been given an inappropriate level of trust or responsibility
- Voluntary surrender of animals to authorities
- Cooperation with the investigation
- Isolated incident

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

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

Step 4 – Reduction for guilty pleas

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

Step 5 – 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 6 – Compensation and ancillary orders

In all cases, the court should consider whether to make [compensation](#) and/or other [ancillary orders](#) including [deprivation of ownership](#) and [disqualification of ownership of animals](#). **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](#)).**

- Ancillary orders – Magistrates' Court
- **Ancillary orders – Crown Court Compendium**

Step 7 – Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 8 – 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.

Failure to ensure animal welfare

Animal Welfare Act 2006, s.9 (breach of duty of person responsible for animal to ensure welfare)

Effective from: XXXXXX

Triable only summarily

Maximum: Unlimited fine and/or 6 months

Offence range: Band A fine – 26 weeks' custody

Step 1 – Determining the offence category

The court should determine culpability and harm caused with reference **only** to the factors below. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category.

Culpability demonstrated by one or more of the following

The court should weigh all the factors set out below in determining the offender's culpability. Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.

A High Culpability	<ul style="list-style-type: none"> • Prolonged or deliberate ill treatment or neglect • Ill treatment or neglect in a commercial context • A leading role in illegal activity
B Medium culpability	<ul style="list-style-type: none"> • Cases that fall between categories A or 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 as described in A and C
C Lower culpability	<ul style="list-style-type: none"> • Well intentioned but incompetent care • Brief lapse in judgement • Involved through coercion, intimidation or exploitation • Mental disorder or learning disability, where linked to the commission of the offence

Harm demonstrated by one or more of the following

The court should consider the factors set out below to determine the level of harm that has been caused or was intended to be caused to the victim.

Factors indicating greater harm	<ul style="list-style-type: none"> • Death or serious injury/harm to animal • High level of suffering caused
Factors indicating lesser harm	<ul style="list-style-type: none"> • All other cases

Step 2 – 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. A case of particular gravity, reflected by multiple features of culpability in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.

	High culpability	Medium culpability	Low culpability
Greater harm	Starting point 18 weeks' custody	Starting point Medium level community order	Starting point Band C fine
	Category range 12-26 weeks' custody	Category range Low level community order – High level community order	Category range Band B fine – Low level community order
Lesser harm	Starting point High level community order	Starting point Low level community order	Starting point Band B fine
	Category range Low level community order – 12 weeks' custody	Category range Band C fine – Medium level community order	Category range Band A fine – Band C fine

The court should then consider further adjustment for any aggravating or mitigating factors. The following is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the 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 owner/keeper of the animal: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors

- Distress caused to owner where not responsible for the offence
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- **Significant number of animals involved**
- Allowing person of insufficient experience or training to have care of animal(s)
- Ignores warning/professional advice/declines to obtain professional advice
- Offender in position of **professional** responsibility **for animal**
- Animal requires significant intervention to recover
- Animal being used in public service or as an assistance dog

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability, where not linked to the commission of the offence
- Sole or primary carer for dependent relatives
- Offender has been given an inappropriate level of trust or responsibility
- Voluntary surrender of animals to authorities
- Cooperation with the investigation
- Isolated incident

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

The court should take into account section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

Step 4 – Reduction for guilty pleas

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

Step 5 – 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 6 – Compensation and ancillary orders

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

- Ancillary orders – Magistrates' Court

Step 7 – Reasons

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

Step 8 – 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.

Consultation Stage Resource Assessment

Animal Cruelty Offences

Introduction

This document fulfils the Sentencing Council's statutory duty to produce a resource assessment which considers the likely effect of its guidelines on the resources required for the provision of prison places, probation and youth justice services.¹

Rationale and objectives for new guideline

A single magistrates' courts sentencing guideline currently exists for animal cruelty offences, which covers offences contrary to sections 4, 8 and 9 of the Animal Welfare Act 2006. This existing Animal cruelty guideline² first came into force in 2008 but was revised in 2017 following concern that it was not nuanced enough, particularly for those cases falling between the lowest and highest levels of seriousness.

On 29 June 2021, the Animal Welfare (Sentencing) Act 2021 came into force, which increased the maximum penalty for sections 4, 5, 6, 7 and 8 of the Animal Welfare Act 2006 from 6 months' (summary only) to 5 years' custody. There was no change to the maximum penalty for the section 9 offence.

The Council is consulting on two new draft sentencing guidelines for use in England and Wales to cover these animal cruelty offences. One is an Animal cruelty guideline for use in all courts, to cover offences contrary to sections 4-8, where the offences have changed from being summary only to triable either way and the statutory maximum penalty has increased. The other is a Failure to ensure animal welfare magistrates' courts sentencing guideline, which retains much of the existing magistrates' courts sentencing guideline for animal cruelty offences, but with changes to reflect the scope of the guideline no longer covering sections 4 and 8 and now simply covering the section 9 offence, which has an unchanged statutory maximum.

The Council's aim in developing these guidelines is to reflect the will of Parliament and provide sentencers with a structured approach to sentencing animal cruelty offences that will ensure that sentences are proportionate to the offence committed and in relation to other offences. They should also promote a consistent approach to

¹ Coroners and Justice Act 2009 section 127: www.legislation.gov.uk/ukpga/2009/25/section/127

² <https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/animal-cruelty-revised-2017/>

sentencing and provide guidance to sentencers, especially where the maximum sentence has recently increased from 6 months to 5 years' custody.

Scope

As stipulated by section 127 of the Coroners and Justice Act 2009, this assessment considers the resource impact of the guidelines on the prison service, probation service and youth justice services. Any resource impacts which may fall elsewhere are therefore not included in this assessment.

This resource assessment covers the following offences under the Animal Welfare Act 2006, which will be covered by two guidelines:

- Causing unnecessary suffering (section 4);
- Carrying out a non-exempted mutilation (section 5);
- Docking the tail of a dog except where permitted (section 6);
- Administering poison to an animal (section 7);
- Involvement in an animal fight (section 8); and
- Breach of duty of person responsible for animal to ensure welfare (section 9).

These guidelines apply to sentencing adults only; they will not directly apply to the sentencing of children and young people.

Current sentencing practice

To ensure that the objectives of the guidelines are realised, and to understand better the potential resource impacts of the guidelines, the Council has carried out analytical and research work in support of them.

The intention is that the guidelines will encourage consistency of sentencing, especially regarding the increase in statutory maximum penalties for sections 4 to 8, and ensure that, for all offences, sentences are proportionate to the severity of the offence committed and in relation to other offences, whilst incorporating the change in legislation.

In order to develop effective guidelines for these offences, knowledge of recent sentencing practice was required. Sources of evidence have included examples of cases from the RSPCA, case studies from the passage of the Animal Welfare (Sentencing) Act 2021 Bill, analysis of transcripts of judges' sentencing remarks for

the very few cases which are sentenced in the Crown Court currently and sentencing data from the MoJ Court Proceedings Database.^{3,4}

During the consultation stage, we intend to hold discussions with sentencers to invite feedback and gauge whether the new guidelines will work as anticipated. This should provide some further understanding of the likely impact of the guidelines on sentencing practice, and the subsequent effect on prison and probation resources.

Detailed sentencing statistics for the offences covered by the draft guidelines have been published on the Sentencing Council website at the following link:
<http://www.sentencingcouncil.org.uk/publications/?type=publications&s=&cat=statistical-bulletin&topic=&year.>

Causing unnecessary suffering (section 4)

In 2020 around 300 adult offenders were sentenced for this offence, although this was a decrease compared to the recent trend of around 600 offenders sentenced in each year. The most common outcome was a community order (39 per cent), followed by a fine (22 per cent) and a suspended sentence order (21 per cent). A further 12 per cent received immediate custody.^{5,6}

For those that were sentenced to immediate custody in 2020, the average (mean) custodial sentence length (ACSL) was 4 months, after any reductions for guilty plea, whilst the statutory maximum sentence was still 6 months' custody.⁷

Carrying out a non-exempted mutilation (section 5); Docking the tail of a dog except where permitted (section 6); Administering poison to an animal (section 7); and Involvement in an animal fight (section 8)

Due to low volumes, sentencing data for these four sections of the Animal Welfare Act 2006 are presented together and it has not been possible to provide an average custodial sentence length (ACSL). In total, in 2020, there were only 3 adult offenders sentenced for these offences, and around 30 offenders sentenced between 2016 and

³ The Court Proceedings Database (CPD), maintained by the Ministry of Justice (MoJ), is the data source for these statistics. The data presented in this resource assessment only include cases where the specified offence was the principal offence committed. When a defendant has been found guilty of two or more offences this is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe. Although the offender will receive a sentence for each of the offences that they are convicted of, it is only the sentence for the principal offence that is presented here. Further information about this sentencing data can be found in the accompanying statistical bulletin and tables published here:
<http://www.sentencingcouncil.org.uk/publications/?s&cat=statistical-bulletin>

⁴ 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.

⁵ A further 4 per cent received a discharge and 1 per cent were 'Otherwise dealt with', which covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

⁶ Percentages may not appear to sum to 100 per cent due to rounding.

⁷ The average custodial sentence lengths presented in this resource assessment are mean average custodial sentence length values for offenders sentenced to determinate custodial sentences, after any reduction for guilty plea. The statutory maximum sentence for this offence increased from 6 months to 5 years' custody in April 2021 however the latest full year of data available at the time of publication was 2020 so there are no cases exceeding 6 months' custody included in these figures.

2020. These offences are almost exclusively sentenced in magistrates' courts, and the majority of the offenders receiving immediate custody are sentenced for the offence of involvement in an animal fight (section 8).

Breach of duty of person responsible for animal to ensure welfare (section 9)

In 2020, around 50 adult offenders were sentenced for this offence, which is a decrease compared to the recent trend of around 150 offenders sentenced per year. In 2020, almost half of offenders sentenced received a fine (44 per cent), one third received a community order (31 per cent) and 17 per cent received a suspended sentence order. A further 4 per cent were sentenced to immediate custody⁸ and the statutory maximum sentence for this offence remains at 6 months' custody.⁶

Key assumptions

To estimate the resource effect of a guideline, an assessment is required of how it will affect aggregate sentencing behaviour. This assessment is based on the objectives of the draft guideline and draws upon analytical and research work undertaken during guideline development. However, some assumptions must be made, in part because it is not possible precisely to foresee how sentencers' behaviour may be affected across the full range of sentencing scenarios. Any estimates of the impact of the draft guidelines are therefore subject to a large degree of uncertainty.

Historical data on changes in sentencing practice following the publication of guidelines can help inform these assumptions, but since each guideline is different, there is no strong evidence base on which to ground assumptions about behavioural change. The assumptions thus have to be based on careful analysis of how current sentencing practice corresponds to the guideline ranges presented in the proposed draft guideline, and an assessment of the effects of changes to the structure and wording of the guideline where a previous guideline existed.

The resource impact of the draft guideline is measured in terms of the change in sentencing practice that is expected to occur as a result of it. Any future changes in sentencing practice which are unrelated to the publication of the guideline are therefore not included in the estimates.

In developing sentence levels for the draft guidelines, data on current sentence levels have been considered, although this does cover the period before the increase in statutory maximum sentence for sections 4-8. Existing guidance and case studies, as well as limited transcripts of judges' sentencing remarks have also been reviewed.

While data exist on the number of offenders and the sentences imposed, assumptions have been made about how current cases would be categorised across the levels of culpability and harm proposed in the new guidelines, due to a lack of data available regarding the detailed sentencing factors for current cases. Additionally, given that offences contrary to sections 4-8 were summary only until very recently, past sentencing data may not be representative of how sentencing will

⁸ Owing to low volumes, an average custodial sentence length (ACSL) for this offence has not been calculated.

look in the future for this guideline. As a consequence, it is difficult to ascertain how sentence levels may change under the new animal cruelty guideline.

It remains difficult to estimate with any precision the impact the new draft guidelines may have on prison and probation resources. To support the development of the guidelines and mitigate the risk of them having an unintended impact, discussions with sentencers will be undertaken during the consultation stage to provide more information on which to base the final resource assessment accompanying the definitive guidelines.

Resource impacts

This section should be read in conjunction with the guidelines available at: <https://www.sentencingcouncil.org.uk/>.

The two draft guidelines cover animal cruelty offences contrary to sections 4-8 and section 9 of the Animal Welfare Act 2006 separately. Due to the shared statutory maximum penalty of offences contrary to sections 4-8, and because they are covered by the same guideline, the resource impacts have been assessed and presented for these offences collectively. The resource impacts for the new draft section 9 offence guideline have been considered separately.

In relation to the rationale for the increases to the statutory maximum under the Animal Welfare (Sentencing) Act 2021, discussions in Parliament focussed on a particular desire to increase penalties for offences involving particularly sadistic behaviour, and/ or the involvement of organised criminality. As such, the expectation of the new draft guideline is that it will increase sentences for these most serious cases and provide consistency of approach to sentencing a wider range of animal cruelty offences than the current guideline offers, whilst ensuring that sentences are proportionate to the offence committed and in relation to other offences.

Overall, it is likely that the increase in statutory maximum reflected in the new animal cruelty guideline may increase sentencing severity for a very small subset of offences at the highest end of severity, for offending contrary to sections 4-8. It is unlikely that this will lead to a substantial impact on prison and probation resources, owing to the small volumes involved. For the section 9 offence, it is not anticipated that the new draft guideline will lead to a change in sentencing practice, since the guideline has been developed with current sentencing practice in mind and the statutory maximum remains unchanged, so this is not expected to have a notable resource impact either.

Animal cruelty guideline (sections 4-8, Animal Welfare Act 2006)

Offences contrary to sections 4, 8 and 9 of the Animal Welfare Act 2006 are currently covered in the existing Animal cruelty guideline, which has only two categories of harm and a six-point sentencing table.

The new draft Animal cruelty guideline additionally covers sections 5, 6 and 7 but no longer covers section 9. The draft guideline has three levels of culpability and three

levels of harm, leading to a nine-point sentencing table with a sentencing range from a Band A fine⁹ up to 3 years' custody.

The statutory maximum penalty for sections 4-8 increased from 6 months' custody (summary only offence), to 5 years' custody (triable either way offence) in June 2021. This increase is reflected in the sentence ranges for the new draft guideline and, as such, it is possible there may be an impact on the proportion of cases being sentenced in Crown Court in the future, compared with now. However, since the ACSL is currently 4 months' custody and the starting point sentence for all offences except those falling into the highest harm and culpability category (A1) is no greater than 6 months' custody before any reductions for a guilty plea, the majority of cases are likely to remain within the threshold of magistrates' courts sentencing powers.

The rationale for these increases to the statutory maximum under the Animal Welfare (Sentencing) Act 2021 set out that sentences above the previous 6-month statutory maximum sentence should be reserved for those offences involving particularly sadistic behaviour, and/ or the involvement of organised criminality. As such, the draft guideline includes a number of updates to the way culpability is assessed, primarily to clearly separate out more extreme cases. High culpability factors within the existing magistrates' court Animal cruelty guideline have been moved into medium culpability, and a new set of factors covered the most severe types of offending have been added to high culpability, to reflect the significant increase in maximum sentence for these offences.

Nevertheless, the starting point pre-guilty plea for even the highest harm and culpability category (1A) under the new draft animal cruelty guideline is 18 months' custody, so it is likely that a high proportion of custodial sentence outcomes will remain within the eligible threshold for suspension, for which the anticipated resource impacts are less, especially with regard to prison places. Furthermore, the majority of offenders do not currently receive a custodial sentence for these offences, which further reduces the estimated impacts on prison resources.

Analysis of a small number¹⁰ of transcripts of Crown Court judges' sentencing remarks¹¹ was conducted to assess how sentences might change under the new guideline. This also suggests that there are unlikely to be substantial increases in custody length or changes in sentence outcome type for the majority of cases. There may be some increases in the length of custody received in individual cases, particularly those at the highest levels of culpability and harm, for example involving the death of the animal/ animals. However, due to the data limitations, the likely resource impact cannot be quantified.

In addition, it should be noted that only 2 per cent of offenders sentenced in 2020 for these offences were sentenced at Crown Court, therefore, it is likely that this subset

⁹ The starting point for a Band A fine is 50% of the offender's relevant weekly income.

¹⁰ Sentencing remarks are only available at the Crown Court, and there were only 11 offenders sentenced for animal cruelty offences at the Crown Court in 2019 and 2020, all for causing unnecessary suffering (section 4).

¹¹ Of the 11 possible transcripts which were ordered, only 8 transcripts covering 9 offenders sentenced in 2019 and 2020 for causing unnecessary suffering (section 4) as either a principal or secondary offence contained enough detail to be analysed. In all cases, multiple offences were being sentenced; in one transcript, the secondary offences included offending contrary to section 9.

of cases represents some of the most severe types of offending and/ or cases involving multiple offences.

Furthermore, the latest full year of data available to analyse for this resource assessment is for 2020: before the increase in statutory maximum sentence. This means that the current sentencing practice for this offence is not fully representative of expected future sentencing using the draft guideline, which limits how reliably we can estimate the resource impacts for this guideline.

Overall, due to a lack of available data, the very recent change in offence category from summary only to triable either way and the very small number of offenders sentenced for the majority of these offences, it is not possible to say whether the guideline for these offences will have a significant impact on prison and probation resources overall. Nevertheless, the intention of the guideline, in line with the rationale behind Parliament's decision to increase the statutory maximum sentence¹² is not to increase the volume of offenders receiving a custodial sentence, only the length of time for the small subset of offences at the highest end of severity. Therefore, it is anticipated that any impact on prison and probation resources should be small.

Further work during the consultation should hopefully provide further evidence on which to base the final resource assessment.

Failure to ensure animal welfare guideline (section 9, Animal Welfare Act 2006)

The existing magistrates' courts sentencing guideline which covers section 9 of Animal Welfare Act 2006 also covers the animal cruelty offences under sections 4 and 8.

The new draft Failure to ensure animal welfare guideline, to cover purely the section 9 offence (breach of duty of person responsible for animal to ensure welfare), retains three levels of culpability and two levels of harm from the existing Animal cruelty guideline, leading to a six-point sentencing table, with a sentencing range from a Band A fine⁷ up to 26 weeks' custody to reflect the summary only nature of the offence.

Compared to the existing guideline, certain factors have been removed to ensure that all the factors are relevant, and that sentencing is proportionate for the narrower scope of the new draft guideline.

