

## Explosive substances (terrorism only)

### Causing explosion likely to endanger life or property - Explosive Substances Act 1883 (section 2)

### Attempt to cause explosion, or making or keeping explosive with intent to endanger life or property - Explosive Substances Act 1883 (section 3)

Triable only on indictment

Maximum: Life imprisonment

Offence range: 3 years' custody – Life Imprisonment (minimum term 40 years)

These are [Schedule 19](#) offences for the purposes of sections [274](#) and [285](#) (required life sentence for offence carrying life sentence) of the Sentencing Code.

For offences committed on or after 13 April 2015, these are offences listed in [Part 1 of Schedule 15](#) for the purposes of sections [273](#) and [283](#) (life sentence for second listed offence) of the Sentencing Code.

These are specified offences for the purposes of sections [266](#) and [279](#) (extended sentence for certain violent, sexual or terrorism offences) of the Sentencing Code.

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

For offences committed on or after 29 June 2021, this is a serious terrorism offence listed in [Part 2 of Schedule 17A](#) for the purposes of sections [268B](#) and [282B](#) (serious terrorism sentence), [section 323](#) (minimum term order: other life sentences), and section [268\(4\)\(b\)\(iii\)](#) and [281\(4\)\(b\)\(iii\)](#) (increase in extension period for serious terrorism offenders) of the Sentencing Code.

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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 [drop down]**

## Step 1 – Determining the offence category

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

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.**

### Notes for culpability and harm

In some cases, Law Enforcement Authorities (LEA) may be involved, either posing as terrorists jointly involved in the preparations for terrorist activity, or in keeping the offender under surveillance. Their involvement is likely to ensure that the terrorist activity could never be successfully completed. Irrespective of this, the court should approach the assessment of the offender's culpability and harm as follows:

#### Culpability

Where an undercover LEA is involved in the preparations for the terrorist activity, the culpability of the offender is not affected by the LEA's involvement. Culpability is to be assessed as if the LEA was a genuine conspirator.

Where the LEA is surveilling the offender and prevents the offender from proceeding further, this should be treated as apprehension of the offender.

#### Harm

In any case that involves LEA, the court should identify the category of harm on the basis of the harm that the offender intended and the viability of the plan, and then apply a downward adjustment at step two.

The extent of this adjustment will be specific to the facts of the case. In cases where, but for the LEA involvement, the offender would have carried out the intended terrorist act, a small reduction within the category range will usually be appropriate.

Where, for instance, an offender voluntarily desisted at an early stage a larger reduction is likely to be appropriate, potentially going outside the category range.

In either instance, it may be that a more severe sentence is imposed where very serious terrorist activity was intended but did not take place than would be imposed where relatively less serious terrorist activity did take place.

**Culpability demonstrated by one or more of the following:**

**A**

- Offender caused an explosion or used, developed or was in possession of a viable explosive device
- **Acting alone**, or in a **leading** role, in terrorist activity involving explosives, where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out

**B**

- Offender took significant steps towards creating an explosion or developing or obtaining a viable explosive device
- **Acting alone**, or in a **leading** role, in terrorist activity involving explosives where preparations were advanced and, but for apprehension, the activity was likely to have been carried out
- **Significant** role in terrorist activity involving explosives where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out

**C**

- **Leading** role in terrorist activity involving explosives where preparations were not far advanced
- **Significant** role in terrorist activity involving explosives where preparations were advanced and, but for apprehension, the activity was likely to have been carried out
- **Lesser** role in terrorist activity involving explosives where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out
- Act(s) of significant assistance or encouragement of other(s) involved in causing, developing or possessing an explosive device (where not falling within A or B)

**D**

- Offender took very limited steps toward creating an explosion or developing or obtaining a viable explosive device
- Offender has engaged in very limited preparation of terrorist activity involving explosives
- Act(s) of lesser assistance or encouragement of other(s)
- Other cases not falling within A, B or C

## Harm

Harm is assessed based on the type of harm risked and the likelihood of that harm being caused. When considering the likelihood of harm, the court should consider the viability of any plan.

