

Sale of knives etc to persons under 18: road testing summary

Introduction

In May 2020, the Council considered a submission on behalf of the London Borough of Barking and Dagenham for a sentencing guideline for selling knives to persons under the age of 18, and agreed to add this to the list of future guidelines. In March 2022, the Council agreed the content and signed off two guidelines for consultation, which ran from 1 June to 24 August 2022: one for the sale of knives by individuals; and one by organisations.

Methodology

Small-scale qualitative road testing of both guidelines¹ took place in June 2022 to ensure the wording is clear and to test how the new guidelines will work in practice. Ten magistrates were interviewed, with each sentencing three hypothetical scenarios: two to test the organisations guideline, one to test the individuals guideline. Particular attention was paid to issues Council had discussed, including: the introductory explanation² about the focus on small numbers of sales; the inclusion of only one level of harm; the proposed sentences and fines outlined in the sentencing tables³; and Step 3 – ‘Adjustment of fine’.

Summary of main points

1. Magistrates found the **introductory text** to be ‘*self-explanatory*’, agreeing **both guidelines** were generally ‘*clear*’ and ‘*easy to interpret*’.
2. There was a high level of consistency when determining **culpability** using both guidelines.
3. Magistrates generally agreed with the inclusion of only one level of **harm**.
4. There were some mixed views on the **sentencing tables**: some felt the starting points and ranges for larger organisations were about right but a little high for smaller organisations, and on the individuals guideline the ranges could be expanded.
5. There was some inconsistency when applying, or not, **Step 3 – Adjustment of fine** with a large/very large organisation, but greater consistency with a smaller organisation and an individual.

This paper discusses the results of the road testing on the organisations guideline, then the individual guideline, drawing comparisons across both where appropriate. Summary tables for each scenario are presented in Annex A.

¹ [Sale of knives etc to persons under 18: Consultation – Sentencing \(sentencingcouncil.org.uk\)](#)

² The introductory text states: “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 retailers *or those employed by retailers*. It does not apply to cases of a more serious nature such as those involving large quantities of knives or the deliberate or reckless marketing of knives to children”. Text in italic was in the individuals guideline only.

³ For organisations, this covers fines from £500 for a micro-organisation through to £1,000,000+ for a very large organisation, maximum of an unlimited fine; for individuals, it covers discharge through to a MLCO/fines, maximum of six months’ custody.

Organisations guideline

Scenario 1: Online purchase

A 13-year-old test purchaser bought a three-piece knife set from a prominent on-line retailer XX Ltd (one of the largest exclusively online retailers in the UK).

Trading Standards had warned XX Ltd in advance that test purchases would be taking place.

XX Ltd acknowledged that it had specifically considered the risk of knives being purchased by children but decided that such an event was highly unlikely. Age restricted items were identified on its website and purchasers were asked to confirm their age, but no age verification measures were in place to check this information.

XX Ltd was convicted after trial of one offence contrary to s.141A of the Criminal Justice Act 1988. The company had no previous convictions.

XX Ltd had a turnover during the relevant period of approximately £1.5 billion.

This was expected to be high culpability (A); there is only one level of harm. The starting point for a large organisation⁴ is £400,000, range £200,000 - £1,000,000; it could be higher if treated as a very large organisation⁵. There are no aggravating factors, and a mitigating factor of no previous convictions. Step 3 - Adjustment of fine could result in an increase as this is a large/very large organisation. The estimated final fine is £1 million or more. Key findings are below; the summary table can be found in Annex A, Table 1.

Key findings

1. None of the 10 magistrates had previously sentenced any cases of sales of knives.
2. Nine magistrates chose **culpability A**; one B⁶. Factors discussed included the: lack of age verification checks; advance warning a test purchase would take place (some noted this could equate to 'failed to make appropriate changes following advice'); and the organisation thought the risk of knives being bought was very unlikely.
3. Nine magistrates chose a **starting point** of £400,000; the sentencer who chose B selected £200,000. The majority of respondents thought it was '*straightforward*' and '*easy*' to **determine the starting point**, with only one stating that '*you really have to be quite specific to the actual items in the guideline*'. When asked if they had considered whether this was a **very large organisation**, seven said they would and '*that it might be necessary to move outside the range*', with a couple noting they would '*need more information*'; two had missed the instruction, with one noting they '*went straight to the tables*'; and one that it was '*not particularly helpful as it gives you such a wide range*'.
4. Eight respondents said there were no **aggravating factors**; two mentioned the fact that three knives were sold, one of whom '*would want to know if time had lapsed as they*

⁴ 'Turnover or equivalent of £50 million and over'.