Due to a lack of available data and the small number of offenders sentenced for this offence, it is not possible to confidently anticipate the impact the new draft guideline will have on prison and probation resources overall. However, it is anticipated that any impact would be minimal, given the low volume of offenders sentenced for this offence currently and the low proportion of these offenders who are currently receiving a custodial outcome.

Further work and discussion with sentencers during the consultation should provide further evidence on which to base the final resource assessment.

¹² Explanatory notes of the Animal Welfare (Sentencing) Bill, 'Financial implications of the Bill', page 5: <https://publications.parliament.uk/pa/bills/cbill/58-01/0014/en/200014en.pdf>

Risks

In attempting to estimate the likely resource impacts of these guidelines, there are two main risks to consider:

Risk 1: The Council's assessment of current sentencing practice is inaccurate

An important input into developing sentencing guidelines is an assessment of current sentencing practice. The Council uses this assessment as a basis to consider whether current sentencing levels are appropriate or whether any changes should be made. Inaccuracies in the Council's assessment could cause unintended changes in sentencing practice when the new guideline comes into effect.

This risk is mitigated by information that is gathered by the Council as part of the consultation phase. This includes interviews and discussions with sentencers, to test whether the guidelines have the intended effect. However, there are limitations on the number of scenarios which can be explored, so the risk cannot be fully eliminated. The Council has also included a question in the consultation document, asking for consultees' views on the potential impact of the proposals. This information will provide further information on which to base the final resource assessment.

Risk 2: Sentencers do not interpret the new guideline as intended

If sentencers do not interpret the guideline as intended, this could cause a change in the average severity of sentencing, with associated resource effects.

The Council takes a number of precautions in issuing a new guideline to try to ensure that sentencers interpret it as intended. Sentencing ranges are agreed on by considering sentencing data in conjunction with Council members' experience of sentencing. Limited transcripts of Crown Court sentencing remarks and case studies of animal cruelty offences have also been studied to ensure that the guidelines are developed with current sentencing practice in mind. Research carried out with sentencers should also enable issues with implementation to be identified and addressed prior to the publication of the definitive guidelines.

Consultees can also feed back their views of the likely effect of the guidelines, and whether this differs from the effects set out in the consultation stage resource assessment. The Council also uses data from the Ministry of Justice to monitor the effects of its guidelines to ensure any divergence from its aims is identified as quickly as possible.

Annex A

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.

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
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">• Violence used/<u>serious violence</u> or threatened against the victim• Substantial physical or psychological injury or other substantial <u>emotional or other</u> impact on the victim• <u>Person(s) Victim_ at home or</u> on the premises (or returns) <u>or attends</u> while offender present• 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• Offence committed in the context of public disorder
Category 2	<ul style="list-style-type: none">• <u>Violence threatened but not used against the victim (where not at category one)</u>• <u>Moderate</u> Some physical or psychological injury or some <u>emotional or</u> other impact on the victim

	<ul style="list-style-type: none"> Theft of/damage to property causing <u>a moderate some</u> degree of loss to the victim (whether economic, commercial or personal value) <u>Moderate damage or disturbance</u> 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 <u>impact emotional or other impact</u> 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

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

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:

- In a s.9(1)(b) offence, weapon carried when entering premises
- ('This factor does not apply to s.9(1)(a) offences because it is an inherent part of such offences: see AG's Ref [Sage](#) [2019] EWCA Crim 934, [2019] 2 Cr App (S) 50. In s9(1)(b) offences, 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.')
- 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 already taken into account 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
- 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 minimum sentence after any reduction for a guilty plea.

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. 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](#)).

- [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 B

Domestic burglary

Theft Act 1968 (section 9)

Triable either way (except as noted below)

Maximum: 14 years' custody

Offence range: Community order- 6 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 (see step six on totality when sentencing more than one offence)
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">• Violence used/serious violence threatened against the victim• Substantial physical or psychological injury or substantial emotional or other impact on the victim• Persons(s) on premises or returns or attends while offender present• 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• Offence committed in the context of public disorder

Category 2	<ul style="list-style-type: none"> • Violence threatened but not used against the victim (where not at category 1) • Moderate physical or psychological injury or some emotional or other impact on the victim • Theft of/damage to property causing a moderate degree of loss to the victim (whether economic, commercial or personal value) • Moderate damage or disturbance to property
Category 3	<ul style="list-style-type: none"> • Limited physical or psychological injury or limited emotional or other impact on the victim • 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.

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	Starting Point 1 year 6 months' custody	Starting Point 1 year's custody Category Range

	Category Range 1 -4 years' custody	Category Range 6 months – 3 years' custody	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 year's 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

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
- 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 minimum sentence 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. 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](#)).

- [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 C

Non-domestic burglary

Theft Act 1968 (section 9)

Triable either way (except as noted below)

Maximum: 10 years' custody

Offence range: Discharge – 5 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 (see step 6 on totality when sentencing more than one offence)
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">• Violence used/serious violence threatened against the victim• Substantial physical or psychological injury or substantial emotional or other impact on the victim• Person(s) on premises or returns or attends while offender present• 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• Offence committed in the context of public disorder
Category 2	<ul style="list-style-type: none">• Violence threatened but not used against the victim (where not at category 1)• Moderate physical or psychological injury or some emotional or other impact on the victim

	<ul style="list-style-type: none"> • Theft of/damage to property causing a moderate degree of loss to the victim (whether economic, commercial or personal value) • Moderate damage or disturbance to property
Category 3	<ul style="list-style-type: none"> • Limited physical or psychological injury or limited emotional or other impact on the victim • 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	<p>Starting Point 2 years' custody</p> <p>Category Range 1 -5 years' custody</p>	<p>Starting Point 1 year's custody</p> <p>Category Range High level community order - 2 years' custody</p>	<p>Starting Point 6 months' custody</p> <p>Category Range Medium level community order - 1 year's custody</p>
Category 2	<p>Starting Point 1 years' custody</p> <p>Category Range High level community order - 2 years' custody</p>	<p>Starting Point 6 months' custody</p> <p>Category Range Medium level community order - 1 year's custody</p>	<p>Starting Point Medium level community order</p> <p>Category Range Low level community order - High level community order</p>
Category 3	<p>Starting Point 6 months' custody</p> <p>Category Range</p>	<p>Starting Point Medium level community order</p> <p>Category Range</p>	<p>Starting Point Band B fine</p> <p>Category Range</p>

	Medium level community order - 1 year's custody	Low level community- High level community order	Discharge –Low level community order
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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:

- 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
- 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. 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](#)).

- [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](#).

Final Resource Assessment

Burglary Offences

Introduction

This document fulfils the Council's statutory duty to produce a resource assessment which considers the likely effect of its guidelines on the resources required for the provision of prison places, probation and youth justice services.¹

Rationale and objectives for new guideline

In January 2012, the Sentencing Council's definitive *Burglary Offences* guideline came into force. As evaluation of the guideline published in January 2016 found that sentencing severity had increased beyond that which was expected for non-domestic burglary offences.² Sentences were also found to have increased beyond what was expected for aggravated burglary, although due to low volumes for this offence, the findings were less conclusive.

A further evaluation published in July 2017 found that the guideline may have contributed to increases in sentencing severity for all three burglary offences.³ The increase in domestic burglary was within the expected range, but numbers for aggravated burglary were still too low to be conclusive. For non-domestic burglary, the evaluation found that aggregate sentencing severity had increased. However, further work was carried out to understand current sentencing practice in more detail, and based on this, the Council took the view that in most cases reviewed, sentences appeared to be proportionate to the seriousness of the offence.

Given the findings of the evaluation for non-domestic burglary, for the more serious cases, the Council has decided to retain the current sentencing levels. However, at the lower end of offence seriousness, the Council decided it would be helpful to provide further guidance for disposals that may be appropriate when non-custodial options are being considered and have made changes to the guideline to reflect this.

The Council also decided to bring the guidelines into line with the structure now used for most guidelines. Previously, there were two levels of culpability and two levels of harm, leading to a sentencing table with three starting points. In the guidelines, there

¹ Coroners and Justice Act 2009 section 127: www.legislation.gov.uk/ukpga/2009/25/section/127

² <https://www.sentencingcouncil.org.uk/wp-content/uploads/Burglary-assessment.pdf>

³ <https://www.sentencingcouncil.org.uk/wp-content/uploads/Burglary-further-assessment.pdf>

are now medium levels of culpability and medium levels of harm leading to nine possible starting points in the sentencing table.

The Council's aim in developing the guidelines has been to ensure that sentencing for these offences is proportionate to the offence committed and to promote a consistent approach to sentencing. It was acknowledged by the Council that sentencing levels had increased since the guideline came into force. On reflection the Council considered that current levels, broadly speaking, were not disproportionate to the offences committed and so the revised guidelines have been developed with recent sentencing levels in mind.

Scope

As stipulated by section 127 of the Coroners and Justice Act 2009, this assessment considers the resource impact of the guidelines on the prison service, probation service and youth justice services. Any resource impacts which may fall elsewhere are therefore not included in this assessment.

This resource assessment covers the following offences:

- Non-domestic burglary, Theft Act 1968 (section 9);
- Domestic burglary, Theft Act 1968 (section 9); and
- Aggravated burglary, Theft Act 1968 (section 10).

The *Burglary Offences* guidelines apply to sentencing adults only; they will not directly apply to the sentencing of children and young people.

Current sentencing practice

To ensure that the objectives of the guidelines are realised, and to understand better the potential resource impacts of the guidelines, the Council has carried out analytical and research work in support of it.

The intention is that the revised guidelines will encourage consistency of sentencing and in the vast majority of cases will not change overall sentencing practice from the current levels under the previous guideline. In order to develop a guideline that maintains current practice, knowledge of recent sentencing was required.

Sources of evidence have included the analysis of transcripts of Crown Court judges' sentencing remarks, sentencing data from the Court Proceedings Database,⁴ findings from the two burglary evaluations, Council members' experience of sentencing burglary cases and references to case law and news articles. Knowledge of the sentencing starting points, ranges and factors used in previous cases has helped the Council to create guidelines that should maintain current sentencing practice.

⁴ The Court Proceedings Database (CPD), maintained by the Ministry of Justice (MoJ), is the data source for these statistics. Data on average custodial sentence lengths presented in this resource assessment are those after any reduction for guilty plea. Further information about this sentencing data can be found in the accompanying statistical bulletin and tables published here: <http://www.sentencingcouncil.org.uk/publications/?s&cat=statistical-bulletin>

During the consultation stage, some small-scale research was conducted with a group of sentencers, to check that the draft guidelines would work as anticipated. This research also provided some further understanding of the likely impact of the guidelines on sentencing practice, and the subsequent effect on the prison population.

Detailed sentencing statistics for burglary offences covered by the guidelines have been published on the Sentencing Council website at the following link:

<https://www.sentencingcouncil.org.uk/research-and-resources/publications?s&cat=statistical-bulletin>.

Non-domestic burglary

Around 4,400 adults were sentenced for a non-domestic burglary offence in 2020.⁵ This number has been decreasing since 2011 when 8,900 adults were sentenced for this offence. Around 65 per cent of offenders were sentenced in magistrates' courts in 2020; the remaining 35 per cent were sentenced in the Crown Court.

Just over half (55 per cent) of those sentenced for non-domestic burglary in 2020 were sentenced to immediate custody. A further 20 per cent and 18 per cent of adults received a suspended sentence order and a community order, respectively. The rest received a fine (3 per cent), a discharge (2 per cent) or were 'otherwise dealt with'⁶ (2 per cent).

The statutory maximum sentence for this offence is 10 years' custody. In 2020, the average custodial sentence length (ACSL)⁷ was 10.6 months (after any reduction for a guilty plea).

Domestic burglary

Around 3,700 adults were sentenced for a domestic burglary offence in 2020. This has been sharply decreasing since a high of 11,100 in 2011. Around 87 per cent of offenders were sentenced in the Crown Court; the remaining 13 per cent were sentenced in magistrates' courts in 2020.

Around 75 per cent of those adults sentenced for domestic burglary in 2020 received an immediate custodial sentence.⁸ This was followed by 14 per cent receiving a

⁵ 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.

⁶ The category 'Otherwise dealt with' in this case includes: one day in police cells; hospital order; forfeiture of property; restraining order; a deferred sentence; compensation; and other miscellaneous disposals. Due to a data issue currently under investigation, there are several non-domestic burglary cases which are incorrectly categorised in the CPD as 'Otherwise dealt with'. The figures shown for 'Otherwise dealt with' should therefore be treated with caution.

⁷ The average custodial sentence lengths referred to in this resource assessment are the mean average, which is calculated by adding all the individual values and dividing the total by the number of values.

⁸ The Court Proceedings Database does not include any information on the offending histories of the offenders sentenced, so there are no figures from this source on the number or proportion of offenders sentenced for a qualifying third domestic burglary (known as 'third strike' domestic burglary) under section 111 of the Powers of Criminal Courts (Sentencing) Act 2000. However, figures are available on this from a different source – the Police National Computer. These figures show that there were 327 third-time burglary offenders in 2020. Of these, 57 per cent received a custodial sentence of 28.8 months or more (a three-year sentence with a 20 per cent discount for a guilty plea). More detail can be found in the 'Offending Histories' link on the following

suspended sentence order and 9 per cent receiving a community order. The rest received a fine (less than 0.5 per cent), a discharge (less than 0.5 per cent) or were 'otherwise dealt with'⁹ (2 per cent).

The statutory maximum sentence for this offence is 14 years' custody. The ACSL in 2020 was 2 years 4 months (after any reduction for a guilty plea).

Aggravated burglary

Around 200 adults were sentenced for an aggravated burglary in 2020. This is a reduction from 2011 when 320 adults were sentenced for the same offence. This offence is indictable only and therefore all offenders are sentenced in the Crown Court.

Nearly all (94 per cent) of the offenders sentenced in 2020 received an immediate custodial sentence, with the remaining offenders either receiving a suspended sentence order, a community order or were 'otherwise dealt with'.¹⁰

The statutory maximum sentence for this offence is life imprisonment. The ACSL in 2020 was 7 years 2 months (after any reduction for a guilty plea).

Key assumptions

To estimate the resource effect of a new guideline, an assessment is required of how it will affect aggregate sentencing behaviour. This assessment is based on the objectives of the new guideline and draws upon analytical and research work undertaken during guideline development. Additionally, in this case, findings from the two guideline evaluations have helped to inform guideline development. However, some assumptions must be made, in part because it is not possible precisely to foresee how sentencers' behaviour may be affected across the full range of sentencing scenarios. Any estimates of the impact of the new guideline are therefore subject to a substantial degree of uncertainty.

The resource impact of the new guideline is measured in terms of the change in sentencing practice that is expected to occur as a result of it. Any future changes in sentencing practice which are unrelated to the publication of the new guideline are therefore not included in the estimates.

In developing sentence levels for the different guidelines, existing guidance and data on current sentence levels has been considered.

webpage: <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-march-2021>.

Note that as these figures and those given in the rest of this document are from different sources, they are not directly comparable.

⁹ The category 'otherwise dealt with' for this offence includes: one day in police cells; hospital order; compensation; restraining order; and other miscellaneous disposals. Due to a data issue currently under investigation, there are several domestic burglary cases which are incorrectly categorised in the CPD as 'otherwise dealt with'. The figures shown for 'otherwise dealt with' should therefore be treated with caution.

¹⁰ The category 'otherwise dealt with' for this offence includes otherwise dealt with on conviction (or finding of guilt). Due to a data issue currently under investigation, there are several aggravated burglary cases incorrectly categorised in the CPD as 'otherwise dealt with'. The figures shown for 'otherwise dealt with' should therefore be treated with caution.

While data exists on the number of offenders and the sentences imposed, assumptions have been made about how current cases would be categorised across the levels of culpability and harm proposed in the new guidelines, due to a lack of data available regarding the seriousness of current cases. Additionally, the new guidelines have introduced a medium level of culpability and a medium level of harm, which did not exist in the previous guideline. This means that it is difficult to foresee how offences will 'map' from the previous to the revised guidelines. Consequently, it is difficult to ascertain how sentence levels may change under the new guidelines.

It therefore remains difficult to estimate with any precision the impact the guidelines may have on prison and probation resources. To support the development of the guidelines and mitigate the risk of the guidelines having an unintended impact, interviews were undertaken with sentencers during the consultation period, which have provided more information on which to base this final resource assessment.

Resource impacts

This section should be read in conjunction with the guidelines available at: <https://www.sentencingcouncil.org.uk/crown-court/>

Summary

There have been several changes to the placement of factors in the revised guidelines. These include the factor related to group offending within the non-domestic and domestic burglary guidelines. Additionally, some new wording related to alcohol dependency/ misuse has been added to the domestic and non-domestic burglary guidelines, with the intention that this might encourage more community orders to be given at the lower end of offence severity. Analysis carried out during the development of the guideline and during the consultation stage, involving sentencing remarks and interviews with sentencers, showed evidence that very little change is expected in sentencing for these offences and therefore minimal resource impact is expected.

The factor related to a weapon carried when entering the premises in the aggravated burglary guideline has been moved from step one to step two of the guideline, and the step one harm factor reworded to avoid any possible double counting of this factor. Analysis suggests that there may be a slight decrease in sentence severity due to this change. However, the sample size analysed was small and therefore while any resource impact is not expected to be substantial, the findings in relation to this should be interpreted as indicative of the expected impacts only.

Overall, for all three offences (non-domestic, domestic and aggravated burglary), analysis suggests that sentences should remain similar under the revised guidelines to sentencing levels under the previous guidelines, and there is no conclusive evidence to suggest that the guidelines will have a notable impact on prison or probation resources.

Non-domestic burglary

The resource assessment published in 2012 for the previous guideline estimated that no change in sentencing severity was expected as a result of the guideline. The

Council has since considered evidence both from the evaluations and additional work undertaken, including analysis of transcripts of Crown Court judges' sentencing remarks and analysis of data from the CPD and the Crown Court Sentencing Survey.¹¹ The evaluations found that aggregate sentencing severity increased following the introduction of the guideline. However, as a result of the additional work undertaken, whilst the aggregate impact of the original guideline was higher than predicted, the Council is content to retain the current levels for most cases as analysis indicates that for most individual cases, sentencing is proportionate to the seriousness of the offence.

The previous guideline had two levels of culpability and two levels of harm, leading to three levels of seriousness in the sentence starting point and range table. This went from a starting point of a medium level community order for the least serious offence up to a starting point of two years' custody for the most serious.

The revised guideline has three levels of culpability and three levels of harm, leading to nine possible starting points and ranges. This goes from a starting point of a band B fine for the least serious offences up to two years' custody as a starting point for the most serious offences.