**See the notes for culpability and harm at the start of this section before proceeding**

### Category 1

- Multiple deaths risked and very likely to be caused

### Category 2

- Multiple deaths risked but not very likely to be caused
- Any death risked and very likely to be caused

### Category 3

- Any death risked but not very likely to be caused
- Risk of widespread or serious damage to property or economic interests
- Risk of a substantial impact upon civic infrastructure
- Any other cases

## Step 2 - Starting point and category range

Having determined the category at step 1, 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 or harm in step 1, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features.

Offenders committing the most serious offences are likely to be found dangerous and so the table below includes options for life sentences. However, the court should consider the dangerousness provisions in *all* cases, having regard to the criteria contained in [section 308 of the Sentencing Code](#) to make the appropriate determination. (See Step 6 below).

The court must also consider the provisions set out in [s323\(3\)](#) of the Sentencing Code (minimum term order for serious terrorism offenders). (See Step 3 below).

Where the dangerousness provisions are met but a life sentence is not justified, the court must consider whether the provisions for the imposition of a serious terrorism sentence have been met, having regard to the criteria contained in [s268B](#) (adult offenders aged under 21) or [s282B](#) (offenders aged 21 and over) of the Sentencing Code. If the criteria are met, a minimum custodial sentence of 14 years applies. (see Step 3 below).

Where the dangerousness provisions are not met the court must impose a sentence in accordance with the provisions set out in sections [265](#) and [278](#) of the Sentencing Code (required special sentence for certain offenders of particular concern). (See Step 7 below).

Harm	Culpability			
	A	B	C	D
1	<b>Starting point</b> Life imprisonment - minimum term 35 years' custody	<b>Starting point</b> Life imprisonment - minimum term 25 years' custody	<b>Starting point</b> Life imprisonment - minimum term 15 years' custody	<b>Starting point</b> 15 years' custody
	<b>Category range</b> Life imprisonment - minimum term 30 – 40 years' custody	<b>Category range</b> Life imprisonment - minimum term 20 – 30 years' custody	<b>Category range</b> Life imprisonment - minimum term 10 – 20 years' custody*	<b>Category range</b> 10 – 20 years' custody*
2	<b>Starting point</b> Life imprisonment - minimum term 25 years' custody	<b>Starting point</b> Life imprisonment - minimum term 15 years' custody	<b>Starting point</b> 15 years' custody	<b>Starting point</b> 8 years' custody
	<b>Category range</b> Life imprisonment - minimum term 20 – 30 years' custody	<b>Category range</b> Life imprisonment - minimum term 10 – 20 years' custody	<b>Category range</b> 10 – 20 years' custody	<b>Category range</b> 6 – 10 years' custody
3	<b>Starting point</b> 16 years' custody	<b>Starting point</b> 12 years' custody	<b>Starting point</b> 8 years' custody	<b>Starting point</b> 4 years' custody
	<b>Category range</b> 12 – 20 years' custody	<b>Category range</b> 8 – 16 years' custody	<b>Category range</b> 6 – 10 years' custody	<b>Category range</b> 3 – 6 years' custody

\* Where a Serious Terrorism Sentence is imposed, the appropriate custodial term is a minimum of 14 years unless exceptional circumstances apply. See s282C of the Sentencing Code **See Step 3 below regarding minimum terms, serious terrorism sentences and exceptional circumstances.**

The table below contains 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. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

## 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 (When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting)

### Other aggravating factors

- Recent and/or repeated possession or accessing of extremist material
- Communication with other extremists
- Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection
- Offender attempted to disguise their identity to prevent detection
- Indoctrinated or encouraged others
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Offence committed ~~whilst~~ in prison

## Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Good character and/or exemplary conduct
- Offender involved through coercion, intimidation or exploitation
- Clear evidence of a change of mind set prior to arrest
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/or lack of maturity ~~where it affects the responsibility of the offender~~
- Sole or primary carer for dependent relatives

## Step 3 – Minimum terms, serious terrorism sentences and exceptional circumstances

### Life sentence minimum terms

For serious terrorism cases the life sentence minimum term must be **at least 14 years** ([section 323\(3\)](#) of the Sentencing Code) unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify a lesser period.