⁵ 'Turnover or equivalent very greatly exceeds the threshold for large organisations'.

⁶ They originally thought A but chose B as they felt there was some evidence of systems being in place.

would have had time to consider’, and the other that the ‘child was only 13’ although they did not increase the sentence.

5. Eight magistrates noted that there were no previous convictions under **mitigating factors** with one also stating they ‘would want to know if remedial actions had been taken or cooperation’; the remaining two felt there were no mitigating factors.
6. Four respondents did not apply any additional factors as outlined under **Step 3 – Adjustment of fine**, while six did, citing ‘implementing effective compliance programmes’, ‘appropriate punishment’, and ‘deterrence’ from Step 3, and that they would ‘make it less financially attractive for them to continue to breach’, with two noting that as it is a very large organisation, they could go ‘outside the range’ and ‘a larger fine is necessary’.
7. While a wide range of **final sentences**⁷ were given, from two extremes of £10,000 through to £10 million, the majority were more aligned: one was for £200,000 from the sentencer who chose culpability B, two chose £400,000, one between £500,000 to £750,000 with another selecting £750,000, and the remaining three £1 million. Of the two extremes, the magistrate who chose £10,000 noted they only had three years’ experience and that ‘district judges usually deal with these sorts of cases... they are much more used to sentencing organisations... a magistrate’s court imposing a fine of £1,000,000 plus feels like... fantasy land’; the magistrate who chose £10 million noted they ‘felt out of their comfort zone dealing with such large numbers and keeping a grasp of proportionality’.
8. As might be expected, there were a range of **views about their final sentence**:
 - a. The magistrate who selected £10,000 noted that ‘fining an organisation £1 million plus for selling some knives online feels... inappropriate... £10,000 still seems a lot but anything smaller... wouldn’t be significant’;
 - b. The one selecting £200,000 noted it ‘might go up depending on information such as have things improved since?’;
 - c. The two selecting £400,000 felt it was a ‘hefty amount of money’ or ‘it seems heavy’ but both referred to the turnover and that they are ‘in favour of robust financial penalties’ or ‘they’re... in the market of knowing what they’re doing’;
 - d. The two selecting £500,000 to £750,000 and £750,000 had slightly different views: the former noted it is ‘a proper and high level of fine towards the upper end’ while the other ‘would feel more comfortable [if we could] see some additional things... there needs to be something in place to ensure they comply with regulations... and if it doesn’t, we would impose further fines or take some other action’;
 - e. The three who imposed £1 million agreed that this was ‘appropriate’, ‘reasonable’, and ‘will act as a deterrent [but could] imagine a conversation where we would be looking to go higher than that’; and,
 - f. The sentencer imposing a £10 million fine noted this ‘seems an extreme amount’.

⁷ The scenario noted that this went to trial – there was therefore no reduction for a guilty plea.

Scenario 2: In store purchase⁸

A 14-year-old test purchaser bought a retractable craft knife from Terry's Crafts Ltd (a small independent craft and hobby shop).

The company (through its owner and sole director, Terry Smith) pleaded guilty at the first appearance to one offence contrary to s.141A of the Criminal Justice Act 1988. It accepted that it had failed to identify knives as age-restricted products in its store (though it did have restrictions in place for solvents).

Trading Standards had written to the company 3 months before the test purchase warning that test purchases may be carried out and enclosing a leaflet setting out the obligations of retailers relating to age restricted sales.

The company had no previous convictions.

The company had an annual turnover during the relevant period of approximately £75,000 but was not profitable having made a loss of £5,000 in the most recent trading year.

This is expected to be high culpability (A); only one level of harm. The starting point for a micro-organisation⁹ is £12,500, range of £6,000 - £25,000. There are no aggravating factors, and a mitigating factor of no previous convictions. Step 3 – Adjustment of fine could decrease the fine as the organisation is not profitable, and a reduction of a third for a guilty plea. The estimated final fine is £4,000. Key findings are below; the summary table can be found in Annex A, Table 2.

Key findings

1. Eight magistrates chose **culpability** A; one A or B; and one B¹⁰. Factors discussed included the: lack of age verification checks; failure to identify age-restricted items; advance warning a test purchase would take place (some noted this could equate to 'failed to make appropriate changes following advice'); and having systems in place but not being sufficiently adhered to.
2. The eight magistrates who chose culpability A all chose a **starting point** of £12,500; the one who said A or B chose between £6,000 to £12,500; the remaining one chose £6,000. The majority found it 'easy' or 'straightforward' to **determine the starting point**, with only one noting that they found it 'quite difficult actually' referring to the 'loss of £5,000 last year' but did also note Step 3 considers putting companies out of business.
3. Nine respondents noted there were no **aggravating factors**; one noted the child was 14 but did not increase the sentence.
4. Nine noted a **mitigating factor** of no previous convictions; one stated there were none. Individuals mentioned 'wanting to see if there was any evidence of any steps taken',

⁸ Please note: this scenario is very similar to the individual scenario below, to test whether there is any difference if the offender is an individual or an organisation when everything else is similar.