The Council decided to look carefully at the top categories of culpability and harm within the guideline, to ensure that only the most serious offences lead to the highest sentences. Accordingly, some changes to the factors in these categories were made. This would ensure that proportionate sentences were imposed relative to the seriousness of the offence. The Council also decided that sentences at the lower end of offending could better address the causes of the offending behaviour. Therefore, it was decided to include a new reference to alcohol treatment requirements alongside the previous reference to drug treatment requirements in the guideline, as alternatives to short or moderate custodial sentences in appropriate cases. It was acknowledged that this may lead to decreases in sentence severity in some cases at the lower end of offending but is intended to help reduce future offending. Furthermore, the Council hope that by not including custody in the B3 or C2 sentencing ranges, this might also encourage more community orders to be given at this lower end of offence severity.

Several other changes have also been made to the wording and placement of the factors in the guideline. For example, the culpability factor of 'member of a group or gang' has been re-worded to 'offence was committed as part of a group' and has been moved from step one to step two of the guideline. Also, 'premises or victim deliberately targeted'¹² has been removed from the guideline factors. Several of the harm factors and aggravating and mitigating factors have also been re-worded.

An analysis of a small sample¹³ of transcripts of Crown Court judges' sentencing remarks was undertaken to assess whether there might be any potential resource

¹¹ During the period 1 October 2010 to 31 March 2015, the Sentencing Council conducted a data collection exercise called the Crown Court Sentencing Survey (CCSS). The CCSS recorded details on the factors taken into account by the judge when determining the appropriate sentence for an offender (such as harm and culpability factors, and aggravating and mitigating factors), and the final sentence given. For further information see <http://www.sentencingcouncil.org.uk/analysis-and-research/crown-court-sentencing-survey/>.

¹² The factor 'vulnerable victim' appears instead at step two under aggravating factors.

¹³ A total of 15 transcripts were analysed for this offence, of which 9 transcripts covering 19 offenders contained enough detail to provide evidence of the possible impact of the revised guideline on sentences.

impact related to these changes. It should be noted that transcripts of judges' sentencing remarks are only available for offenders sentenced at the Crown Court. As around two thirds of offenders (64 per cent in 2019) are sentenced in magistrates' courts for this offence, this means that this transcript analysis covers only the most serious end of offending. Therefore, findings will not be representative of all offenders sentenced for this offence. Additionally, the sample analysed was small, and is unlikely to have accounted for the full range of offending at the Crown Court, and so the transcript analysis findings for this offence are tentative.

However, based on this analysis of a small sample of cases, most of the changes in the guideline are not expected to result in an impact on prison or probation resources. Where a change in sentences was found, it was minimal in size, and where an increase in the sentence under the new guideline was observed for some cases, this was usually balanced out by a decrease of around the same magnitude in other cases.

One particular change of interest in the revised guideline was the movement of the factor relating to group offending from step one to step two. In the transcript analysis, there were several cases where the judge had placed the offence within the higher culpability category under the previous guideline, where one of the relevant factors was that the offender committed the offence as part of a group. Nevertheless, under the revised guideline, the analysis found that other higher culpability factors (such as 'significant planning was involved') would also be applicable in most cases, which would serve to keep the offender within this higher culpability category. This suggests that the movement of the factor relating to group offending to step two of the guideline will not lead to a reduction in sentences in most cases.

This is supported by research with sentencers during the consultation stage. A scenario involving group offending was found to be sentenced consistently between the previous and revised guideline, which further suggests that the movement of this factor is unlikely to lead to a substantial impact on prison or probation resources.

A few of the transcripts of sentencing remarks mentioned the offender having an issue with alcohol addiction. The text above the sentencing table in the previous guideline mentions that sentencers may choose a community order with a drug rehabilitation requirement (DRR) as an alternative to a custodial sentence where the offender is dependent on or has a propensity to misuse of drugs and there is sufficient prospect of success. The revised guideline has the same text but also now mentions alcohol dependency /misuse and alcohol treatment requirements. This may lead to more community orders being given to those with alcohol dependency or misuse issues, leading to a possible decrease in sentencing severity in some cases. However, it has not been possible to estimate the impact of this change from the sample of sentencing remarks, as it was not possible to identify when this factor may be a sufficient reason to impose a community order instead of a custodial sentence, and it may be that community orders with alcohol treatment requirements are already being imposed whenever relevant. Additionally, as the transcripts covered the more serious end of offending for this offence, it may be that the relevant types of cases where this change could occur were just not present in the evidence used to inform this resource assessment.

Domestic burglary

The original evaluation of the impact of the previous guideline for this offence and the further evaluation conducted in order to explore the evidence in more detail both concluded that sentencing severity had increased following the introduction of the guideline, although severity stayed within the bounds of the expected levels. The Council considered these findings and concluded that the higher sentences imposed under the previous guideline were proportionate to the seriousness of the offences. However, to bring the guideline into line with the Council's standard structure and to revise some of the factors, the Council decided that a revision was still necessary.

The previous guideline has two levels of culpability and two levels of harm, leading to three levels of seriousness in the sentence starting point and range table. This goes from a starting point of a high-level community order for the least serious offence up to a starting point of three years' custody for the most serious.

The revised guideline has three levels of culpability and three levels of harm, leading to nine possible starting points and ranges. This goes from the same starting point as the previous guideline (high level community order for the least serious offences) up to, again, the same starting point for the most serious offences (three years' custody).

Several changes have been made to the wording and placement of the factors in the guideline. For example, similarly to the non-domestic burglary guideline, the culpability factor of 'member of a group or gang' has been re-worded to 'offence was committed as part of a group' and moved from step one of the guideline to step two. Several of the harm factors and aggravating and mitigating factors have also been re-worded.

An analysis of a small sample¹⁴ of transcripts of Crown Court judges' sentencing remarks was undertaken to assess whether there might be any potential resource impact related to these changes. As the majority of offenders are sentenced at the Crown Court for this offence (87 per cent in 2020), it is expected that these transcripts should be broadly representative of most types of offending for this offence, except for those with the very lowest levels of seriousness. However, as this is a high-volume offence and the sample was small, it is unlikely that all types of offending have been captured within the analysis. Therefore, further research was conducted during the consultation stage to better understand the possible impact of the guideline on sentencing.

Based on the transcript analysis of a small sample of cases, most of the changes in the revised guideline are not expected to result in an impact on prison or probation resources. However, there were some exceptions.

The analysis found that in some cases, the movement of the factor related to group offending from step one to step two of the guideline could lead to a lowering of the culpability category under the guideline. Sentencers may consider the relevant aggravating factor, but this may not fully offset any decrease to sentences caused by the lower culpability categorisation. This was tested through research with

¹⁴ A total of 21 transcripts were analysed for this offence, of which 11 transcripts covering 14 offenders contained enough detail to provide evidence of the possible impact of the revised guideline on sentences.

sentencers during the consultation, using scenarios of offending. In the relevant scenario, there was no evidence that the movement of this factor led to a lowering of the final sentence; the scenario was found to be sentenced consistently when using the previous guideline compared with the revised guideline, in the vast majority of cases. This was because sentencers considered other factors were present in the case which maintained the highest level of culpability.

A few of the transcripts of sentencing remarks mentioned the offender having an issue with alcohol addiction. The text above the sentencing table in the guideline has been revised in the same way as within the non-domestic burglary guideline, to capture dependency on or propensity to misuse alcohol. Similarly, there is the expectation that this may lead to a greater use of community orders for this offence. In the research with sentencers, many sentencers felt that they would follow this guidance but may need evidence that addiction was the root cause of the offending behaviour. As such, this change is unlikely to lead to substantial resource impacts.

Aggravated burglary

The initial evaluation of the impact of the previous guideline for this offence and the further evaluation which was conducted to explore the evidence in more detail both concluded that sentencing severity had increased following the introduction of the guideline. However, as the volume of offenders sentenced for this offence is relatively low, the findings needed to be treated with caution. The Council considered these findings and concluded that the higher sentences imposed under the previous guideline were proportionate to the seriousness of the offences. However, to bring the guideline into line with the Council's standard structure and to revise some of the factors, the Council decided that a revision was still necessary.

The previous guideline had two levels of culpability and two levels of harm, leading to three levels of seriousness in the sentence starting point and range table. This went from a starting point of two years' custody for the least serious offence up to a starting point of 10 years' custody for the most serious.

The revised guideline has three levels of culpability and three levels of harm, leading to nine possible starting points and ranges. This goes from the same starting point as the previous guideline (two years' custody for least serious offences) up to again, the same starting point for most serious offences (10 years' custody).

In addition to the structural changes, several changes have been made to the culpability factors. The factors 'weapon present on entry' and 'member of a group or gang' have been moved from step one to step two (aggravating factors) and re-worded. 'Equipped for burglary' has been removed from all steps of the guideline and 'use of face covering or disguise' has been added to step two (aggravating factors).

An analysis of a small sample¹⁵ of transcripts of Crown Court judges' sentencing remarks was undertaken to assess whether there might be any potential resource impact related to these changes. As all offenders are sentenced at the Crown Court for this offence, the sample should broadly represent the full range of offending, although, as with the burglary offences covered earlier, it is possible that some types

¹⁵ A total of 20 transcripts were analysed for this offence, of which 13 transcripts covering 20 offenders contained enough detail to provide evidence of the possible impact of the revised guideline on sentences.

of offending have not been captured by these transcripts given that the sample is very small.

Based on this analysis of a sample of cases, the movement of the ‘weapon carried when entering premises’ factor from step one to step two amid concerns of double counting¹⁶ may mean some cases are put into a lower level of culpability at step one, when under the previous guideline they were put into higher culpability. In three of the transcripts analysed, the removal of this factor, ‘weapon carried when entering premises’, from step one led to a lower final sentence. However, in the majority of transcripts analysed, the culpability stayed at the same level due to the ‘significant degree of planning’ factor being present in the case. This was supported by research with sentencers during consultation: the sentencers’ assessment of the degree of planning seemed to drive their culpability categorisations.

Finally, the factor ‘Violence used or threatened against the victim, particularly involving a weapon’ has been amended to remove explicit reference to a weapon, to avoid double counting, whilst ensuring that the most serious cases remain within the higher end of the sentencing table.

Risks

Risk 1: The Council’s assessment of current sentencing practice is inaccurate

An important input into developing sentencing guidelines is an assessment of current sentencing practice. The Council uses this assessment as a basis to consider whether current sentencing levels are appropriate or whether any changes should be made. Inaccuracies in the Council’s assessment could cause unintended changes in sentencing practice when the new guidelines come into effect.

This risk is mitigated by information that is gathered by the Council as part of the guideline development and consultation phase. This includes providing case scenarios as part of the consultation exercise which are intended to test whether the guidelines have the intended effect and inviting views on the guidelines. However, there are limitations on the number of factual scenarios which can be explored, so the risk cannot be fully eliminated.

Risk 2: Sentencers do not interpret the new guideline as intended

If sentencers do not interpret the guidelines as intended, this could cause a change in the average severity of sentencing, with associated resource effects.

The Council takes a number of precautions in issuing new guidelines to try to ensure that sentencers interpret them as intended. Sentencing ranges are agreed on by considering sentencing data in conjunction with Council members’ experience of sentencing. Transcripts of sentencing remarks for a number of cases have also been studied to ensure that the guidelines are developed with current sentencing practice in mind. Research with sentencers carried out during the consultation period has also

¹⁶ Following *R v Sage*; AG’s Ref Sage [2019] EWCA Crim 934 [2019] 2 Cr App R (S) 50, paras 38 and 45.

helped to identify issues with implementation and application of the guidelines, and some amendments have been made. The Council also uses data from the Ministry of Justice as well as a data collection for certain offences including burglary to monitor the effects of its guidelines.

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Burglary offences

These data tables provide statistics on the outcomes and demographics of offenders sentenced for offences covered by the Sentencing Council definitive guideline for burglary offences, which can be found here

<https://www.sentencingcouncil.org.uk/crown-court/>

Section 1: Non-domestic burglary

Table 1 1	Number of adult offenders sentenced for non-domestic burglary covered by the definitive guideline, all courts, 2010-2020
Table 1 2	Number and proportion of adult offenders sentenced for non-domestic burglary covered by the definitive guideline, by sentence outcome, 2010-2020
Table 1 3	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for non-domestic burglary covered by the definitive guideline, 2010-2020
Table 1 4	Sentence lengths received by adult offenders sentenced to immediate custody for non-domestic burglary covered by the definitive guideline, 2020
Table 1 5	Demographics of adult offenders sentenced for non-domestic burglary covered by the definitive guideline, by sex, age and ethnicity, 2020
Table 1 6	Number and proportion of adult offenders sentenced for non-domestic burglary covered by the definitive guideline, by sex, age and ethnicity and sentence outcome, 2020
Table 1 7	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for non-domestic burglary covered by the definitive guideline, by sex, age and ethnicity, 2020
Table 1 8	Sentence lengths received by adult offenders sentenced to immediate custody for non-domestic burglary covered by the definitive guideline, by sex, age and ethnicity, 2020

Section 2: Domestic burglary

Table 2 1	Number of adult offenders sentenced for domestic burglary covered by the definitive guideline, all courts, 2010-2020
Table 2 2	Number and proportion of adult offenders sentenced for domestic burglary covered by the definitive guideline, by sentence outcome, 2010-2020
Table 2 3	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for domestic burglary covered by the definitive guideline, 2010-2020
Table 2 4	Sentence lengths received by adult offenders sentenced to immediate custody for domestic burglary covered by the definitive guideline, 2020
Table 2 5	Demographics of adult offenders sentenced for domestic burglary covered by the definitive guideline, by sex, age and ethnicity, 2020
Table 2 6	Number and proportion of adult offenders sentenced for domestic burglary covered by the definitive guideline, by sex, age and ethnicity and sentence outcome, 2020
Table 2 7	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for domestic burglary covered by the definitive guideline, by sex, age and ethnicity, 2020
Table 2 8	Sentence lengths received by adult offenders sentenced to immediate custody for domestic burglary covered by the definitive guideline, by sex, age and ethnicity, 2020

Section 3: Aggravated burglary

Table 3 1	Number of adult offenders sentenced for aggravated burglary covered by the definitive guideline, all courts, 2010-2020
Table 3 2	Number and proportion of adult offenders sentenced for aggravated burglary covered by the definitive guideline, by sentence outcome, 2010-2020
Table 3 3	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for aggravated burglary covered by the definitive guideline, 2010-2020
Table 3 4	Sentence lengths received by adult offenders sentenced to immediate custody for aggravated burglary covered by the definitive guideline, various years
Table 3 5	Demographics of adult offenders sentenced for aggravated burglary covered by the definitive guideline, by sex, age and ethnicity, 2020
Table 3 6	Number and proportion of adult offenders sentenced for aggravated burglary covered by the definitive guideline, by sex, age and ethnicity and sentence outcome, 2020
Table 3 7	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for aggravated burglary covered by the definitive guideline, by sex, age and ethnicity, 2020
Table 3 8	Sentence lengths received by adult offenders sentenced to immediate custody for aggravated burglary covered by the definitive guideline, by sex, age and ethnicity, 2020

Notes

Annex E

Data sources and quality

The Court Proceedings Database (CPD), maintained by the Ministry of Justice (MoJ), is the source of the data for these data tables. Every effort is made by MoJ and the Sentencing Council to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

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. These restrictions resulted in reduction of court activity to adhere to new rules on movement and social interaction and the prioritisation of certain types of court case involving cases that are more likely to result in custody. This means that the figures presented on an offence specific basis may reflect these rules to varying degrees depending on the offence in question and whether these cases continued to be heard throughout the time period. Therefore, it is important to note that these short-term trends might mostly reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the long term. From September 2020, some cases proceeded at Derby Crown and magistrates' courts were recorded on the new Common Platform (CP) case management system. Data processing development is currently underway on this new system, and as a result the small number of cases recorded on the CP system during the latter part of 2020 are not included in the CPD.

Further details of the processes by which the Ministry of Justice validate the records in the Court Proceedings Database can be found within the guide to their Criminal Justice Statistics publication which can be downloaded via the link:

<https://www.gov.uk/government/collections/criminal-justice-statistics>

Volumes of sentences

The data presented in these data tables only include cases where the specified offence was the principal offence committed. When a defendant has been found guilty of two or more offences this is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe. Although the offender will receive a sentence for each of the offences that they are convicted of, it is only the sentence for the principal offence that is presented in these data tables.

Sentence outcomes

The outcomes presented are the final sentence outcomes, after taking into account all factors of the case, including whether a guilty plea was made. This is because the sentence length information available in the Court Proceedings Database is the final sentence imposed, after any reduction for guilty plea.

The sentence outcome shown is the most severe sentence or order given for the principal offence (i.e. the principal sentence), secondary sentences given for the principal offence are not included in the tables.

Offender demographics

Ethnicity is the self-identified ethnicity as defined by the individual and is categorised using the 5+1 self-identified classification. The Not recorded/not known category includes all others for whom ethnicity information is not available, either because they have chosen not to state their ethnicity or because no information has been recorded. Prior to May 2020, this was based on the 16+1 classification used in the 2001 census. Since May 2020, this has been replaced by the 18+1 classification used in the 2011 Census. This had caused two key changes to the data presented in our publications:

1) The data now captures a further two ethnicity classifications: Gypsy or Irish Traveller which will fall into the broader category of 'White' and Arab which will fall into the broader category of 'Other'. While the data suggests that no offenders from these ethnic backgrounds have been sentenced since the 18+1 classification was introduced, these ethnic groups will begin to be captured in the 2021 data.

2) The movement of the Chinese ethnicity classification from the broad category of 'Chinese and Other' into 'Asian'. Due to the small number of offenders sentenced who identified as Chinese (around 310 offenders in 2020 across all offences), this change has had little impact on overall trends presented in the data, we have also applied this change to the whole timeseries presented to allow for continued comparison across years. However, it means that the 'Chinese and Other' category will be renamed 'Other' within our data tables to account for this change.

Therefore, the ethnicity categories for self-identified ethnicity are: Asian, Black, Mixed, Other, White, Not recorded/not known. More information on the 18+1 classification can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691544/self-defined-ethnicity-18plus1.pdf

The proportions reflected amongst those for whom data was provided may not reflect the demographics of the full population sentenced. In the CPD, prior to 2017 adults of unknown ages were defaulted to 25. From 2017 onwards, the majority of records where the age is unknown have been grouped within an 'age unknown' variable, however there may still be some cases where the age is unknown and has therefore been defaulted to 25.