A “serious terrorism case” is a case where, but for the fact that the court passes a life sentence, the court would be required by section [268B\(2\)](#) or [282B\(2\)](#) of the Sentencing Code to impose a serious terrorism sentence.

The minimum term cannot be reduced below 80 per cent of 14 years for a guilty plea (see step 5 – Reduction for guilty pleas).

### Serious terrorism sentence - minimum custodial sentence

Where the criteria for a serious terrorism sentence are met, as set out in [s268B](#) (adult offenders aged under 21) or [s282B](#) (offenders aged 21 and over) of the Sentencing Code, then the court must impose the serious terrorism sentence unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify not doing so.

Where a serious terrorism sentence is imposed, the appropriate custodial term is a minimum of 14 years’ custody and an extension period to be served on licence of at least 7 and no more than 25 years. (Sections [268C](#) and [282C](#) of the Sentencing Code). Where a serious terrorism sentence is imposed, the custodial term cannot be reduced below 80 per cent of 14 years for a guilty plea (see step 5 – Reduction for guilty pleas).

### Exceptional circumstances

In considering whether there are exceptional circumstances that would justify not imposing the minimum term (in the case of a life sentence), or not imposing the serious terrorism sentence where the other tests are met, the court must have regard to:

- the particular circumstances of the offence **and**
- the particular circumstances of the offender.

either of which may give rise to exceptional circumstances

Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing: see [Criminal Practice Directions](#) VII: Sentencing B.

Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

## Principles

The circumstances must truly be exceptional. Circumstances are exceptional if the imposition of the minimum term (in the case of a life sentence), or imposing the serious terrorism sentence would result in an arbitrary and disproportionate sentence.

It is important that courts adhere to the statutory requirement and do not too readily accept exceptional circumstances.

The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.

The mere presence of one or more of the following should not *in itself* be regarded as exceptional:

- One or more lower culpability factors
- One or more mitigating factors
- A plea of guilty

## Where exceptional circumstances are found

If there are exceptional circumstances that justify not imposing the minimum term (in the case of a life sentence) then the court **must impose a shorter minimum**.

If there are exceptional circumstances that justify not imposing a serious terrorism sentence, then the court must impose an alternative sentence.

Note: a guilty plea reduction applies in the normal way if a serious terrorism sentence is not imposed (see step 5 – Reduction for guilty pleas).

## **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 plea**

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 **serious terrorism sentence** has been imposed, the court must ensure that any reduction for a guilty plea does not reduce the sentence to less than 80 per cent of the statutory minimum.



## Step 6 – Dangerousness

The court should consider:

- 1) whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose a life sentence (sections [274](#) and [285](#))
- 2) whether having regard to sections [273](#) and [283](#) of the Sentencing Code it would be appropriate to impose a life sentence.
- 3) 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 7 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

## Step 8 – 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 9 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

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

## Step 10 – Reasons

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

## Step 11 – 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](#).

## Preparation of terrorist acts

Terrorism Act 2006, s.5

Triable only on indictment

Maximum: Life imprisonment

Offence range: 3 years' custody – Life Imprisonment (minimum term 40 years)

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

For offences committed on or after 3 December 2012, this is an offence listed in [Part 1 of Schedule 15](#) for the purposes of sections [273](#) and [283](#) (life sentence for second listed offence) 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.

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

For offences committed on or after 29 June 2021, this is a serious terrorism offence listed in [Part 2 of Schedule 17A](#) for the purposes of sections [268B](#) and [282B](#) (serious terrorism sentence), [section 323](#) (minimum term order: other life sentences), and section [268\(4\)\(b\)\(iii\)](#) and [281\(4\)\(b\)\(iii\)](#) (increase in extension period for serious terrorism offenders) of the Sentencing Code.