⁹ 'Turnover or equivalent not more than £2 million'.

¹⁰ The magistrate noted the offender had 'pleaded guilty... were sent a detailed list from trading standards they haven't understood or taken heed of... it's a retractable craft knife'.

‘exploring their record of compliance as they had restrictions for solvents’, and ‘the guilty plea indicates they accept responsibility’.

5. Nine magistrates applied additional factors as per **Step 3 – Adjustment of fine**, reducing the fine; one did not. The majority of those who did noted that the company was very small and not making a profit/ low turnover, and discussed their ability to pay, that it could put them out of business, and the impact of the fine on staff and service users, as well as on their ability to implement a compliance programme.
6. As might be expected due to the discretion allowed under Step 3, there were a range of **pre-guilty plea sentences** given, ranging from £1,000 to £8,000: one respondent gave £1,000; one gave £3,000; another gave £3,000 to £5,000; four gave £6,000; and one chose £8,000¹¹.
7. All respondents took into account a **reduction for a guilty plea**, with final sentences ranging from £300 to £5,280: one gave £300; one gave £660; one gave £2,000; another gave £2,000 to £2,500; one gave £3,000; four gave £4,000; and one gave £5,280.
8. As might be expected, respondents **views of their final sentence** varied. The two at the lower end acknowledged that *‘in reality it would be an impossible situation because it is so far below the starting point and the lower limit’* and *‘it’s way off the guidelines’* noting they felt *‘comfortable’* or it was *‘fair and proportionate’*. The next three (final sentences between £2,000 to £3,000) noted it was a *‘hefty fine which [should] have an impact’*, *‘hope it’s fair [and] ensures implementation... is undertaken...’* and it *‘will have the desired punishment effect and deterrence’*. Of the four choosing £4,000, three thought it was *‘fair’*, *‘appropriate’* or *‘correct’*, while one noted the fact that the company ignored information sent in advance *‘keeps the fine at the higher level... if they’d put things in place and staff had forgotten about it, that would have made a difference’*. Finally, the magistrate who gave a final sentence of £5,280 noted *‘it’s sufficiently punitive for them to get their act together’*.

¹¹ One respondent did not give a pre-guilty plea sentence; another did but then reduced the fine in accordance with Step 3.

Comments on the organisations guideline

The following summarises comments made during the application of the guideline to the scenarios and through follow-up questions. Where similar views are noted across both guidelines, these are summarised at the end:

1. The magistrates all thought the guideline helped them **assess culpability**, with several noting that they were *'very helpful'*, *'familiar format'*, and *'fully explained'*. Some did provide suggestions for amendments: *'you might want to distinguish between identification of restricted products and age verification... should I have moved it down because they had realised it should be age restricted?'* with another similarly noting *'it could be clearer... whether one or all of the matters listed were needed'*. Individuals noted: *'is age of the purchaser relevant? Could make it clearer that it applies to anyone under 18?'*; *'is there any difference based on the type of knife?'* (then decided not); on lower culpability *'if they had made so many efforts, why would Trading Standards bring it to court?'*; and on the middle category, one stated that they say *'something along the lines of anything else not in C, so having a definition of what B means is helpful and clear... I understand and appreciate the clear distinction between the three categories, which isn't always the case'*.
2. There were **mixed views on the starting points and ranges** in the sentencing table: two felt the *'ranges and starting points, particularly for a large organisation... are appropriate'* or *'about right'*; one that *'they are serious amounts, but it allows flexibility'*; one that the *'starting points are fine'* but these *'need to be regularly monitored – perhaps an update every 3 – 5 years'*; while a fifth felt they were *'too high'*. One felt that *'for smaller companies... they are rather steep...but for the larger companies they are about right'*; two others also felt that *'for the smaller companies... they seemed to start relatively high'* or *'the range is quite vast'*, quoting £3,000 to £12,000 on culpability B, and *'there seems to be an awful big drop between the big companies and the smaller ones'*. Magistrates also suggested some changes: two wondered if there *'could be a category below micro'*, with one noting it could be for *'proper micro organisations of up to £100,000 or £200,000'* while another thought it should be for a *'turnover of not more than a million with lower fine ranges'*; three indicated there could be a *'new starting point/ category for the very large organisation'* with two noting they had missed the guidance as it did not fit the table format used for the other organisational sizes so *'it would make it easier'*, and *'could it include some indication of percentage of turnover?'*. Another noted it would be good to have *'more guidance on £50 million or over'*.
3. While four magistrates thought there was nothing to add to the **factors increasing seriousness**, others provided suggestions, including: three about the *'number of items'* such as *'could be an aggravating factor if four or five knives'* while another thought *'a set or maybe eight or a dozen [knives]'*; two about the *'age of the child'*; two wondered about the type of knife, with one referring to the guideline on bladed weapons; and two suggested *'reference to failing to take immediate remedial action'* or *'wilful negligence'*.
4. Seven magistrates thought there was nothing to add to the **factors reducing seriousness**, with positive feedback with two noting that *'steps taken to prevent*