Due to the small number of offenders sentenced for some offences, care should be taken when comparing figures across different groups. This is particularly true where there are only a small number of offenders within a specific demographic group, as small numeric changes can present as large percentage changes when they are calculated using small volumes. This should be considered when comparing percentages across groups.

General conventions

The following conventions have been applied to the data:

- Percentages derived from the data have been provided in the tables to the nearest whole percentage, except when the nearest whole percentage is zero. In some instances, this may mean that percentages shown do not add up to 100 per cent.
- Where the nearest whole per cent is zero, the convention '<0.5' has been used.
- Where totals have been provided, these have been calculated using unrounded data and then rounded.

Uses made of the data

Data provided in the Council's range of statistical bulletins and tables are used to inform public debate of the Council's work.

Background information

Further information on the Sentencing Council and its work, as well as information on general sentencing practice in England and Wales can be found on the Council's website at:

<https://sentencingcouncil.org.uk>

The Ministry of Justice publishes a quarterly statistical publication, Criminal Justice Statistics, which includes a chapter focusing on sentencing in England and Wales. This chapter includes information on the number of offenders sentenced by offence group and by demographic factors such as age, sex and self-identified ethnicity. The full publication can be accessed via the Ministry of Justice website at: <https://www.gov.uk/government/collections/criminal-justice-statistics-quarterly>

Detailed sentencing data from the Ministry of Justice's Court Proceedings Database can be accessed via the data tool published alongside the annual Criminal Justice Statistics publication. The tool enables data covering the last decade to be viewed by offence, sex, age range and ethnicity, and can be accessed via the following link (for example, see the 'Outcomes by Offence data tool'):

<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2020>

Contact points for further information

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Table 1.1: Number of adult offenders sentenced for non-domestic burglary, all courts, 2010-2020²

[Index](#)

Court	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Magistrates' court	5,848	6,420	5,474	4,995	4,414	3,942	3,856	4,031	3,703	3,364	2,833
Crown Court	1,789	2,477	2,459	2,044	2,139	2,094	1,849	1,772	1,759	1,879	1,557
Total	7,637	8,897	7,933	7,039	6,553	6,036	5,705	5,803	5,462	5,243	4,390

Court	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Magistrates' court	77%	72%	69%	71%	67%	65%	68%	69%	68%	64%	65%
Crown Court	23%	28%	31%	29%	33%	35%	32%	31%	32%	36%	35%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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.

2) In August 2011, riots occurred in London and other major cities across England and Wales. Around 50 per cent of the people arrested in connection with the riots were charged with burglary offences. Around 670 offenders sentenced for non-domestic burglary and 60 offenders sentenced for domestic burglary included in these data tables 2011 and 2012 were sentenced for offences relating to the riots. Sentencing trends for these cases and for others dealt with around the same time may have been affected the severity of the riots, and so users should bear this in mind when interpreting data from around this period.

Table 1.2: Number and proportion of adult offenders sentenced for non-domestic burglary, by sentence outcome, 2010-2020^{1,2}

[Index](#)

Outcome	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Absolute and conditional discharge	329	355	233	209	230	197	139	102	109	91	85
Fine	318	340	234	218	259	205	168	188	157	113	131
Community sentence	3,107	3,189	2,534	1,911	1,462	1,375	1,132	1,122	1,163	1,147	796
Suspended sentence	1,014	1,198	1,100	1,169	1,209	1,227	1,211	1,205	1,034	912	877
Immediate custody	2,736	3,639	3,581	3,151	3,004	2,911	2,980	3,110	2,896	2,881	2,398
Otherwise dealt with ³	133	176	251	381	389	121	75	76	103	99	103
Total	7,637	8,897	7,933	7,039	6,553	6,036	5,705	5,803	5,462	5,243	4,390

Outcome	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Absolute and conditional discharge	4%	4%	3%	3%	4%	3%	2%	2%	2%	2%	2%
Fine	4%	4%	3%	3%	4%	3%	3%	3%	3%	2%	3%
Community sentence	41%	36%	32%	27%	22%	23%	20%	19%	21%	22%	18%
Suspended sentence	13%	13%	14%	17%	18%	20%	21%	21%	19%	17%	20%
Immediate custody	36%	41%	45%	45%	46%	48%	52%	54%	53%	55%	55%
Otherwise dealt with ³	2%	2%	3%	5%	6%	2%	1%	1%	2%	2%	2%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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.

2) In August 2011, riots occurred in London and other major cities across England and Wales. Around 50 per cent of the people arrested in connection with the riots were charged with burglary offences. Around 670 offenders sentenced for non-domestic burglary and 60 offenders sentenced for domestic burglary included in these data tables for 2011 and 2012 were sentenced for offences relating to the riots. Sentencing trends for these cases and for others dealt with around the same time may have been affected by the severity of the riots, and so users should bear this in mind when interpreting data from around this period.

3) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

Table 1.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for non-domestic burglary, 2010-2020²[Index](#)

ACSL (months) ^{3,4}	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Mean	8.5	9.0	9.4	8.5	9.2	9.8	10.0	9.4	9.9	11.3	10.6
Median	4.0	4.2	4.7	4.2	4.2	5.1	4.7	4.7	4.7	5.0	5.6
Indeterminates as percentage of custodial sentences ^{5,6}	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

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.
- 2) In August 2011, riots occurred in London and other major cities across England and Wales. Around 50 per cent of the people arrested in connection with the riots were charged with burglary offences. Around 670 offenders sentenced for non-domestic burglary and 60 offenders sentenced for domestic burglary included in these data tables for 2011 and 2012 were sentenced for offences relating to the riots. Sentencing trends for these cases and for others dealt with around the same time may have been affected by the severity of the riots, and so users should bear this in mind when interpreting data from around 2011 and 2012.
- 3) Excludes life and indeterminate sentences.
- 4) Excludes two cases of non-domestic burglary over the period 2010-2020 where the data suggested that the sentence was above the statutory maximum for this offence (10 years' custody).
- 5) This is calculated as the number of offenders given an indeterminate custodial sentence, out of the number of offenders given a sentence of immediate custody.
- 6) For 2010-2012, the indeterminate sentence figures include the sentences of Imprisonment for Public Protection (IPP) and Extended Sentences for Public Protection (EPP). These sentences were introduced in 2005 and abolished in 2012.

Table 1.4: Sentence lengths received by adult offenders sentenced to immediate custody for non-domestic burglary, 2010-2020¹

[Index](#)

Sentence length (years)^{2,3}	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Less than 1 year	2,282	2,828	2,777	2,587	2,352	2,238	2,263	2,413	2,203	2,090	1,786
1 to 2	247	568	543	352	413	412	434	422	399	438	377
2 to 3	125	149	159	128	138	160	175	188	200	211	134
3 to 4	39	47	65	46	71	63	57	50	65	66	45
4 to 5	26	28	17	22	15	25	25	22	17	37	21
Greater than 5 years	17	19	20	15	15	13	26	14	12	39	35
Total	2,736	3,639	3,581	3,150	3,004	2,911	2,980	3,109	2,896	2,881	2,398

Sentence length (years)^{2,3}	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Less than 1 year	83%	78%	78%	82%	78%	77%	76%	78%	76%	73%	74%
1 to 2	9%	16%	15%	11%	14%	14%	15%	14%	14%	15%	16%
2 to 3	5%	4%	4%	4%	5%	5%	6%	6%	7%	7%	6%
3 to 4	1%	1%	2%	1%	2%	2%	2%	2%	2%	2%	2%
4 to 5	1%	1%	<0.5%	1%	<0.5%	1%	1%	1%	1%	1%	1%
Greater than 5 years	1%	1%	1%	<0.5%	<0.5%	<0.5%	1%	<0.5%	<0.5%	1%	1%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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.

2) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than or equal to 1 year, and '1 to 2' includes sentence lengths over 1 year, and up to and including 2 years.

3) Excludes two cases of non-domestic burglary over the period 2010-2020 where the data suggested that the sentence was above the statutory maximum for this offence (10 years' custody).

Table 1.5: Demographics of adult offenders sentenced for non-domestic burglary, by sex, age and ethnicity, 2020¹

Sex	Number of adults sentenced	Percentage of all adults sentenced⁴
Female	203	5%
Male	4,146	95%
Not recorded/not known	41	
Total	4,390	100%

Age group	Number of adults sentenced	Percentage of all adults sentenced⁴
18 to 20	216	5%
21 to 24	320	7%
25 to 29	579	13%
30 to 39	1,695	39%
40 to 49	1,281	29%
50 to 59	285	6%
60 to 69	14	<0.5%
70 and over	0	0%
Not recorded/not known	0	
Total	4,390	100%

Ethnicity^{2,3}	Number of adults sentenced	Percentage of all adults sentenced⁴
Asian	75	2%
Black	185	5%
Mixed	105	3%
Other	40	1%
White	3,155	89%
Not recorded/not known	830	
Total	4,390	100%

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.

2) 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.

3) For a proportion of adults sentenced (19%), their ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.

4) Percentage calculations do not include cases where sex, age group or ethnicity was unknown.

Table 1.6: Number and proportion of adult offenders sentenced for non-domestic burglary, by sex, age and ethnicity, and send outcome, 2020¹

[Index](#)

Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Female	6	13	55	40	79	10	203
Male	78	114	731	829	2,302	92	4,146
Not recorded/not known	1	4	10	8	17	1	41

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
18 to 20	14	11	94	32	58	7	216
21 to 24	13	9	62	83	146	7	320
25 to 29	7	19	88	119	334	12	579
30 to 39	23	51	295	311	969	46	1,695
40 to 49	21	31	200	263	739	27	1,281
50 to 59	7	10	53	66	145	4	285
60 to 69	0	0	4	3	7	0	14
70 and over	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity ³	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Asian	2	5	13	17	38	0	75
Black	2	5	35	37	104	2	185
Mixed	2	0	16	21	62	4	105
Other	0	1	4	15	20	0	40
White	59	88	582	630	1,726	70	3,155
Not recorded/not known	20	32	146	157	448	27	830

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Female	3%	6%	27%	20%	39%	5%	100%
Male	2%	3%	18%	20%	56%	2%	100%
Not recorded/not known	2%	10%	24%	20%	41%	2%	100%

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
18 to 20	6%	5%	44%	15%	27%	3%	100%
21 to 24	4%	3%	19%	26%	46%	2%	100%
25 to 29	1%	3%	15%	21%	58%	2%	100%
30 to 39	1%	3%	17%	18%	57%	3%	100%
40 to 49	2%	2%	16%	21%	58%	2%	100%
50 to 59	2%	4%	19%	23%	51%	1%	100%
60 to 69	0%	0%	29%	21%	50%	0%	100%
70 and over	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity ³	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Asian	3%	7%	17%	23%	51%	0%	100%
Black	1%	3%	19%	20%	56%	1%	100%
Mixed	2%	0%	15%	20%	59%	4%	100%
Other	0%	3%	10%	38%	50%	0%	100%
White	2%	3%	18%	20%	55%	2%	100%
Not recorded/not known	2%	4%	18%	19%	54%	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 subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

2) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

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.

Table 1.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for non-domestic burglary, by sex, age and ethnicity, 2020¹

[Index](#)

Sex	ACSL (months) ^{2,3}	
	Mean	Median
Female	5.1	3.3
Male	10.8	6.0
Not recorded/not known	3.0	2.3

Age group	Mean	Median
18 to 20	10.5	6.0
21 to 24	10.2	5.6
25 to 29	12.8	6.0
30 to 39	10.2	5.6
40 to 49	10.1	4.7
50 to 59	9.6	4.2
60 to 69	25.4	4.2
70 and over	-	-
Not recorded/not known	-	-

Ethnicity ⁴	Mean	Median
Asian	8.4	6.0
Black	8.6	4.2
Mixed	11.8	6.0
Other	14.4	10.0
White	10.7	6.0
Not recorded/not known	10.3	4.7

Source: Court Proceedings Database, Ministry of Justice

* = ACSL has not been calculated where the number of offenders sentenced to immediate custody is fewer than 5.

- = No offenders were sentenced to a determinate custodial sentence.

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) Excludes life and indeterminate sentences.

3) The statutory maximum sentence for this offence is 10 years' custody.

4) 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.

Table 1.8: Sentence lengths received by adult offenders sentenced to immediate custody for non-domestic burglary, by sex, age and ethnicity, 2020¹

Sex	Number of adults sentenced to each sentence length (years) ^{2,3}						Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	Greater than 5 years	
Female	73	5	1	0	0	0	79
Male	1,696	372	133	45	21	35	2,302
Not recorded/not known	17	0	0	0	0	0	17

Age group	Number of adults sentenced to each sentence length (years) ^{2,3}						Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	Greater than 5 years	
18 to 20	43	11	2	0	2	0	58
21 to 24	112	20	7	3	3	1	146
25 to 29	225	61	27	11	2	8	334
30 to 39	735	138	59	19	6	12	969
40 to 49	556	121	35	8	8	11	739
50 to 59	111	24	4	4	0	2	145
60 to 69	4	2	0	0	0	1	7
70 and over	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity ⁴	Number of adults sentenced to each sentence length (years) ^{2,3}						Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	Greater than 5 years	
Asian	32	4	2	0	0	0	38
Black	84	13	6	0	0	1	104
Mixed	48	5	6	0	0	3	62
Other	12	3	4	0	0	1	20
White	1,275	287	87	33	20	24	1,726
Not recorded/not known	335	65	29	12	1	6	448

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

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) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than or equal to 1 year, and '1 to 2' includes sentence lengths over 1 year, and up to and including 2 years.

3) The statutory maximum sentence for this offence is 10 years' custody.

4) 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.

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Sex	Proportion of adults sentenced to each sentence length (years) ^{2,3}						Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	Greater than 5 years	
Female	92%	6%	1%	0%	0%	0%	100%
Male	74%	16%	6%	2%	1%	2%	100%
Not recorded/not known	100%	0%	0%	0%	0%	0%	100%

Age group	Proportion of adults sentenced to each sentence length (years) ^{2,3}						Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	Greater than 5 years	
18 to 20	74%	19%	3%	0%	3%	0%	100%
21 to 24	77%	14%	5%	2%	2%	1%	100%
25 to 29	67%	18%	8%	3%	1%	2%	100%
30 to 39	76%	14%	6%	2%	1%	1%	100%
40 to 49	75%	16%	5%	1%	1%	1%	100%
50 to 59	77%	17%	3%	3%	0%	1%	100%
60 to 69	57%	29%	0%	0%	0%	14%	100%
70 and over	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity ⁴	Proportion of adults sentenced to each sentence length (years) ^{2,3}						Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	Greater than 5 years	
Asian	84%	11%	5%	0%	0%	0%	100%
Black	81%	13%	6%	0%	0%	1%	100%
Mixed	77%	8%	10%	0%	0%	5%	100%
Other	60%	15%	20%	0%	0%	5%	100%
White	74%	17%	5%	2%	1%	1%	100%
Not recorded/not known	75%	15%	6%	3%	0%	1%	100%

Source: Court Proceedings Database, Ministry of Justice

Table 2.1: Number of adult offenders sentenced for domestic burglary, all courts, 2010-2020²

[Index](#)

Court	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Magistrates' court	2,237	2,322	1,904	1,508	1,256	1,035	989	921	720	598	462
Crown Court	8,272	8,799	8,375	8,183	7,500	6,370	5,261	4,915	4,400	4,053	3,229
Total	10,509	11,121	10,279	9,691	8,756	7,405	6,250	5,836	5,120	4,651	3,691

Court	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Magistrates' court	21%	21%	19%	16%	14%	14%	16%	16%	14%	13%	13%
Crown Court	79%	79%	81%	84%	86%	86%	84%	84%	86%	87%	87%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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.

2) In August 2011, riots occurred in London and other major cities across England and Wales. Around 50 per cent of the people arrested in connection with the riots were charged with burglary offences. Around 670 offenders sentenced for non-domestic burglary and 60 offenders sentenced for domestic burglary included in these data tables 2011 and 2012 were sentenced for offences relating to the riots. Sentencing trends for these cases and for others dealt with around the same time may have been affected the severity of the riots, and so users should bear this in mind when interpreting data from around this period.

Table 2.2: Number and proportion of adult offenders sentenced for domestic burglary, by sentence outcome, 2010-2020¹

[Index](#)

Outcome	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Absolute and conditional discharge	103	82	57	46	59	48	37	35	32	30	16
Fine	44	32	34	38	41	38	21	18	18	16	10
Community sentence	2,116	2,012	1,649	1,181	895	740	529	451	459	423	317
Suspended sentence	1,571	1,563	1,497	1,547	1,524	1,352	962	805	653	546	513
Immediate custody	6,575	7,337	6,940	6,737	6,086	5,149	4,637	4,454	3,876	3,563	2,770
Otherwise dealt with ²	100	95	102	142	151	78	64	73	82	73	65
Total	10,509	11,121	10,279	9,691	8,756	7,405	6,250	5,836	5,120	4,651	3,691

Outcome	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Absolute and conditional discharge	1%	1%	1%	<0.5%	1%	1%	1%	1%	1%	1%	<0.5%
Fine	<0.5%	<0.5%	<0.5%	<0.5%	<0.5%	1%	<0.5%	<0.5%	<0.5%	<0.5%	<0.5%
Community sentence	20%	18%	16%	12%	10%	10%	8%	8%	9%	9%	9%
Suspended sentence	15%	14%	15%	16%	17%	18%	15%	14%	13%	12%	14%
Immediate custody	63%	66%	68%	70%	70%	70%	74%	76%	76%	77%	75%
Otherwise dealt with ²	1%	1%	1%	1%	2%	1%	1%	1%	2%	2%	2%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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.

2) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

Table 2.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for domestic burglary, 2010-2020²[Index](#)

ACSL (years) ³	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Mean	1.9	1.9	1.9	2.0	2.1	2.2	2.2	2.3	2.3	2.4	2.4
Median	1.7	1.7	1.7	2.0	2.0	2.2	2.3	2.4	2.4	2.4	2.4
Indeterminates as percentage of custodial sentences ^{4,5}	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

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.

2) In August 2011, riots occurred in London and other major cities across England and Wales. Around 50 per cent of the people arrested in connection with the riots were charged with burglary offences. Around 670 offenders sentenced for non-domestic burglary and 60 offenders sentenced for domestic burglary included in these data tables for 2011 and 2012 were sentenced for offences relating to the riots. Sentencing trends for these cases and for others dealt with around the same time may have been affected by the severity of the riots, and so users should bear this in mind when interpreting data from around this period.