~~This guideline applies only to offenders aged 18 and older~~

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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 [drop down]**

## Step 1 – Determining the offence category

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

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.**

### Notes for culpability and harm

In some cases, Law Enforcement Authorities (LEA) may be involved, either posing as terrorists jointly involved in the preparations for terrorist activity, or in keeping the offender under surveillance. Their involvement is likely to ensure that the terrorist activity could never be successfully completed. Irrespective of this, the court should approach the assessment of the offender's culpability and harm as follows:

#### Culpability

Where an undercover LEA is involved in the preparations for the terrorist activity, the culpability of the offender is not affected by the LEA's involvement. Culpability is to be assessed as if the LEA was a genuine conspirator.

Where the LEA is surveilling the offender and prevents the offender from proceeding further, this should be treated as apprehension of the offender.

#### Harm

In any case that involves LEA, the court should identify the category of harm on the basis of the harm that the offender intended and the viability of the plan, and then apply a downward adjustment at step two.

The extent of this adjustment will be specific to the facts of the case. In cases where, but for the LEA involvement, the offender would have carried out the intended terrorist act, a small reduction within the category range will usually be appropriate.

Where, for instance, an offender voluntarily desisted at an early stage a larger reduction is likely to be appropriate, potentially going outside the category range.

In either instance, it may be that a more severe sentence is imposed where very serious terrorist activity was intended but did not take place than would be imposed where relatively less serious terrorist activity did take place.

## Culpability demonstrated by one or more of the following:

### A

- **Acting alone**, or in a **leading** role, in terrorist activity where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out

### B

- **Acting alone**, or in a **leading** role, in terrorist activity where preparations were advanced and, but for apprehension, the activity was likely to have been carried out
- **Significant** role in terrorist activity where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out
- Offender has coordinated others to take part in terrorist activity, whether in the UK or abroad (where not falling within A)

### C

- **Leading** role in terrorist activity where preparations were not far advanced
- **Significant** role in terrorist activity where preparations were advanced and, but for apprehension, the activity was likely to have been carried out
- **Lesser** role in terrorist activity where preparations were complete or were so close to completion that, but for apprehension, the activity was very likely to have been carried out
- Offender acquires training or skills for purpose of terrorist activity (where not falling within A or B)
- Acts of significant assistance or encouragement of other(s) (where not falling within A or B)

### D

- Offender has engaged in very limited preparation for terrorist activity
- Act(s) of lesser assistance or encouragement of other(s)
- Other cases not falling within A, B or C

## Harm

Harm is assessed based on the type of harm risked and the likelihood of that harm being caused. When considering the likelihood of harm, the court should consider the viability of any plan.

**See the notes for culpability and harm at the start of this section before proceeding**

### Category 1

- Multiple deaths risked and very likely to be caused

### Category 2

- Multiple deaths risked but not very likely to be caused
- Any death risked and very likely to be caused

### Category 3

- Any death risked but not very likely to be caused
- Risk of widespread or serious damage to property or economic interests
- Risk of a substantial impact upon civic infrastructure
- Any other cases

## Step 2 - Starting point and category range

Having determined the category at step 1, 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 or harm in step 1, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features.

Offenders committing the most serious offences are likely to be found dangerous and so the table below includes options for life sentences. However, the court should consider the dangerousness provisions in **all** cases, having regard to the criteria contained in [section 308 of the Sentencing Code](#) to make the appropriate determination. (See Step 6 below).

The court must also consider the provisions set out in [s323\(3\) of the Sentencing Code](#) (minimum term order for serious terrorism offenders). (See Step 3 below).

Where the dangerousness provisions are met but a life sentence is not justified, the court must consider whether the provisions for the imposition of a serious terrorism sentence have been met, having regard to the criteria contained in [s268B](#) (adult offenders aged under 21) or [s282B](#) (offenders aged 21 and over) of the Sentencing Code. If the criteria are met, a minimum custodial sentence of 14 years applies. (see Step 3 below).

Where the dangerousness provisions are not met the court must **impose a sentence in accordance with** the provisions set out in sections [265](#) and [278](#) of the Sentencing Code (required special sentence for certain offenders of particular concern). (See Step 7 below).