reoccurrence is good’ while another noted that the *‘good record of compliance is important as is high level of cooperation and evidence of steps’*. One asked *‘how do you know about the good record of compliance? Trading Standards? Prosecutor?’*, another wondered whether there could be more *‘opposites as aggravating and mitigating factors’*, and a third noted *‘if the person buying the knife has been sufficiently sophisticated in their approach to proving their age, that could lead a reasonable person to think the person is the age they say they are?’*.

5. There were mixed views on **Step 3 - Adjustment of fine**: five felt these were *‘pretty good’*, *‘fine’*, had *‘nothing to add’* or were *‘reasonably easy’*, with a further one noting *‘there is a lot of flexibility... many magistrates might feel out of their depth [although] the principles are clear’*; two felt it *‘took a little time to look through it’* or *‘I had to reread that a couple of times to understand it’*, but both then noted it *‘sets it out’* and *‘makes good sense’*; one said *‘it’s not that easy’* and another noted that *‘you have a clear set of fine ranges within culpability... I would take it out, it’s not adding anything’*.
6. There were two further comments on **using the guideline**: *‘sale of knives to persons under 18 is mentioned at the top and under harm in both guidelines but not elsewhere – should say it throughout i.e. sales to individuals under 18?’*; and *‘could removal of gain including through the avoidance of costs be made clearer?’*

Individual guideline

Scenario 3: In store purchase¹²

A 14-year-old test purchaser bought a retractable craft knife from Terry's Crafts (a small independent craft and hobby shop).

The owner and manager Terry Smith pleaded guilty at the first appearance to one offence contrary to s.141A of the Criminal Justice Act 1988. He accepted that he had failed to identify knives as age-restricted products in the store (though he did have restrictions in place for solvents).

Trading Standards had written to him 3 months before the test purchase warning that test purchases may be carried out and enclosing a leaflet setting out the obligations of retailers relating to age restricted sales.

Mr Smith, aged 47, had no previous convictions.

Mr Smith presents a means form showing he earns approximately £500 per week which is nearly all accounted for by food and household bills. He says he has a wife and 2 children who are dependent on him and he is struggling to make ends meet. He says he would need time to pay any fine.

This is expected to be high culpability (A); there is only one level of harm. The starting point is a medium level community order (MLCO) or Band E fine. Based on his income, the anticipated fine would be £8,000. There are no aggravating factors, and a mitigating factor of no previous convictions. Step 3 could decrease the fine due to affordability¹³, and reduction of a third for a guilty plea. The estimated final fine is £600. Key findings are below; the summary table can be found in Annex A, Table 3.

Key findings

1. Nine magistrates chose **culpability A**; one said A or B. Respondents listed factors such as: failure to identify age-restricted items; had a warning; lack of age verification checks; and failed as a person of responsibility.
2. Eight magistrates chose a **starting point** of a MLCO or Band E fine; two simply stated MLCO.
3. All 10 noted there were no **aggravating factors**.
4. Nine listed no previous convictions as a **mitigating factor**, with two also noting 'sole/primary carer for dependent relatives', and one the 'guilty plea suggests a high level of cooperation' and 'they accept responsibility'. One stated there were no factors.
5. Two magistrates reduced their sentence based on **Step 3 – Adjustment of fine**, the remaining eight did not, although they did discuss options such as 'opting for a financial penalty rather than a CO', 'giving him time to pay', 'ensuring the fine is appropriate' and 'exploring compliance as had one in place for solvents'.

¹² As noted above, this scenario is very similar to that for scenario 2 (organisation in-store), to test what difference it makes if the offender is an individual or an organisation if everything else is similar.