3) Excludes life and indeterminate sentences. Excludes two cases of domestic burglary over the period 2010-2020 where the data suggested that the sentence was above the statutory maximum for this offence (14 years' custody).

4) This is calculated as the number of offenders given an indeterminate custodial sentence, out of the number of offenders given a sentence of immediate custody.

5) For 2010-2012, the indeterminate sentence figures include the sentences of Imprisonment for Public Protection (IPP) and Extended Sentences for Public Protection (EPP). These sentences were introduced in 2005 and abolished in 2012.

Table 2.4: Sentence lengths received by adult offenders sentenced to immediate custody for domestic burglary, 2010-2020¹

[Index](#)

Sentence length (years)^{2,3}	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Less than 1 year	2,120	2,408	2,209	1,968	1,687	1,347	1,187	1,041	848	760	637
1 to 2	1,958	2,109	1,898	1,762	1,558	1,214	1,095	1,018	893	778	559
2 to 3	1,699	1,854	1,898	2,037	1,858	1,635	1,482	1,476	1,265	1,218	961
3 to 4	553	679	651	690	652	605	572	611	536	490	372
4 to 5	143	170	179	175	183	192	164	185	180	169	131
5 to 6	61	73	65	55	87	84	83	76	95	79	53
Greater than 6 years	41	44	40	50	61	72	54	46	58	69	57
Total	6,575	7,337	6,940	6,737	6,086	5,149	4,637	4,453	3,875	3,563	2,770

Sentence length (years)^{2,3}	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Less than 1 year	32%	33%	32%	29%	28%	26%	26%	23%	22%	21%	23%
1 to 2	30%	29%	27%	26%	26%	24%	24%	23%	23%	22%	20%
2 to 3	26%	25%	27%	30%	31%	32%	32%	33%	33%	34%	35%
3 to 4	8%	9%	9%	10%	11%	12%	12%	14%	14%	14%	13%
4 to 5	2%	2%	3%	3%	3%	4%	4%	4%	5%	5%	5%
5 to 6	1%	1%	1%	1%	1%	2%	2%	2%	2%	2%	2%
Greater than 6 years	1%	1%	1%	1%	1%	1%	1%	1%	1%	2%	2%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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.

2) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than or equal to 1 year, and '1 to 2' includes sentence lengths over 1 year, and up to and including 2 years.

3) Excludes two cases of domestic burglary over the period 2010-2020 where the data suggested that the sentence was above the statutory maximum for this offence (14 years' custody).

Table 2.5: Demographics of adult offenders sentenced for domestic burglary, by sex, age and ethnicity, 2020¹

[Index](#)

Sex	Number of adults sentenced	Percentage of all adults sentenced⁴
Female	299	8%
Male	3,388	92%
Not recorded/not known	4	
Total	3,691	100%

Age group	Number of adults sentenced	Percentage of all adults sentenced⁴
18 to 20	335	9%
21 to 24	397	11%
25 to 29	588	16%
30 to 39	1,267	34%
40 to 49	865	23%
50 to 59	217	6%
60 to 69	20	1%
70 and over	2	<0.5%
Not recorded/not known	0	
Total	3,691	100%

Ethnicity^{2,3}	Number of adults sentenced	Percentage of all adults sentenced⁴
Asian	53	2%
Black	166	5%
Mixed	92	3%
Other	39	1%
White	2,684	88%
Not recorded/not known	657	
Total	3,691	100%

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.

2) 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.

3) For a proportion of adults sentenced (18%), their ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.

4) Percentage calculations do not include cases where sex, age group or ethnicity was unknown.

Table 2.6: Number and proportion of adult offenders sentenced for domestic burglary, by sex, age and ethnicity, and sentence outcome 2020¹

[Index](#)

Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Female	3	0	63	58	162	13	299
Male	13	10	252	453	2,608	52	3,388
Not recorded/not known	0	0	2	2	0	0	4

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
18 to 20	4	0	65	76	186	4	335
21 to 24	2	2	34	76	275	8	397
25 to 29	0	1	35	79	463	10	588
30 to 39	6	3	99	160	979	20	1,267
40 to 49	3	3	64	93	690	12	865
50 to 59	1	0	17	27	161	11	217
60 to 69	0	0	3	2	15	0	20
70 and over	0	1	0	0	1	0	2
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity ³	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Asian	0	0	6	5	41	1	53
Black	2	0	12	25	123	4	166
Mixed	1	0	6	13	69	3	92
Other	0	0	2	5	30	2	39
White	8	7	233	356	2,039	41	2,684
Not recorded/not known	5	3	58	109	468	14	657

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Female	1%	0%	21%	19%	54%	4%	100%
Male	<0.5%	<0.5%	7%	13%	77%	2%	100%
Not recorded/not known	0%	0%	50%	50%	0%	0%	100%

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
18 to 20	1%	0%	19%	23%	56%	1%	100%
21 to 24	1%	1%	9%	19%	69%	2%	100%
25 to 29	0%	<0.5%	6%	13%	79%	2%	100%
30 to 39	<0.5%	<0.5%	8%	13%	77%	2%	100%
40 to 49	<0.5%	<0.5%	7%	11%	80%	1%	100%
50 to 59	<0.5%	0%	8%	12%	74%	5%	100%
60 to 69	0%	0%	15%	10%	75%	0%	100%
70 and over	0%	50%	0%	0%	50%	0%	100%
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity ³	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Asian	0%	0%	11%	9%	77%	2%	100%
Black	1%	0%	7%	15%	74%	2%	100%
Mixed	1%	0%	7%	14%	75%	3%	100%
Other	0%	0%	5%	13%	77%	5%	100%
White	<0.5%	<0.5%	9%	13%	76%	2%	100%
Not recorded/not known	1%	<0.5%	9%	17%	71%	2%	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 its subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 2) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.
- 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.

Table 2.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for domestic burglary, by sex, age and ethnicity, 2020

[Index](#)

Sex	ACSL (years) ^{2,3}	
	Mean	Median
Female	2.0	2.0
Male	2.4	2.4
Not recorded/not known	-	-

Age group	Mean	Median
18 to 20	2.0	1.8
21 to 24	2.2	2.0
25 to 29	2.3	2.4
30 to 39	2.4	2.4
40 to 49	2.4	2.4
50 to 59	2.7	2.4
60 to 69	2.4	2.0
70 and over	*	*
Not recorded/not known	-	-

Ethnicity ⁴	Mean	Median
Asian	1.8	1.6
Black	2.1	2.3
Mixed	2.5	2.5
Other	2.2	1.9
White	2.4	2.4
Not recorded/not known	2.3	2.3

Source: Court Proceedings Database, Ministry of Justice

* = ACSL has not been calculated where the number of offenders sentenced to immediate custody is fewer than 5.
 - = No offenders were sentenced to a determinate custodial sentence.

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) Excludes life and indeterminate sentences.
- 3) The statutory maximum sentence for this offence is 14 years' custody.
- 4) 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.

Table 2.8: Sentence lengths received by adult offenders sentenced to immediate custody for domestic burglary, by sex, age and ethnicity, 2020¹

Sex	Number of adults sentenced to each sentence length (years) ^{2,3}							Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	Greater than 6 years	
Female	50	32	57	17	5	1	0	162
Male	587	527	904	355	126	52	57	2,608
Not recorded/not known	0	0	0	0	0	0	0	0

Age group	Number of adults sentenced to each sentence length (years) ^{2,3}							Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	Greater than 6 years	
18 to 20	53	57	52	11	7	4	2	186
21 to 24	76	71	70	32	12	6	8	275
25 to 29	102	104	160	65	14	6	12	463
30 to 39	209	194	366	127	46	22	15	979
40 to 49	158	110	254	109	38	10	11	690
50 to 59	34	20	57	25	13	3	9	161
60 to 69	5	3	2	2	1	2	0	15
70 and over	0	0	0	1	0	0	0	1
Not recorded/not known	0	0	0	0	0	0	0	0

Ethnicity ⁴	Number of adults sentenced to each sentence length (years) ^{2,3}							Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	Greater than 6 years	
Asian	14	9	15	2	0	1	0	41
Black	33	21	51	12	4	0	2	123
Mixed	11	13	23	17	4	1	0	69
Other	12	5	5	4	3	0	1	30
White	450	407	720	281	99	40	42	2,039
Not recorded/not known	117	104	147	56	21	11	12	468

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

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) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than or equal to 1 year, and '1 to 2' includes sentence lengths over 1 year, and up to and including 2 years.
- 3) The statutory maximum sentence for this offence is 14 years' custody.
- 4) 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.

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Sex	Proportion of adults sentenced to each sentence length (years) ^{2,3}							Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	Greater than 6 years	
Female	31%	20%	35%	10%	3%	1%	0%	100%
Male	23%	20%	35%	14%	5%	2%	2%	100%
Not recorded/not known	-	-	-	-	-	-	-	-

Age group	Proportion of adults sentenced to each sentence length (years) ^{2,3}							Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	Greater than 6 years	
18 to 20	28%	31%	28%	6%	4%	2%	1%	100%
21 to 24	28%	26%	25%	12%	4%	2%	3%	100%
25 to 29	22%	22%	35%	14%	3%	1%	3%	100%
30 to 39	21%	20%	37%	13%	5%	2%	2%	100%
40 to 49	23%	16%	37%	16%	6%	1%	2%	100%
50 to 59	21%	12%	35%	16%	8%	2%	6%	100%
60 to 69	33%	20%	13%	13%	7%	13%	0%	100%
70 and over	0%	0%	0%	100%	0%	0%	0%	100%
Not recorded/not known	-	-	-	-	-	-	-	-

Ethnicity ⁴	Proportion of adults sentenced to each sentence length (years) ^{2,3}							Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	Greater than 6 years	
Asian	34%	22%	37%	5%	0%	2%	0%	100%
Black	27%	17%	41%	10%	3%	0%	2%	100%
Mixed	16%	19%	33%	25%	6%	1%	0%	100%
Other	40%	17%	17%	13%	10%	0%	3%	100%
White	22%	20%	35%	14%	5%	2%	2%	100%
Not recorded/not known	25%	22%	31%	12%	4%	2%	3%	100%

Source: Court Proceedings Database, Ministry of Justice

Table 3.1: Number of adult offenders sentenced for aggravated burglary, all courts, 2010-2020²[Index](#)

Court	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Crown Court	309	318	303	257	227	217	193	200	170	190	196
Total	309	318	303	257	227	217	193	200	170	190	196

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.

2) Figures shown here differ from those published by the MoJ, as there were seven aggravated burglary cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

Table 3.2: Number and proportion of adult offenders sentenced for aggravated burglary, by sentence outcome, 2010-2020

[Index](#)

Outcome	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Absolute and conditional discharge	0	0	0	0	0	0	0	0	0	0	0
Fine	0	0	0	0	0	1	0	0	0	0	0
Community sentence	11	4	3	0	3	1	0	2	1	0	3
Suspended sentence	15	8	3	4	2	6	2	2	1	0	7
Immediate custody	278	302	293	251	217	199	179	183	159	173	185
Otherwise dealt with ³	5	4	4	2	5	10	12	13	9	17	1
Total	309	318	303	257	227	217	193	200	170	190	196

Outcome	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Absolute and conditional discharge	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Fine	0%	0%	0%	0%	0%	<0.5%	0%	0%	0%	0%	0%
Community sentence	4%	1%	1%	0%	1%	<0.5%	0%	1%	1%	0%	2%
Suspended sentence	5%	3%	1%	2%	1%	3%	1%	1%	1%	0%	4%
Immediate custody	90%	95%	97%	98%	96%	92%	93%	92%	94%	91%	94%
Otherwise dealt with ³	2%	1%	1%	1%	2%	5%	6%	7%	5%	9%	1%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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.
- 2) Figures shown here differ from those published by the MoJ, as there were seven aggravated burglary cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.
- 3) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

Table 3.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for aggravated burglary, 2010-2020²[Index](#)

ACSL (years)^{3,4}	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Mean	4.8	4.9	6.2	6.7	6.5	8.0	7.3	7.7	8.1	7.5	7.2
Median	4.0	4.7	6.0	6.7	6.1	8.0	7.0	7.5	8.0	7.5	7.3
Indeterminates as percentage of custodial sentences ^{5,6}	9%	8%	8%	1%	<0.5%	1%	0%	0%	0%	1%	0%

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.
- 2) Figures shown here differ from those published by the MoJ, as there were seven aggravated burglary cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.
- 3) Excludes life and indeterminate sentences.
- 4) The statutory maximum sentence for this offence is life imprisonment.
- 5) This is calculated as the number of offenders given an indeterminate custodial sentence, out of the number of offenders given a sentence of immediate custody.
- 6) For 2010-2012, the indeterminate sentence figures include the sentences of Imprisonment for Public Protection (IPP) and Extended Sentences for Public Protection (EPP). These sentences were introduced in 2005 and abolished in 2012.

Table 3.4: Sentence lengths received by adult offenders sentenced to immediate custody for aggravated burglary, 2010-2020^{1,2}

[Index](#)

Sentence length (years)^{3,4}	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Less than 2 years	29	28	12	8	5	3	2	3	1	4	6
2 to 4	104	91	50	37	41	20	19	20	17	20	19
4 to 6	67	102	94	70	62	37	43	41	30	36	42
6 to 8	31	39	69	69	66	49	59	55	45	46	58
8 to 10	11	12	29	51	29	51	39	38	36	34	40
10 to 12	7	4	15	10	12	25	11	15	18	29	17
Greater than 12 years	4	3	2	4	1	13	6	11	12	3	3
Indeterminate	25	23	22	2	1	1	0	0	0	1	0
Total	278	302	293	251	217	199	179	183	159	173	185

Sentence length (years)^{3,4}	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Less than 2 years	10%	9%	4%	3%	2%	2%	1%	2%	1%	2%	3%
2 to 4	37%	30%	17%	15%	19%	10%	11%	11%	11%	12%	10%
4 to 6	24%	34%	32%	28%	29%	19%	24%	22%	19%	21%	23%
6 to 8	11%	13%	24%	27%	30%	25%	33%	30%	28%	27%	31%
8 to 10	4%	4%	10%	20%	13%	26%	22%	21%	23%	20%	22%
10 to 12	3%	1%	5%	4%	6%	13%	6%	8%	11%	17%	9%
Greater than 12 years	1%	1%	1%	2%	<0.5%	7%	3%	6%	8%	2%	2%
Indeterminate	9%	8%	8%	1%	<0.5%	1%	0%	0%	0%	1%	0%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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.

2) Figures shown here differ from those published by the MoJ, as there were seven aggravated burglary cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

3) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

4) The statutory maximum sentence for this offence is life imprisonment.

Table 3.5: Demographics of adult offenders sentenced for aggravated burglary, by sex, age and ethnicity, 2020^{1,2}

[Index](#)

Sex	Number of adults sentenced	Percentage of all adults sentenced⁵
Female	7	4%
Male	189	96%
Not recorded/not known	0	
Total	196	100%

Age group	Number of adults sentenced	Percentage of all adults sentenced⁵
18 to 20	36	18%
21 to 24	33	17%
25 to 29	41	21%
30 to 39	53	27%
40 to 49	25	13%
50 to 59	6	3%
60 to 69	2	1%
70 and over	0	0%
Not recorded/not known	0	
Total	196	100%

Ethnicity^{3,4}	Number of adults sentenced	Percentage of all adults sentenced⁵
Asian	6	4%
Black	11	7%
Mixed	9	6%
Other	1	1%
White	135	83%
Not recorded/not known	34	
Total	196	100%

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.

2) Figures shown here differ from those published by the MoJ, as there were seven aggravated burglary cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

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.

4) For a proportion of adults sentenced (17%), their ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.

5) Percentage calculations do not include cases where sex, age group or ethnicity was unknown.

Table 3.6: Number and proportion of adult offenders sentenced for aggravated burglary, by sex, age and ethnicity, and sentence outcome, 2020^{1,2}

[Index](#)

Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ³	
Female	0	0	0	1	6	0	7
Male	0	0	3	6	179	1	189
Not recorded/not known	0	0	0	0	0	0	0

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ³	
18 to 20	0	0	3	3	30	0	36
21 to 24	0	0	0	0	33	0	33
25 to 29	0	0	0	0	41	0	41
30 to 39	0	0	0	1	51	1	53
40 to 49	0	0	0	3	22	0	25
50 to 59	0	0	0	0	6	0	6
60 to 69	0	0	0	0	2	0	2
70 and over	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity ⁴	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ³	
Asian	0	0	0	1	5	0	6
Black	0	0	1	0	10	0	11
Mixed	0	0	0	0	9	0	9
Other	0	0	0	0	1	0	1
White	0	0	2	6	126	1	135
Not recorded/not known	0	0	0	0	34	0	34

- = 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 t subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 2) Figures shown here differ from those published by the MoJ, as there were seven aggravated burglary cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.
- 3) Due to a data issue currently under investigation, there are a number of aggravated burglary cases incorrectly categorised in the CPD as 'Otherwise dealt with'. The figures shown for 'Otherwise dealt with' should therefore be treated with caution.
- 4) 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.

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ³	
Female	0%	0%	0%	14%	86%	0%	100%
Male	0%	0%	2%	3%	95%	1%	100%
Not recorded/not known	-	-	-	-	-	-	-

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ³	
18 to 20	0%	0%	8%	8%	83%	0%	100%
21 to 24	0%	0%	0%	0%	100%	0%	100%
25 to 29	0%	0%	0%	0%	100%	0%	100%
30 to 39	0%	0%	0%	2%	96%	2%	100%
40 to 49	0%	0%	0%	12%	88%	0%	100%
50 to 59	0%	0%	0%	0%	100%	0%	100%
60 to 69	0%	0%	0%	0%	100%	0%	100%
70 and over	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity ⁴	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ³	
Asian	0%	0%	0%	17%	83%	0%	100%
Black	0%	0%	9%	0%	91%	0%	100%
Mixed	0%	0%	0%	0%	100%	0%	100%
Other	0%	0%	0%	0%	100%	0%	100%
White	0%	0%	1%	4%	93%	1%	100%
Not recorded/not known	0%	0%	0%	0%	100%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

Table 3.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for aggravated burglary, by sex, age and ethnicity, 2020²

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Sex	ACSL (years) ^{3,4}	
	Mean	Median
Female	5.9	6.0
Male	7.2	7.3
Not recorded/not known	-	-

Age group	Mean	Median
18 to 20	5.7	5.8
21 to 24	6.4	6.7
25 to 29	7.8	7.7
30 to 39	7.7	8.0
40 to 49	8.2	7.2
50 to 59	7.0	7.4
60 to 69	*	*
70 and over	-	-
Not recorded/not known	-	-

Ethnicity ⁵	Mean	Median
Asian	7.7	8.0
Black	7.3	7.3
Mixed	5.3	5.7
Other	*	*
White	7.2	7.1
Not recorded/not known	7.5	7.6

Source: Court Proceedings Database, Ministry of Justice

* = ACSL has not been calculated where the number of offenders sentenced to immediate custody is fewer than 5.
 - = No offenders were sentenced to a determinate custodial sentence.