Harm	Culpability			
	A	B	C	D
1	<b>Starting point</b> Life imprisonment - minimum term 35 years' custody	<b>Starting point</b> Life imprisonment - minimum term 25 years' custody	<b>Starting point</b> Life imprisonment - minimum term 15 years' custody	<b>Starting point</b> 15 years' custody
	<b>Category range</b> Life imprisonment - minimum term 30 – 40 years' custody	<b>Category range</b> Life imprisonment - minimum term 20 - 30 years' custody	<b>Category range</b> Life imprisonment - minimum term 10 – 20 years' custody*	<b>Category range</b> 10-20 years' custody*
2	<b>Starting point</b> Life imprisonment - minimum term 25 years' custody	<b>Starting point</b> Life imprisonment - minimum term 15 years' custody	<b>Starting point</b> 15 years' custody	<b>Starting point</b> 8 years' custody
	<b>Category range</b> Life imprisonment - minimum term 20 - 30 years' custody	<b>Category range</b> Life imprisonment - minimum term 10- 20 years' custody	<b>Category range</b> 10- 20 years' custody	<b>Category range</b> 6-10 years' custody
3	<b>Starting point</b> 16 years' custody	<b>Starting point</b> 12 years' custody	<b>Starting point</b> 8 years' custody	<b>Starting point</b> 4 years' custody
	<b>Category range</b> 12 – 20 years' custody	<b>Category range</b> 8- 16 years' custody	<b>Category range</b> 6 - 10 years' custody	<b>Category range</b> 3– 6 years' custody

\* Where a Serious Terrorism Sentence is imposed, the appropriate custodial term is a minimum of 14 years unless exceptional circumstances apply. See s282C of the Sentencing Code See Step 3 below regarding minimum terms, serious terrorism sentences and exceptional circumstances.

The table below contains 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. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

## 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 (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

### Other aggravating factors

- Recent and/or repeated possession or accessing of extremist material
- Communication with other extremists
- Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection
- Offender attempted to disguise their identity to prevent detection
- Indoctrinated or encouraged others
- Preparation was with a view to engage in combat with UK armed forces
- Conduct in preparation includes the actual or planned commission of other offences, where not taken into account in step one
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or Post Sentence Supervision
- Offence committed ~~while~~ in prison

## Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Good character and/or exemplary conduct
- Offender involved through coercion, intimidation or exploitation
- Clear evidence of a change of mind set prior to arrest
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/or lack of maturity ~~where it affects the responsibility of the offender~~
- Sole or primary carer for dependent relatives

## Step 3 – Minimum terms, serious terrorism sentences and exceptional circumstances

### Life sentence minimum terms

For serious terrorism cases the life sentence minimum term must be **at least 14 years** ([section 323\(3\)](#) of the Sentencing Code) unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify a lesser period.

A “serious terrorism case” is a case where, but for the fact that the court passes a life sentence, the court would be required by section [268B\(2\)](#) or [282B\(2\)](#) of the Sentencing Code to impose a serious terrorism sentence.

The minimum term cannot be reduced below 80 per cent of 14 years for a guilty plea (see step 5 – Reduction for guilty pleas).

### Serious terrorism sentence - minimum custodial sentence

Where the criteria for a serious terrorism sentence are met, as set out in [s268B](#) (adult offenders aged under 21) or [s282B](#) (offenders aged 21 and over) of the Sentencing Code, then the court must impose the serious terrorism sentence unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify not doing so.

Where a serious terrorism sentence is imposed, the appropriate custodial term is a minimum of 14 years' custody and an extension period to be served on licence of at least 7 and no more than 25 years. (Sections [268C](#) and [282C](#) of the Sentencing Code). Where a serious terrorism sentence is imposed, the custodial term cannot be reduced below 80 per cent of 14 years for a guilty plea (see step 5 – Reduction for guilty pleas).