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) Figures shown here differ from those published by the MoJ, as there were seven aggravated burglary cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

3) Excludes life and indeterminate sentences.

4) The statutory maximum sentence for this offence is life imprisonment.

5) 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.

Table 3.8: Sentence lengths received by adult offenders sentenced to immediate custody for aggravated burglary, by sex, age and ethnicity, 2020^{1,2}

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Sex	Number of adults sentenced to each sentence length (years) ^{3,4}								Indeterminate	Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	Greater than 12 years			
Female	0	1	3	2	0	0	0	0	0	6
Male	6	18	39	56	40	17	3	0	0	179
Not recorded/not known	0	0	0	0	0	0	0	0	0	0

Age group	Number of adults sentenced to each sentence length (years) ^{3,4}								Indeterminate	Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	Greater than 12 years			
18 to 20	1	7	13	6	2	1	0	0	0	30
21 to 24	2	4	9	11	5	2	0	0	0	33
25 to 29	3	0	3	19	11	5	0	0	0	41
30 to 39	0	6	9	12	19	3	2	0	0	51
40 to 49	0	0	7	6	3	5	1	0	0	22
50 to 59	0	1	1	3	0	1	0	0	0	6
60 to 69	0	1	0	1	0	0	0	0	0	2
70 and over	0	0	0	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0	0	0	0

Ethnicity ⁵	Number of adults sentenced to each sentence length (years) ^{3,4}								Indeterminate	Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	Greater than 12 years			
Asian	0	0	1	2	2	0	0	0	0	5
Black	0	1	3	3	2	1	0	0	0	10
Mixed	2	2	1	2	2	0	0	0	0	9
Other	0	0	1	0	0	0	0	0	0	1
White	3	12	32	38	25	13	3	0	0	126
Not recorded/not known	1	4	4	13	9	3	0	0	0	34

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

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) Figures shown here differ from those published by the MoJ, as there were seven aggravated burglary cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.
- 3) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.
- 4) The statutory maximum sentence for this offence is life imprisonment.
- 5) 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.

Sex	Proportion of adults sentenced to each sentence length (years) ^{3,4}								Indeterminate	Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	Greater than 12 years			
Female	0%	17%	50%	33%	0%	0%	0%	0%	0%	100%
Male	3%	10%	22%	31%	22%	9%	2%	0%	0%	100%
Not recorded/not known	-	-	-	-	-	-	-	-	-	0%

Age group	Proportion of adults sentenced to each sentence length (years) ^{3,4}								Indeterminate	Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	Greater than 12 years			
18 to 20	3%	23%	43%	20%	7%	3%	0%	0%	0%	100%
21 to 24	6%	12%	27%	33%	15%	6%	0%	0%	0%	100%
25 to 29	7%	0%	7%	46%	27%	12%	0%	0%	0%	100%
30 to 39	0%	12%	18%	24%	37%	6%	4%	0%	0%	100%
40 to 49	0%	0%	32%	27%	14%	23%	5%	0%	0%	100%
50 to 59	0%	17%	17%	50%	0%	17%	0%	0%	0%	100%
60 to 69	0%	50%	0%	50%	0%	0%	0%	0%	0%	100%
70 and over	-	-	-	-	-	-	-	-	-	0%
Not recorded/not known	-	-	-	-	-	-	-	-	-	0%

Ethnicity ⁵	Proportion of adults sentenced to each sentence length (years) ^{3,4}								Indeterminate	Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	Greater than 12 years			
Asian	0%	0%	20%	40%	40%	0%	0%	0%	0%	100%
Black	0%	10%	30%	30%	20%	10%	0%	0%	0%	100%
Mixed	22%	22%	11%	22%	22%	0%	0%	0%	0%	100%
Other	0%	0%	100%	0%	0%	0%	0%	0%	0%	100%
White	2%	10%	25%	30%	20%	10%	2%	0%	0%	100%
Not recorded/not known	3%	12%	12%	38%	26%	9%	0%	0%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

Totality

Effective from: 11 June 2012

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

Applicability - DROPDOWN

General principles

The principle of totality comprises two elements:

1. All courts, when sentencing for more than a single offence, should pass a total sentence which reflects all the offending behaviour before it and is just and proportionate. This is so whether the sentences are structured as concurrent or consecutive. Therefore, concurrent sentences will ordinarily be longer than a single sentence for a single offence.
2. It is usually impossible to arrive at a just and proportionate sentence for multiple offending simply by adding together notional single sentences. It is necessary to address the offending behaviour, together with the factors personal to the offender as a whole.

Concurrent/consecutive sentences

There is no inflexible rule governing whether sentences should be structured as concurrent or consecutive components. The overriding principle is that the overall sentence must be just and proportionate.

General approach (as applied to Determinate Custodial Sentences)

1. Consider the sentence for each individual offence, referring to the relevant sentencing guidelines.

2. Determine whether the case calls for concurrent or consecutive sentences.

Concurrent sentences will ordinarily be appropriate where:

a) offences arise out of the same incident or facts. Examples include:

- a single incident of dangerous driving resulting in injuries to multiple victims;¹
- robbery with a weapon where the weapon offence is ancillary to the robbery and is not distinct and independent of it;²
- fraud and associated forgery;
- separate counts of supplying different types of drugs of the same class as part of the same transaction.

b) there is a series of offences of the same or similar kind, especially when committed against the same person. Examples include:

- repetitive small thefts from the same person, such as by an employee;
- repetitive benefit frauds of the same kind, committed in each payment period.

Where concurrent sentences are to be passed the sentence should reflect the overall criminality involved. The sentence should be appropriately aggravated by the presence of the associated offences.

Examples include:

- a single incident of dangerous driving resulting in injuries to multiple victims where there are separate charges relating to each victim. The sentences should generally be passed concurrently, but each sentence should be aggravated to take into account the harm caused;
- repetitive fraud or theft, where charged as a series of small frauds/thefts, would be properly considered in relation to the total amount of money obtained and the period of time over which the offending took place. The sentences should generally be passed concurrently, each one reflecting the overall seriousness;
- robbery with a weapon where the weapon offence is ancillary to the robbery and is not distinct and independent of it. The principal sentence for the robbery should properly reflect the presence of the weapon. The court must avoid double-counting and may deem it preferable for the possession of the weapon's offence to run concurrently to avoid the appearance of under-sentencing in respect of the robbery.³

Consecutive sentences will ordinarily be appropriate where:

a) offences arise out of unrelated facts or incidents. Examples include:

- where the offender commits a theft on one occasion and a common assault against a different victim on a separate occasion;
- an attempt to pervert the course of justice in respect of another offence also charged;⁴
- a Bail Act offence;⁵
- any offence committed within the prison context;
- offences that are unrelated because whilst they were committed simultaneously they are distinct and there is an aggravating element that requires separate recognition, for example:
 - an assault on a constable committed to try to evade arrest for another offence also charged;⁶
 - where the defendant is convicted of drug dealing and possession of a firearm offence. The firearm offence is not the essence or the intrinsic part of the drugs offence and requires separate recognition;⁷
 - where the defendant is convicted of threats to kill in the context of an indecent assault on the same occasion, the threats to kill could be distinguished as a separate element.⁸

b) offences that are of the same or similar kind but where the overall criminality will not sufficiently be reflected by concurrent sentences. Examples include:

- where offences committed against different people, such as repeated thefts involving attacks on several different shop assistants;⁹
- where offences of domestic violence or sexual offences are committed against the same individual.

c) one or more offence(s) qualifies for a statutory minimum sentence and concurrent sentences would improperly undermine that minimum.¹⁰

However, it is not permissible to impose consecutive sentences for offences committed at the same time in order to evade the statutory maximum penalty.¹¹

Where consecutive sentences are to be passed add up the sentences for each offence and consider if the aggregate length is just and proportionate.

If the aggregate length is not just and proportionate the court should consider how to reach a just and proportionate sentence. There are a number of ways in which this can be achieved.

Examples include:

- when sentencing for similar offence types or offences of a similar level of severity the court can consider:
 - whether all of the offences can be proportionately reduced (with particular reference to the category ranges within sentencing guidelines) and passed consecutively;
 - whether, despite their similarity, a most serious principal offence can be identified and the other sentences can all be proportionately reduced (with particular reference to the category ranges within sentencing guidelines) and passed consecutively in order that the sentence for the lead offence can be clearly identified.
- when sentencing for two or more offences of differing levels of seriousness the court can consider:
 - whether some offences are of such low seriousness in the context of the most serious offence(s) that they can be recorded as ‘no separate penalty’ (for example technical breaches or minor driving offences not involving mandatory disqualification);
 - whether some of the offences are of lesser seriousness and are unrelated to the most serious offence(s), that they can be ordered to run concurrently so that the sentence for the most serious offence(s) can be clearly identified.

3. Test the overall sentence(s) against the requirement that they be just and proportionate.

4. Consider whether the sentence is structured in a way that will be best understood by all concerned with it.

Specific applications – custodial sentences

Existing determinate sentence, where determinate sentence to be passed	
Circumstance	Approach
Offender serving a determinate sentence (Offence(s) committed before original sentence imposed)	Consider what the sentence length would have been if the court had dealt with the offences at the same time and ensure that the totality of the sentence is just and proportionate in all the circumstances. If it is not, an adjustment should be made to the sentence imposed for the latest offence.
Offender serving a determinate sentence (Offence(s) committed	Generally the sentence will be consecutive as it will have arisen out of an unrelated incident. The court must have regard to the totality of the offender’s criminality when passing the second sentence, to ensure that the total sentence to be served is just and

after original sentence imposed)	proportionate. Where a prisoner commits acts of violence in prison custody, any reduction for totality is likely to be minimal. ¹²
Offender serving a determinate sentence but released from custody	The new sentence should start on the day it is imposed: s225 Sentencing Code prohibits a sentence of imprisonment running consecutively to a sentence from which a prisoner has been released. The sentence for the new offence will take into account the aggravating feature that it was committed on licence. However, it must be commensurate with the new offence and cannot be artificially inflated with a view to ensuring that the offender serves a period in custody additional to the recall period (which will be an unknown quantity in most cases); ¹³ this is so even if the new sentence will in consequence add nothing to the period actually served.
Offender sentenced to a determinate term and subject to an existing suspended sentence order	Where an offender commits an additional offence during the operational period of a suspended sentence and the court orders the suspended sentence to be activated, the additional sentence will generally be consecutive to the activated suspended sentence, as it will arise out of unrelated facts.

Extended sentences for public protection

Circumstance	Approach
Extended sentences – using multiple offences to calculate the requisite determinate term	In the case of extended sentences imposed under the Sentencing Code, providing there is at least one specified offence, the threshold requirement under s267 or s280 of the Sentencing Code is reached if the total determinate sentence for all offences (specified or not) would be four years or more. The extended sentence should be passed either for one specified offence or concurrently on a number of them. Ordinarily either a concurrent determinate sentence or no separate penalty will be appropriate to the remaining offences. ¹⁷ The extension period is such as the court considers necessary for the purpose of protecting members of the public from serious harm caused by the offender committing further specified offences. ¹⁸ The extension period must not exceed five years (or eight for a sexual offence). The whole aggregate term must not exceed the statutory maximum. The custodial period must be adjusted for totality in the same way as determinate sentences would be. The extension period is measured by the need for protection and therefore does not require adjustment.

Indeterminate sentences

Circumstance	Approach
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<p>Imposing multiple indeterminate sentences on the same occasion and using multiple offences to calculate the minimum term for an indeterminate sentence</p>	<p>Indeterminate sentences should start on the date of their imposition and so should generally be ordered to run concurrently. If the life sentence provisions in sections 272-274 or sections 283 – 285 of the Sentencing Code apply then:</p> <ol style="list-style-type: none"> 1. first assess the notional determinate term for all offences (specified or otherwise), adjusting for totality in the usual way;¹⁹ 2. ascertain whether any relevant sentence condition is met; and 3. the indeterminate sentence should generally be passed concurrently on all offences to which it can apply, but there may be some circumstances in which it suffices to pass it on a single such offence.
<p>Indeterminate sentence (where the offender is already serving an existing determinate sentence)</p>	<p>It is generally undesirable to order an indeterminate sentence to be served consecutively to any other period of imprisonment on the basis that indeterminate sentences should start on their imposition.²⁰</p> <p>The court should instead order the sentence to run concurrently but can adjust the minimum term for the new offence to reflect half of any period still remaining to be served under the existing sentence (to take account of the early release provisions for determinate sentences). The court should then review the minimum term to ensure that the total sentence is just and proportionate.</p>
<p>Indeterminate sentence (where the offender is already serving an existing indeterminate sentence)</p>	<p>It is generally undesirable to order an indeterminate sentence to be served consecutively to any other period of imprisonment on the basis that indeterminate sentences should start on their imposition. However, where necessary the court can order an indeterminate sentence to run consecutively to an indeterminate sentence passed on an earlier occasion.²¹ The second sentence will commence on the expiration of the minimum term of the original sentence and the offender will become eligible for a parole review after serving both minimum terms.²² The court should consider the length of the aggregate minimum terms that must be served before the offender will be eligible for consideration by the Parole Board. If this is not just and proportionate, the court can adjust the minimum term.</p>
<p>Ordering a determinate sentence to run consecutively to an indeterminate sentence</p>	<p>The court can order a determinate sentence to run consecutively to an indeterminate sentence. The determinate sentence will commence on the expiry of the minimum term of the indeterminate sentence and the offender will become eligible for a parole review after serving half of the determinate sentence.²³ The court should consider the total</p>

	<p>sentence that the offender will serve before becoming eligible for consideration for release. If this is not just and proportionate, the court can reduce the length of the determinate sentence, or alternatively, can order the second sentence to be served concurrently.</p>
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Specific applications – non-custodial sentences

Multiple fines for non-imprisonable offences	
Circumstance	Approach
<p>Offender convicted of more than one offence where a fine is appropriate</p>	<p>The total is inevitably cumulative. The court should determine the fine for each individual offence based on the seriousness of the offence²⁴ and taking into account the circumstances of the case including the financial circumstances of the offender so far as they are known, or appear, to the court.²⁵ The court should add up the fines for each offence and consider if they are just and proportionate. If the aggregate total is not just and proportionate the court should consider how to reach a just and proportionate fine. There are a number of ways in which this can be achieved.</p> <p>For example:</p> <ul style="list-style-type: none"> • where an offender is to be fined for two or more offences that arose out of the same incident or where there are multiple offences of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose for the most serious offence a fine which reflects the totality of the offending where this can be achieved within the maximum penalty for that offence. No separate penalty should be imposed for the other offences. • where an offender is to be fined for two or more offences that arose out of different incidents, it will often be appropriate to impose a separate fine for each of the offences. The court should add up the fines for each offence and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the court should consider whether all of the fines can be proportionately reduced. Separate fines should then be passed. <p>Where separate fines are passed, the court must be careful to ensure that there is no double-counting.²⁶</p> <p>Where compensation is being ordered, that will need to be attributed to the relevant offence as will any necessary ancillary orders.</p>
<p>Multiple offences attracting fines –</p>	<p>If the offences being dealt with are all imprisonable, then the community threshold can be crossed by reason of multiple offending, when it would not be crossed for a single offence.²⁷ However, if the offences are non-</p>

crossing the community threshold	imprisonable (e.g. driving without insurance) the threshold cannot be crossed. ²⁸
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Fines in combination with other sentences

Circumstance	Approach
A fine may be imposed in addition to any other penalty for the same offence except:	<ul style="list-style-type: none"> • a hospital order;²⁹ • a discharge;³⁰ • a sentence fixed by law³¹ (minimum sentences, EPP, IPP); • a minimum term imposed under s 313 or s 314 of the Sentencing Code;³² • a life sentence imposed under section 274 or 285 Sentencing Code or a sentence of detention for life for an offender under 18 under section 258 Sentencing Code.³³
Fines and determinate custodial sentences	<p>A fine should not generally be imposed in combination with a custodial sentence because of the effect of imprisonment on the means of the defendant. However, exceptionally, it may be appropriate to impose a fine in addition to a custodial sentence where:</p> <ul style="list-style-type: none"> • the sentence is suspended; • a confiscation order is not contemplated; and • there is no obvious victim to whom compensation can be awarded; and • the offender has, or will have, resources from which a fine can be paid.

Community orders

Circumstance	Approach
Multiple offences attracting community orders – crossing the custody threshold	If the offences are all imprisonable and none of the individual sentences merit a custodial sentence, the custody threshold can be crossed by reason of multiple offending. ³⁴ If the custody threshold has been passed, the court should refer to the offence ranges in sentencing guidelines for the offences and to the general principles.
Multiple offences, where one offence would merit immediate custody and one offence would merit a community order	A community order should not be ordered to run consecutively to or concurrently with a custodial sentence. Instead the court should generally impose one custodial sentence that is aggravated appropriately by the presence of the associated offence(s). The alternative option is to impose no separate penalty for the offence of lesser seriousness.
Offender convicted of more than one offence where a	A community order is a composite package rather than an accumulation of sentences attached to individual counts. The

<p>community order is appropriate</p>	<p>court should generally impose a single community order that reflects the overall criminality of the offending behaviour. Where it is necessary to impose more than one community order, these should be ordered to run concurrently and for ease of administration, each of the orders should be identical.</p>
<p>Offender convicted of an offence while serving a community order</p>	<p>The power to deal with the offender depends on his being convicted whilst the order is still in force;³⁵ it does not arise where the order has expired, even if the additional offence was committed whilst it was still current.</p> <p>If an offender, in respect of whom a community order made by a magistrates' court is in force, is convicted by a magistrates' court of an additional offence, the magistrates' court should ordinarily revoke the previous community order and sentence afresh for both the original and the additional offence.</p> <p>Where an offender, in respect of whom a community order made by the Crown Court is in force, is convicted by a magistrates' court, the magistrates' court may, and ordinarily should, commit the offender to the Crown Court, in order to allow the Crown Court to re-sentence for the original offence. The magistrates' court may also commit the new offence to the Crown Court for sentence where there is a power to do so.</p> <p>The sentencing court should consider the overall seriousness of the offending behaviour taking into account the additional offence and the original offence. The court should consider whether the combination of associated offences is sufficiently serious to justify a custodial sentence. If the court does not consider that custody is necessary, it should impose a single community order that reflects the overall totality of criminality. The court must take into account the extent to which the offender complied with the requirements of the previous order.</p>

Disqualifications from driving	
Circumstance	Approach
<p>Offender convicted of two or more obligatory disqualification offences (s34(1) Road Traffic Offender Act 1988)</p>	<p>The court must impose an order of disqualification for each offence unless for special reasons it does not disqualify the offender.³⁶ All orders of disqualification imposed by the court on the same date take effect immediately and cannot be ordered to run consecutively to one another. The court should take into account all offences when determining the disqualification periods and should generally impose like periods for each offence.</p>
<p>Offender convicted of two or more offences involving either:</p>	<p>Where an offender is convicted on same occasion of more than one offence to which section 35(1) Road Traffic Offender Act 1988 applies, only one disqualification shall be</p>

<p>1. discretionary disqualification and obligatory endorsement from driving, or</p> <p>2. obligatory disqualification but the court for special reasons does not disqualify the offender</p> <p>and the penalty points to be taken into account number 12 or more (ss28 and 35 Road Traffic Offender Act 1988)</p>	<p>imposed on him.³⁷ However the court must take into account all offences when determining the disqualification period. For the purposes of appeal, any disqualification imposed shall be treated as an order made on conviction of each of the offences.³⁸</p>
<p>Other combinations involving more two or offences involving discretionary disqualification</p>	<p>As orders of disqualification take effect immediately, it is generally desirable for the court to impose a single disqualification order that reflects the overall criminality of the offending behaviour.</p>

Compensation orders

Circumstance	Approach
<p>Global compensation orders</p>	<p>The court should not fix a global compensation figure unless the offences were committed against the same victim.³⁹ Where there are competing claims for limited funds, the total compensation available should normally be apportioned on a pro rata basis.⁴⁰</p>
<p>The court may combine a compensation order with any other form of order.</p>	
<p>Compensation orders and fines</p>	<p>Priority is given to the imposition of a compensation order over a fine.⁴¹ This does not affect sentences other than fines. This means that the fine should be reduced or, if necessary, dispensed with altogether, to enable the compensation to be paid.</p>
<p>Compensation orders and confiscation orders</p>	<p>A compensation order can be combined with a confiscation order where the amount that may be realised is sufficient. If such an order is made, priority should be given to compensation.⁴²</p>
<p>Compensation orders and community orders</p>	<p>A compensation order can be combined with a community order.</p>
<p>Compensation orders and suspended sentence orders</p>	<p>A compensation order can be combined with a suspended sentence order.⁴³</p>
<p>Compensation orders and custody</p>	<p>A compensation order can be combined with a sentence of immediate custody where the offender is clearly able to pay or has good prospects of employment on his release from custody.</p>

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- Notes**
- [1] R v Lawrence (1989) 11 Cr App R (S) 580
 - [2] R v Poulton and Celaire [2002] EWCA Crim 2487; Attorney General’s Reference No 21&22 of 2003 [2003] EWCA Crim 3089
 - [3] Attorney General’s Reference Number 21 and 22 of 2003
 - [4] Attorney General’s Reference No1 of 1990 (1990) 12 Cr App R (S) 245
 - [5] R v Millen (1980) 2 Cr App R (S) 357
 - [6] R v Kastercum (1972) 56 Cr App R 298
 - [7] R v Poulton and Celaire [2002] EWCA Crim 2487; Attorney General’s Reference No 21&22 of 2003 [2003] EWCA Crim 3089
 - [8] R v Fletcher [2002] 2 CAR (S) 127
 - [9] R v Jamieson & Jamieson [2008] EWCA Crim 2761
 - [10] R v Raza [2010] 1 Cr App R (S) 56
 - [11] R v Ralphs [2009] EWCA Crim 2555
 - [12] R. v Ali [1998] 2 Cr.App.R. 123
 - [13] R. v Costello [2010] EWCA Crim 371
 - [14]
 - [15]
 - [16]
 - [17] R. v Pinnell [2010] EWCA Crim 2848
 - [18] R v Cornelius [2002] EWCA Crim 138
 - [19] R v Rahuel Delucca [2010] EWCA Crim 710
 - [20] R. v O’Brien [2006] EWCA Crim 1741
 - [21] R v Hills [2008] EWCA Crim 1871; R v Ashes [2007] EWCA Crim 1848
 - [22] s.28(1B) Crime (Sentences) Act 1997
 - [23] s.28 ibid
 - [24] [s.125\(1\) Sentencing Code](#)
 - [25] [s.125\(2\) Sentencing Code](#)
 - [26] R. v Pointon [2008] EWCA Crim 513
 - [27] [s.204\(2\) Sentencing Code](#)
 - [28] [s.202 Sentencing Code](#) restricts the power to make a community order by limiting it to cases where the offence is punishable with imprisonment.
 - [29] s.37(8) Mental Health Act 1983
 - [30] R. v McClelland [1951] 1 All ER 557
 - [31] [s.120 Sentencing Code](#)
 - [32] [s.120 Sentencing Code](#)
 - [33] [s.120 Sentencing Code](#)
 - [34] [s.230\(2\) Sentencing Code](#)
 - [35] Paragraphs 22 and 25 of [Schedule 10 of the Sentencing Code](#)
 - [36] s.34(1) Road Traffic Offender Act 1998
 - [37] s.35(3) ibid
 - [38] ibid
 - [39] R. v Warton [1976] Crim LR 520
 - [40] R. v Miller [1976] Crim LR 694
 - [41] [s.135\(4\) Sentencing Code](#)
 - [42] R v Mitchell [2001] Cr. L. R239
 - [43] [s.134\(2\) Sentencing Code](#)

Totality

Effective from: tbc

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

Applicability - DROPDOWN

General principles

The principle of totality comprises two elements:

1. All courts, when sentencing for more than a single offence, should pass a total sentence which reflects all the offending behaviour before it and is just and proportionate. This is so whether the sentences are structured as concurrent or consecutive. Therefore, concurrent sentences will ordinarily be longer than a single sentence for a single offence.
2. It is usually impossible to arrive at a just and proportionate sentence for multiple offending simply by adding together notional single sentences. It is necessary to address the offending behaviour, together with the **aggravating and mitigating** factors personal to the offender as a whole.

Concurrent/consecutive sentences

There is no inflexible rule governing whether sentences should be structured as concurrent or consecutive components. The overriding principle is that the overall sentence must be just and proportionate.

General approach (as applied to determinate custodial sentences)

1. **Consider the sentence for each individual offence, referring to the relevant sentencing guidelines.**
2. **Determine whether the case calls for concurrent or consecutive sentences.**
3. **Test the overall sentence(s) against the requirement that they be just and proportionate.**
4. **Consider whether the sentence is structured in a way that will be best understood by all concerned with it.**

Concurrent sentences will ordinarily be appropriate where:

- a. offences arise out of the same incident or facts.

Examples include: [dropdown]

- a single incident of dangerous driving resulting in injuries to multiple victims;
- robbery with a weapon where the weapon offence is ancillary to the robbery and is not distinct and independent of it
- fraud and associated forgery
- separate counts of supplying different types of drugs of the same class as part of the same transaction

- b. there is a series of offences of the same or similar kind, especially when committed against the same person.

Examples include: [dropdown]

- repetitive small thefts from the same person, such as by an employee
- repetitive benefit frauds of the same kind, committed in each payment period

Where concurrent sentences are to be passed the sentence should reflect the overall criminality involved. The sentence should be appropriately aggravated by the presence of the associated offences.

Concurrent custodial sentences: examples [dropdown]

Examples of concurrent custodial sentences include:

- a single incident of dangerous driving resulting in injuries to multiple victims where there are separate charges relating to each victim. The sentences should generally be passed concurrently, but each sentence should be aggravated to take into account the harm caused
- repetitive fraud or theft, where charged as a series of small frauds/thefts, would be properly considered in relation to the total amount of money obtained and the period of time over which the offending took place. The sentences should generally be passed concurrently, each one reflecting the overall seriousness
- robbery with a weapon where the weapon offence is ancillary to the robbery and is not distinct and independent of it. The principal sentence for the robbery should properly reflect the presence of the weapon. The court must avoid double-counting and may deem it preferable for the possession of the weapon's offence to run concurrently to avoid the appearance of under-sentencing in respect of the robbery

Consecutive sentences will ordinarily be appropriate where:

- a. offences arise out of unrelated facts or incidents.

Examples include: [dropdown]

- where the offender commits a theft on one occasion and a common assault against a different victim on a separate occasion
- an attempt to pervert the course of justice in respect of another offence also charged
- a Bail Act offence
- any offence committed within the prison context
- offences that are unrelated because whilst they were committed simultaneously they are distinct and there is an aggravating element that requires separate recognition, for example:
 - an assault on a constable committed to try to evade arrest for another offence also charged
 - where the defendant is convicted of drug dealing and possession of a firearm offence. The firearm offence is not the essence or the intrinsic part of the drugs offence and requires separate recognition
 - where the defendant is convicted of threats to kill in the context of an indecent assault on the same occasion, the threats to kill could be distinguished as a separate element

- b. offences that are of the same or similar kind but where the overall criminality will not sufficiently be reflected by concurrent sentences.

Examples include: [dropdown]

- where offences committed against different people, such as repeated thefts involving attacks on several different shop assistants
 - where offences of domestic violence or sexual offences are committed against the same individual
- c. one or more offence(s) qualifies for a statutory minimum sentence and concurrent sentences would improperly undermine that minimum.

However, it is not permissible to impose consecutive sentences for offences committed at the same time in order to evade the statutory maximum penalty.

Where consecutive sentences are to be passed add up the sentences for each offence and consider if the aggregate length is just and proportionate.

If the aggregate length is not just and proportionate the court should consider how to reach a just and proportionate sentence. There are a number of ways in which this can be achieved.

Consecutive custodial sentences: examples [dropdown]

Examples of consecutive custodial sentences include:

- when sentencing for similar offence types or offences of a similar level of severity the court can consider:
 - whether all of the offences can be proportionately reduced (with particular reference to the category ranges within sentencing guidelines) and passed consecutively
 - whether, despite their similarity, a most serious principal offence can be identified and the other sentences can all be proportionately reduced (with particular reference to the category ranges within sentencing guidelines) and passed consecutively in order that the sentence for the lead offence can be clearly identified
- when sentencing for two or more offences of differing levels of seriousness the court can consider:
 - whether some offences are of such low seriousness in the context of the most serious offence(s) that they can be recorded as ‘no separate penalty’ (for example technical breaches or minor driving offences not involving mandatory disqualification)
 - whether some of the offences are of lesser seriousness and are unrelated to the most serious offence(s), that they can be ordered to run concurrently so that the sentence for the most serious offence(s) can be clearly identified

Specific applications – custodial sentences

Existing determinate sentence, where determinate sentence to be passed [Dropdown]

Existing determinate sentence, where determinate sentence to be passed	
Circumstance	Approach
Offender serving a determinate sentence (Offence(s) committed before original sentence imposed)	Consider what the sentence length would have been if the court had dealt with the offences at the same time and ensure that the totality of the sentence is just and proportionate in all the circumstances. If it is not, an adjustment should be made to the sentence imposed for the latest offence.
Offender serving a determinate sentence	Generally the sentence will be consecutive as it will have arisen out of an unrelated incident. The court must have regard to the totality

(Offence(s) committed after original sentence imposed)	of the offender’s criminality when passing the second sentence, to ensure that the total sentence to be served is just and proportionate. Where a prisoner commits acts of violence in prison custody, any reduction for totality is likely to be minimal.
Offender serving a determinate sentence but released from custody	The new sentence should start on the day it is imposed: s225 Sentencing Code prohibits a sentence of imprisonment running consecutively to a sentence from which a prisoner has been released. The sentence for the new offence will take into account the aggravating feature that it was committed on licence. However, it must be commensurate with the new offence and cannot be artificially inflated with a view to ensuring that the offender serves a period in custody additional to the recall period (which will be an unknown quantity in most cases); this is so even if the new sentence will in consequence add nothing to the period actually served.
Offender sentenced to a determinate term and subject to an existing suspended sentence order	Where an offender commits an additional offence during the operational period of a suspended sentence and the court orders the suspended sentence to be activated, the additional sentence will generally be consecutive to the activated suspended sentence, as it will arise out of unrelated facts.

Extended sentences [dropdown]

Extended sentences for public protection

Circumstance	Approach
Extended sentences – using multiple offences to calculate the requisite determinate term	In the case of extended sentences imposed under the Sentencing Code, providing there is at least one specified offence, the threshold requirement under s267 or s280 of the Sentencing Code is reached if the total determinate sentence for all offences (specified or not) would be four years or more. The extended sentence should be passed either for one specified offence or concurrently on a number of them. Ordinarily either a concurrent determinate sentence or no separate penalty will be appropriate to the remaining offences. The extension period is such as the court considers necessary for the purpose of protecting members of the public from serious harm caused by the offender committing further specified offences. The extension period must not exceed five years (or eight for a sexual offence). The whole aggregate term must not exceed the statutory maximum. The custodial period must be adjusted for totality in the same way as determinate sentences would be. The extension period is measured by the need for protection and therefore does not require adjustment.

Indeterminate sentences [dropdown]

Indeterminate sentences

Circumstance	Approach
<p>Imposing multiple indeterminate sentences on the same occasion and using multiple offences to calculate the minimum term for an indeterminate sentence</p>	<p>Indeterminate sentences should start on the date of their imposition and so should generally be ordered to run concurrently. If the life sentence provisions in sections 272-274 or sections 283 – 285 of the Sentencing Code apply then:</p> <ol style="list-style-type: none"> 1. first assess the notional determinate term for all offences (specified or otherwise), adjusting for totality in the usual way 2. ascertain whether any relevant sentence condition is met and 3. the indeterminate sentence should generally be passed concurrently on all offences to which it can apply, but there may be some circumstances in which it suffices to pass it on a single such offence.
<p>Indeterminate sentence (where the offender is already serving an existing determinate sentence)</p>	<p>It is generally undesirable to order an indeterminate sentence to be served consecutively to any other period of imprisonment on the basis that indeterminate sentences should start on their imposition.</p> <p>The court should instead order the sentence to run concurrently but can adjust the minimum term for the new offence to reflect half of any period still remaining to be served under the existing sentence (to take account of the early release provisions for determinate sentences). The court should then review the minimum term to ensure that the total sentence is just and proportionate.</p>
<p>Indeterminate sentence (where the offender is already serving an existing indeterminate sentence)</p>	<p>It is generally undesirable to order an indeterminate sentence to be served consecutively to any other period of imprisonment on the basis that indeterminate sentences should start on their imposition. However, where necessary the court can order an indeterminate sentence to run consecutively to an indeterminate sentence passed on an earlier occasion. The second sentence will commence on the expiration of the minimum term of the original sentence and the offender will become eligible for a parole review after serving both minimum terms. The court should consider the length of the aggregate minimum terms that must be served before the offender will be eligible for consideration by the Parole Board. If this is not just and proportionate, the court can adjust the minimum term.</p>

Ordering a determinate sentence to run consecutively to an indeterminate sentence	<p>The court can order a determinate sentence to run consecutively to an indeterminate sentence. The determinate sentence will commence on the expiry of the minimum term of the indeterminate sentence and the offender will become eligible for a parole review after serving half of the determinate sentence. The court should consider the total sentence that the offender will serve before becoming eligible for consideration for release. If this is not just and proportionate, the court can reduce the length of the determinate sentence, or alternatively, can order the second sentence to be served concurrently.</p>
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Specific applications – non-custodial sentences

Multiple fines for non-imprisonable offences [dropdown]

Multiple fines for non-imprisonable offences	
Circumstance	Approach
Offender convicted of more than one offence where a fine is appropriate	<p>The total is inevitably cumulative. The court should determine the fine for each individual offence based on the seriousness of the offence²⁴ and taking into account the circumstances of the case including the financial circumstances of the offender so far as they are known, or appear, to the court. The court should add up the fines for each offence and consider if they are just and proportionate. If the aggregate total is not just and proportionate the court should consider how to reach a just and proportionate fine. There are a number of ways in which this can be achieved.</p> <p>For example:</p> <ul style="list-style-type: none"> • where an offender is to be fined for two or more offences that arose out of the same incident or where there are multiple offences of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose for the most serious offence a fine which reflects the totality of the offending where this can be achieved within the maximum penalty for that offence. No separate penalty should be imposed for the other offences. • where an offender is to be fined for two or more offences that arose out of different incidents, it will often be appropriate to impose a separate fine for each of the offences. The court should add up the fines for each offence and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the court should consider whether all of the fines can be proportionately reduced. Separate fines should then be passed.