## Exceptional circumstances

In considering whether there are exceptional circumstances that would justify not imposing the minimum term (in the case of a life sentence), or not imposing the serious terrorism sentence where the other tests are met, the court must have regard to:

- the particular circumstances of the offence **and**
- the particular circumstances of the offender.

either of which may give rise to exceptional circumstances

Where the factual circumstances are disputed, the procedure should follow that of a Newton hearing: see [Criminal Practice Directions](#) VII: Sentencing B.

Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

### Principles

The circumstances must truly be exceptional. Circumstances are exceptional if the imposition of the minimum term (in the case of a life sentence), or imposing the serious terrorism sentence would result in an arbitrary and disproportionate sentence.

It is important that courts adhere to the statutory requirement and do not too readily accept exceptional circumstances.

The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.

The mere presence of one or more of the following should not *in itself* be regarded as exceptional:

- One or more lower culpability factors
- One or more mitigating factors
- A plea of guilty

### Where exceptional circumstances are found

If there are exceptional circumstances that justify not imposing the minimum term (in the case of a life sentence) then the court **must impose a shorter minimum**.

If there are exceptional circumstances that justify not imposing a serious terrorism sentence, then the court must impose an alternative sentence.

Note: a guilty plea reduction applies in the normal way if a serious terrorism sentence is not imposed (see step 5 – Reduction for guilty pleas).

## 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 plea

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 **serious terrorism sentence** has been imposed, the court must ensure that any reduction for a guilty plea does not reduce the sentence to less than 80 per cent of the statutory minimum.

## Step 6 – Dangerousness

The court should consider:

- 1) whether having regard to the criteria contained in [Chapter 6 of Part 10 of the Sentencing Code](#) it would be appropriate to impose a life sentence (sections [274](#) and [285](#))
- 2) whether having regard to sections [273](#) and [283](#) of the Sentencing Code it would be appropriate to impose a life sentence.
- 3) 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 7 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

## Step 8 – 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 9 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

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

## Step 10 – Reasons

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

## Step 11 – 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](#).

# Proscribed Organisations- Membership

Terrorism Act 2000 (section 11)

Triable either way

Maximum: 10 years' custody

Offence range: High level community order – 9 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.

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

~~This guideline applies only to offenders aged 18 and older~~

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 [drop down]**

<b>STEP ONE</b> <b>Determining the offence category</b>	
<p>The court should determine the offence category with reference <b>only</b> to the factors listed in the tables below. In order to determine the category, the court should assess <b>culpability</b> and <b>harm</b>.</p> <p>The court should weigh all the factors set out below in determining the offender's culpability.</p> <p><b>Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.</b></p>	
<b>Culpability</b> demonstrated by one or more of the following:	
A	<ul style="list-style-type: none"> <li>Prominent member of organisation</li> </ul>
B	<ul style="list-style-type: none"> <li>Active (but not prominent) member of organisation</li> </ul>
C	<ul style="list-style-type: none"> <li>All other cases</li> </ul>

<b>Harm</b>
<p>There is no variation in the level of harm caused. Membership of any organisation which is concerned in terrorism either through the commission, participation, preparation, promotion or encouragement of terrorism is inherently harmful.</p>

<b>STEP TWO</b> <b>Starting point and category range</b>
<p>Having determined the category at step 1, 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 or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.</p>

<b>Culpability</b>	<b>A</b>	<b>B</b>	<b>C</b>
	<p><b>Starting point</b> 10 years' custody</p>	<p><b>Starting point</b> 7 years' custody</p>	<p><b>Starting point</b> 3 years' custody</p>
	<p><b>Category range</b> 8 - 13 years' custody</p>	<p><b>Category range</b> 5-9 years' custody</p>	<p><b>Category range</b> High level community order - 4 years' custody</p>

The table below contains 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. In particular, relevant recent convictions are likely to result in an upward adjustment. In some

cases, having considered these factors, it may be appropriate to move outside the identified category range.