	<p>Where separate fines are passed, the court must be careful to ensure that there is no double-counting.</p> <p>Where compensation is being ordered, that will need to be attributed to the relevant offence as will any necessary ancillary orders.</p>
Multiple offences attracting fines – crossing the community threshold	<p>If the offences being dealt with are all imprisonable, then the community threshold can be crossed by reason of multiple offending, when it would not be crossed for a single offence. However, if the offences are non-imprisonable (e.g. driving without insurance) the threshold cannot be crossed.</p>

Fines in combination with other sentences [dropdown]

Fines in combination with other sentences

Circumstance	Approach
A fine may be imposed in addition to any other penalty for the same offence except:	<ul style="list-style-type: none"> • a hospital order • a discharge • a sentence fixed by law (minimum sentences, EPP, IPP murder) • a minimum term sentence imposed under section 311, 312, 313, 314, or 315 s 313 or s 314 of the Sentencing Code • a life sentence imposed under section 274 or 285 Sentencing Code or a sentence of detention for life for an offender under 18 under section 258 Sentencing Code • a life sentence imposed under section 273 or 283 Sentencing Code • a serious terrorism sentence under section 268B or 282B of the Sentencing Code
Fines and determinate custodial sentences	<p>A fine should not generally be imposed in combination with a custodial sentence because of the effect of imprisonment on the means of the defendant. However, exceptionally, it may be appropriate to impose a fine in addition to a custodial sentence where:</p> <ul style="list-style-type: none"> • the sentence is suspended • a confiscation order is not contemplated and • there is no obvious victim to whom compensation can be awarded and • the offender has, or will have, resources from which a fine can be paid

Community orders [dropdown]

Community orders

Circumstance	Approach
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Multiple offences attracting community orders – crossing the custody threshold	If the offences are all imprisonable and none of the individual sentences merit a custodial sentence, the custody threshold can be crossed by reason of multiple offending. If the custody threshold has been passed, the court should refer to the offence ranges in sentencing guidelines for the offences and to the general principles.
Multiple offences, where one offence would merit immediate custody and one offence would merit a community order	A community order should not be ordered to run consecutively to or concurrently with a custodial sentence. Instead the court should generally impose one custodial sentence that is aggravated appropriately by the presence of the associated offence(s). The alternative option is to impose no separate penalty for the offence of lesser seriousness.
Offender convicted of more than one offence where a community order is appropriate	A community order is a composite package rather than an accumulation of sentences attached to individual counts. The court should generally impose a single community order that reflects the overall criminality of the offending behaviour. Where it is necessary to impose more than one community order, these should be ordered to run concurrently and for ease of administration, each of the orders should be identical.
Offender convicted of an offence while serving a community order	<p>The power to deal with the offender depends on his being convicted whilst the order is still in force; it does not arise where the order has expired, even if the additional offence was committed whilst it was still current.</p> <p>If an offender, in respect of whom a community order made by a magistrates' court is in force, is convicted by a magistrates' court of an additional offence, the magistrates' court should ordinarily revoke the previous community order and sentence afresh for both the original and the additional offence.</p> <p>Where an offender, in respect of whom a community order made by the Crown Court is in force, is convicted by a magistrates' court, the magistrates' court may, and ordinarily should, commit the offender to the Crown Court, in order to allow the Crown Court to re-sentence for the original offence. The magistrates' court may also commit the new offence to the Crown Court for sentence where there is a power to do so.</p> <p>The sentencing court should consider the overall seriousness of the offending behaviour taking into account the additional offence and the original offence. The court should consider whether the combination of associated offences is sufficiently serious to justify a custodial sentence. If the court does not consider that custody is necessary, it should impose a single community order that reflects the overall totality of criminality. The court must take into account the extent to which the offender complied with the requirements of the previous order.</p>

Disqualifications from driving [dropdown]

Disqualifications from driving	
Circumstance	Approach
Offender convicted of two or more obligatory disqualification offences (s34(1) Road Traffic Offender Act 1988)	The court must impose an order of disqualification for each offence unless for special reasons it does not disqualify the offender. All orders of disqualification imposed by the court on the same date take effect immediately and cannot be ordered to run consecutively to one another. The court should take into account all offences when determining the disqualification periods and should generally impose like periods for each offence.
Offender convicted of two or more offences involving either: <ol style="list-style-type: none"> 1. discretionary disqualification and obligatory endorsement from driving, or 2. obligatory disqualification but the court for special reasons does not disqualify the offender and the penalty points to be taken into account number 12 or more (ss28 and 35 Road Traffic Offender Act 1988)	Where an offender is convicted on same occasion of more than one offence to which section 35(1) Road Traffic Offender Act 1988 applies, only one disqualification shall be imposed on him. However the court must take into account all offences when determining the disqualification period. For the purposes of appeal, any disqualification imposed shall be treated as an order made on conviction of each of the offences.
Other combinations involving more two or offences involving discretionary disqualification	As orders of disqualification take effect immediately, it is generally desirable for the court to impose a single disqualification order that reflects the overall criminality of the offending behaviour.

Compensation orders [dropdown]

Compensation orders	
Circumstance	Approach
Global compensation orders	The court should not fix a global compensation figure unless the offences were committed against the same victim. Where there are competing claims for limited funds, the total compensation available should normally be apportioned on a pro rata basis.
The court may combine a compensation order with any other form of order.	
Compensation orders and fines	Priority is given to the imposition of a compensation order over a fine. This does not affect sentences other than fines. This means that the

	fine should be reduced or, if necessary, dispensed with altogether, to enable the compensation to be paid.
Compensation orders and confiscation orders	A compensation order can be combined with a confiscation order where the amount that may be realised is sufficient. If such an order is made, priority should be given to compensation.
Compensation orders and community orders	A compensation order can be combined with a community order.
Compensation orders and suspended sentence orders	A compensation order can be combined with a suspended sentence order.
Compensation orders and custody	A compensation order can be combined with a sentence of immediate custody where the offender is clearly able to pay or has good prospects of employment on his release from custody.

Sale of knives etc to persons under eighteen - Organisations

Criminal Justice Act 1988, s141A

Effective from: TBC

Triable only summarily

Maximum: unlimited fine

Offence range: £500 fine - £1,000,000 fine

Use this guideline when the offender is an organisation. If the offender is an individual please refer to the **Sale of knives etc to persons under eighteen – individuals** guideline.

This guideline applies to the unlawful sale in a single transaction of a small quantity of knives etc (whether in-store or online) by retailers who otherwise generally operate within the law. Cases of a different nature (such as those involving large quantities of knives or the deliberate or reckless marketing of knives to children) should be sentenced outside the guideline.

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

Step 1 – Determining the offence category

The court should determine the offender’s culpability and the harm caused with reference **only** to the factors below.

CULPABILITY
<p>High</p> <ul style="list-style-type: none"> • Offender failed to put in place standard measures to prevent underage sales - <ul style="list-style-type: none"> ○ For in store sales standard measures would normally include: identifying restricted products, clear signage, age verification checks/ Challenge 21 or Challenge 25 policy, staff training, maintaining refusals log, till prompts ○ For online sales standard measures would normally include: identifying restricted products, use of a reliable online age verification tool and/or collect in-store policy with checks on collection. • Offender failed to act on concerns raised by employees or others • Falsification of documents • Offender failed to make appropriate changes following advice and/or prior incident(s)
<p>Medium</p> <ul style="list-style-type: none"> • Systems were in place but these were not sufficiently adhered to or implemented • Other cases that fall between categories A or 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 as described in A and C
<p>Low</p> <ul style="list-style-type: none"> • Offender made significant efforts to prevent underage sales falling short of a defence

HARM

The harm caused by this offence relates to the risks associated with children and young people being in possession of knives. There is just one level of harm, as same level of harm is risked by any such sale to a person aged under 18.

Step 2 – Starting point and category range

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

Very large organisation

Where an offending organisation's turnover or equivalent very greatly exceeds the threshold for large organisations, it may be necessary to move outside the suggested range to achieve a proportionate sentence.

Large organisation - Turnover or equivalent: £50 million and over

Culpability		
A	B	C
Starting point £400,000	Starting point £200,000	Starting point £50,000
Category range £200,000 – £1,000,000	Category range £100,000 – £400,000	Category range £12,000 – £100,000

Medium organisation - Turnover or equivalent: between £10 million and £50 million

Culpability		
A	B	C
Starting point £200,000	Starting point £100,000	Starting point £20,000
Category range £100,000 – £400,000	Category range £50,000 – £200,000	Category range £5,000 – £50,000

Small organisation - Turnover or equivalent: between £2 million and £10 million

Culpability		
A	B	C
Starting point £50,000	Starting point £25,000	Starting point £6,000
Category range £25,000 – £100,000	Category range £12,000 – £50,000	Category range £3,000 – £12,000

Micro organisation - Turnover or equivalent: not more than £2 million

Culpability		
A	B	C
Starting point £12,500	Starting point £6,000	Starting point £1,500
Category range £6,000 – £25,000	Category range £3,000 – £12,000	Category range £500 – £3,000

The court should then consider adjustment for any aggravating or mitigating factors. The following is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the 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

Other aggravating factors:

- Offence was a consequence of cost-cutting
- Obstruction of justice
- Failure to take up offers of training or other assistance from Trading Standards

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Evidence of steps taken voluntarily to prevent re-occurrence
- High level of co-operation with the investigation and acceptance of responsibility
- Good record of compliance with Trading Standards

Obtaining financial information [Dropdown box]

Step 3 – Adjustment of fine

Having arrived at a fine level, the court should consider whether there are any further factors which indicate an adjustment in the level of the fine including outside the category range. The court should ‘step back’ and consider the overall effect of its orders. The fine ought to achieve:

- the removal of all gain
- appropriate additional punishment, and
- deterrence

The fine may be adjusted to ensure that these objectives are met in a fair way. The court should consider any further factors relevant to the setting of the level of the fine to ensure that the fine is proportionate, having regard to the size and financial position of the offending organisation and the seriousness of the offence.

The fine must be substantial enough to have a real economic impact which will bring home to both management and shareholders the need to operate within the law. Whether the fine will have the effect of putting the offender out of business will be relevant; in some bad cases this may be an acceptable consequence.

In considering the ability of the offending organisation to pay any financial penalty the court can take into account the power to allow time for payment or to order that the amount be paid in instalments.

The court should consider whether the level of fine would otherwise cause unacceptable harm to third parties.

Below is a **non-exhaustive** list of additional factual elements for the court to consider.

The court should identify whether any combination of these, or other relevant factors, should result in a proportionate increase or reduction in the level of fine.

Factors to consider in adjusting the level of fine

- Fine fulfils the objectives of punishment, deterrence and removal of gain
- The value, worth or available means of the offender
- Impact of fine on offender's ability to implement effective compliance programmes
- Impact of fine on employment of staff, service users, customers and local economy (but not shareholders)
- Impact of fine on performance of public or charitable function

Step 4 – Consider any factors which indicate a reduction, such as assistance to the prosecution

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

Step 5 – 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 6 – Totality principle

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

Step 7 – 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](#)).

Confiscation orders under the Proceeds of Crime Act 2002 may only be made by the Crown Court. The Crown Court must proceed with a view to making a **confiscation order** if it is asked to do so by the prosecutor or if the Crown Court believes it is appropriate for it to do so.

Where, following conviction in a magistrates' court, the prosecutor applies for the offender to be committed to the Crown Court with a view to a confiscation order being considered, the magistrates' court must commit the offender to the Crown Court to be sentenced there (section 70 of the Proceeds of Crime Act 2002). This applies to summary only and either-way offences.

Confiscation must be dealt with before, and taken into account when assessing, any other fine or financial order (except compensation). (See Proceeds of Crime Act 2002 sections 6 and 13)

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

Step 8 – Reasons

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

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Sale of knives etc to persons under eighteen - Individuals

Criminal Justice Act 1988, s141A

Effective from: TBC

Triable only summarily

Maximum: 6 months' custody

Offence range: Fine – community order

Use this guideline when the offender is an individual. If the offender is an individual please refer to the **Sale of knives etc to persons under eighteen – organisations** guideline.

Note: This guideline applies to the unlawful sale in a single transaction of a small quantity of knives etc (whether in-store or online) by traders who otherwise generally operate within the law or those employed by such traders. Cases of a different nature (such as those involving large quantities of knives or the deliberate or reckless marketing of knives to children) should be sentenced outside the guideline

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

Step 1 – Determining the offence category

The court should determine the offender’s culpability and the harm caused with reference **only** to the factors below.

CULPABILITY
<p>High</p> <ul style="list-style-type: none"> • Offender in a management position failed to put in place standard measures to prevent underage sales - <ul style="list-style-type: none"> ○ For in-store sales standard measures would normally include: identifying restricted products, clear signage, age verification checks/ Challenge 21 or Challenge 25 policy, staff training, maintaining refusals log, till prompts ○ For online sales standard measures would normally include: identifying restricted products, use of a reliable online age verification tool and/or collect in-store policy with checks on collection. • Offender in a management position failed to act on concerns raised by employees or others • Offender (whether or not in a management position) falsified documents • Offender (whether or not in a management position) failed to make appropriate changes following advice and/or prior incident(s) • Offender (whether or not in a management position) disregarded clear measures put in place to prevent underage sales
<p>Medium</p> <ul style="list-style-type: none"> • Offender in a management position put in place standard measures but these were not sufficiently adhered to or implemented • Offender (whether or not in a management position) failed to fully implement measures put in place to prevent underage sales

- | |
|--|
| <ul style="list-style-type: none"> • Other cases that fall between categories A or 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 as described in A and C |
| <p>Low</p> <ul style="list-style-type: none"> • Offender (whether or not in a management position) made significant efforts to prevent underage sales falling short of a defence |

<p>HARM</p> <p>The harm caused by this offence relates to the risks associated with children and young people being in possession of knives. There is just one level of harm, as the same level of harm is risked by any such sale to a person aged under 18.</p>
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Step 2 – Starting point and category range

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

Culpability		
A	B	C
<p>Starting point Medium level community order or Band E fine</p> <p>Category range Low level community order or Band D fine – High level community order or Band F fine</p>	<p>Starting point Low level community order or Band D fine</p> <p>Category range Band B fine – Medium level community order or Band E fine</p>	<p>Starting point Band A fine</p> <p>Category range Discharge – Band B fine</p>

The court should then consider adjustment for any aggravating or mitigating factors. The following is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the 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 on bail

Other aggravating factors:

- Offence was a consequence of cost-cutting
- Obstruction of justice

- Failure to take up offers of training or other assistance from Trading Standards

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Evidence of steps taken voluntarily to prevent re-occurrence
- High level of co-operation with the investigation and acceptance of responsibility
- Good record of compliance with Trading Standards
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

Step 3 – Adjustment of fine

Where the sentence is or includes a fine, the court should consider whether there are any further factors which indicate an adjustment in the level of the fine including outside the category range. The court should ‘step back’ and consider the overall effect of its orders. The fine ought to achieve:

- the removal of all gain
- appropriate additional punishment, and
- deterrence

The fine may be adjusted to ensure that these objectives are met in a fair way. The court should consider any further factors relevant to the setting of the level of the fine to ensure that the fine is proportionate, having regard to the financial position of the offender and the seriousness of the offence.

Where the offender is operating as a business, the fine must be substantial enough to have a real economic impact which emphasises the need to operate within the law. Whether the fine will have the effect of putting the offender out of business will be relevant; in some bad cases this may be an acceptable consequence.

In considering the ability of the offender to pay any financial penalty the court can take into account the power to allow time for payment or to order that the amount be paid in instalments.

The court should consider whether the level of fine would otherwise cause unacceptable harm to third parties.

Below is a **non-exhaustive** list of additional factual elements for the court to consider.

The court should identify whether any combination of these, or other relevant factors, should result in a proportionate increase or reduction in the level of fine.

Factors to consider in adjusting the level of fine

- Fine fulfils the objectives of punishment, deterrence and removal of gain
- The value, worth or available means of the offender
- Impact of fine on offender’s ability to implement effective compliance programmes
- Impact of fine on employment of staff, service users, customers and local economy (but not shareholders/ partners)

- Impact of fine on performance of public or charitable function

Step 4 – Consider any factors which indicate a reduction, such as assistance to the prosecution

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

Step 5 – 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 6 – Totality principle

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

Step 7 – 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](#)).

Confiscation orders under the Proceeds of Crime Act 2002 may only be made by the Crown Court. The Crown Court must proceed with a view to making a **confiscation order** if it is asked to do so by the prosecutor or if the Crown Court believes it is appropriate for it to do so.

Where, following conviction in a magistrates' court, the prosecutor applies for the offender to be committed to the Crown Court with a view to a confiscation order being considered, the magistrates' court must commit the offender to the Crown Court to be sentenced there (section 70 of the Proceeds of Crime Act 2002). This applies to summary only and either-way offences.

Confiscation must be dealt with before, and taken into account when assessing, any other fine or financial order (except compensation). (See Proceeds of Crime Act 2002 sections 6 and 13)

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

Step 8 – Reasons

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

Equivalent levels in other guidelines**Health & Safety**

Culp: High = fell far short of standard

Med = systems in place but not sufficiently followed

Low = did not fall far short of the appropriate standard

Harm: 3 = low likelihood of death OR medium likelihood of serious injury

Food Safety

Culp: High = fell far short of standard

Med = systems in place but not sufficiently implemented

Low = did not fall far short of the appropriate standard

Harm: 2 = med risk of some harm OR low risk or serious harm

Environmental

Culp: High = reckless failure to put in place and enforce systems

Med = negligent failure to put in place and enforce systems

Low = offence committed with little or no fault

Harm: 2 = risk of high harm

Large organisation - Turnover or equivalent: £50 million and over

Guideline	High	Med	Low
Health & Safety	£540,000 £250,000 – £1,450,000	£300,000 £130,000 – £750,000	£35,000 £10,000 – £140,000
Food Safety	£230,000 £90,000 – £600,000	£90,000 £35,000 – £220,000	£18,000 £9,000 – £50,000
Environmental	£250,000 £100,000 – £650,000	£140,000 £60,000 – £350,000	£25,000 £14,000 – £70,000

Medium organisation - Turnover or equivalent: between £10 million and £50 million

Guideline	High	Med	Low
Health & Safety	£210,000 £100,000 – £550,000	£100,000 £50,000 – £300,000	£14,000 £3,000 - £60,000
Food Safety	£90,000 £35,000 – £220,000	£35,000 £14,000 – £90,000	£7,000 £3,500 – £18,000
Environmental	£100,000 £40,000 – £250,000	£55,000 £25,000 – £140,000	£10,000 £5,500 – £25,000

Small organisation - Turnover or equivalent: between £2 million and £10 million

Guideline	High	Med	Low
Health & Safety	£54,000 £25,000 – £210,000	£24,000 £12,000 – £100,000	£3,000 £700 – £14,000
Food Safety	£24,000 £8,000 – £90,000	£8,000 £3,000 – £35,000	£1,400 £700 – £7,000
Environmental	£24,000 £10,000 – £100,000	£13,000 £6,000 – £55,000	£2,500 £1,000 – £10,000

Micro organisation - Turnover or equivalent: not more than £2 million

Guideline	High	Med	Low
Health & Safety	£30,000 £12,000 – £54,000	£14,000 £6,000 – £25,000	£1,200 £200 - £7,000
Food Safety	£12,000 £4,000 – £22,000	£4,000 £1,400 – £8,000	£500 £200 – £1,400
Environmental	£12,000 £1,500 – £24,000	£6,500 £1,000 – £13,000	£1,000 £350 – £2,400

Individuals

Guideline	High	Med	Low
Health & Safety	Band F fine Band E fine – 26 weeks' custody	Band E fine Band D fine or low level community order – Band E fine	Band C fine Band B fine – Band C fine
Food Safety	Band E fine Band D fine – 26 weeks' custody	Band D fine Band C fine – Band E fine	Band B fine Band A fine – Band B fine
Environmental	Band F fine Band E fine or medium level community order – 26 weeks' custody	Band E fine Band D fine or low level community order – Band E fine	Band C fine Band B fine – Band C fine