### 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 (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

#### *Other aggravating factors:*

- Length of time over which offending was committed
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or Post Sentence Supervision
- Offence committed whilst in prison

### Factors reducing seriousness or reflecting personal mitigation

- Unaware that organisation was proscribed
- No previous convictions **or** no relevant/recent convictions
- Good character and/or exemplary conduct
- Offender involved through coercion, intimidation or exploitation
- Clear evidence of a change of mind set prior to arrest
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/ or lack of maturity ~~where it affects the responsibility of the offender~~
- Sole or primary carer for dependent relatives

## **Step 3 – 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 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 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence, but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

## 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 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

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

## Step 8 – Reasons

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

## Step 9 – 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](#).

## Proscribed organisations - support

Terrorism Act 2000 (section 12)

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Triable either way  
Maximum: 10 years' custody

Offence range: High level community order – 9 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.

This is an offence listed in [Schedule 13](#) for the purposes of sections [265](#) and [278](#) (required special sentence for certain offenders of particular concern) of the Sentencing Code.

~~This guideline applies only to offenders aged 18 and older~~

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 [drop down]**



## Step 1 – Determining the offence category

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category, the court should assess **culpability** and **harm**.

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.**

**Culpability** demonstrated by one or more of the following:

### A

- Intentional offence - Offender in position of trust, authority or influence and abuses their position
- Persistent efforts to gain widespread or significant support for organisation
- Encourages activities intended to cause endangerment to life

### B

- Reckless offence - Offender in position of trust, authority or influence and abuses their position
- Arranged or played a significant part in the arrangement of a meeting/event aimed at gaining significant support for organisation
- Intended to gain widespread or significant support for organisation
- Encourages activities intended to cause widespread or serious damage to property, or economic interests or substantial impact upon civic infrastructure

### C

- Lesser cases where characteristics for categories A or B are not present
- Other reckless offences

## Harm

The court should consider the factors set out below to determine the level of harm.

### Category 1

- Evidence that others have acted on or been assisted by the encouragement to carry out activities endangering life
- Significant support for the organisation gained or likely to be gained

### Category 2

- Evidence that others have acted on or been assisted by the encouragement to carry out activities not endangering life

### Category 3

- 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 or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.

	A	B	C
1	<b>Starting point</b> 10 years' custody <b>Category range</b> 8-13 years' custody	<b>Starting point</b> 7 years' custody <b>Category range</b> 5-9 years' custody	<b>Starting point</b> 3 years' custody <b>Category range</b> 2- 45 years' custody
2	<b>Starting point</b> 8 years' custody <b>Category range</b> 6-9 years' custody	<b>Starting point</b> 4 years' custody <b>Category range</b> 3 - 67 years' custody	<b>Starting point</b> 2 years' custody <b>Category range</b> 1-3 years' custody
3	<b>Starting point</b> 6 years' custody <b>Category range</b> 4-7 years' custody	<b>Starting point</b> 3 years' custody <b>Category range</b> 2-4 years' custody	<b>Starting point</b> 1 years' custody <b>Category range</b> High level community order – 2 years' custody

The table below contains 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. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

### 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 (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

### Other aggravating factors:

- Used multiple social media platforms to reach a wider audience (where not taken into account at Step 1)
- Offender has terrorist connections and/ or motivations
- Vulnerable/impressionable audience
- Failure to respond to warnings
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Offence committed ~~while~~ in prison

### Factors reducing seriousness or reflecting personal mitigation

- No previous convictions ~~or~~ no relevant/recent convictions
- Good character and/or exemplary conduct
- Offender has no terrorist connections and/ or motivations
- Unaware that organisation was proscribed
- Clear evidence of a change of mind set prior to arrest
- Offender involved through coercion, intimidation or exploitation
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Age and/or lack of maturity ~~where it affects the responsibility of the offender~~
- Sole or primary carer for dependent relatives

### 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 plea

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 – 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 6 – Required special sentence for certain offenders of particular concern

Where the court does not impose a sentence of imprisonment for life, a serious terrorism sentence or an extended sentence, but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence (sections [265](#) and [278](#) of the Sentencing Code).

## Step 7 – 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 8 – Ancillary orders

In all cases the court should consider whether to make ancillary orders.

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

## Step 9 – Reasons

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

## Step 10 – 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](#).