¹³ 'Having regard to the financial position of the offender'

6. A mix of COs and fines were given for **pre-guilty plea sentences**. Four magistrates gave COs: one gave a LLCO with 80 hours unpaid work, another a LLCO or lower end MLCO, and the other two MLCO (one with a programme requirement); five gave fines, with two stating Band E fine, and three giving figures (£1,000, £1,500 and £2,000)¹⁴.
7. All respondents gave a **reduction for the guilty plea**. Those who gave COs reduced the number of days, amended from a MLCO to LLCO, or reduced the number of hours of unpaid work; those giving fines reduced the fines, such as from a Band E fine to a Band D fine, or taking a third off where explicit figures were stated (e.g. £1,500 down to £1,000).
8. The magistrates were generally satisfied with their **final sentences**: those who gave COs noted it was a *'perfectly good sentence'*, they were *'quite content'*, or *'satisfied'*, and it *'feels reasonable'*. Four of those giving fines held similar views, while one felt their fine of £300 was *'a bit too high'* and another, who gave £666, that it *'would be interesting to see what probation thought of a LLCO'*.

Comparison with similar scenario using the individuals and organisations guidelines

Across both guidelines:

1. The majority of magistrates chose **culpability A**.
2. The majority of magistrates stated there were no **aggravating factors**.
3. The majority of magistrates stated there was a **mitigating factor** of no previous convictions; more personal factors were noted with the individuals guideline.
4. All respondents took into account a **reduction for a guilty plea**.

Using the organisations guideline, at **Step 3 – Adjustment of fine**, the majority of respondents would reduce the fine: this was not the case with the individuals guideline where only two of the five who selected fines explicitly stated they would, although others did discuss certain elements, as outlined above.

¹⁴ One magistrate did not give a pre-guilty plea sentence.

Comments on the individuals guideline

The following summarises comments made during the application of the guideline and through follow-up questions. Where similar views are noted across both guidelines, these are summarised at the end.

1. The majority of the magistrates thought the guideline was *'helpful', 'straightforward', 'points you in the right direction'* for **assessing culpability**. However, as with the organisations guideline, one queried *'whether one or all of the matters listed were needed, that could be clearer'* and the *'it could make it clearer that it applies to anyone under 18'* and *'is there any difference based on type of knife'*. Another noted it *'could have a bit more differential between B and A culpability'* and another that *'it didn't have a great deal of manoeuvrability for someone struggling with his company – I would have gone culpability C rather than A but you couldn't because of the way it was written'*.
2. Four magistrates thought the **starting points and ranges** in the sentencing table were *'about right'* or *'quite good'*, while another felt the *'starting points are about right [but] the ranges may be expanded somewhat'* noting that *'as an individual, if you are caught with an offensive weapon, the starting points are considerably higher. If you are selling as an individual... and you know you shouldn't, the range could go a bit further into 12 weeks' custody'*. This was echoed by another magistrate who, while also referring to sentencing for carrying a knife, noted *'where a small retailer/ individual is on their third/ fourth offence, a custodial sentence or SSO is needed to get the message across'*. One felt the *'punishments are too high'*; another that *'the possibility of discharge is interesting'*; one had a *'reservation about the starting point for the lower level points of transgressions, [i.e.] at the medium level there should be a starting point of a CO'*; while another thought there was a *'big jump [in fine] from culpability C to B'*.
3. Similarly to comments on the organisations guideline, five magistrates felt there was nothing to add to the **factors increasing seriousness**, three reiterated the quantity involved could be an aggravating factor, and one mentioned the age of the child. One magistrate noted there was *'no recognition of the outcome of whether or not it is involved in any injury'* while another wondered *'does it need to be quite as heavy as the organisation one, i.e. the way its written with aggravating factors – does it have to be quite so determined/ precise?'*
4. Eight magistrates had nothing to add to the **factors reducing seriousness**, while two asked for clarification: *'could you clarify what is expected by voluntarily prevent re-occurrence?'* and *'what is serious medical condition in the context of this one?'*.
5. Eight magistrates were positive about the **Step 3 – Adjustment of fine**, with one suggesting we *'highlight the phrase 'the court should step back and consider the overall effect of its orders' [as] it makes you think about equal opportunities, different cultures, ways of life etc'*; one noted it should *'perhaps look at adjustment of CO as well as it is unfair to talk about adjusting one type of punishment but not the other'*, and one magistrate reiterated that the step *'doesn't add anything'*.
6. Two **further comments were provided on the guideline**: as with the organisations guideline, one magistrate felt that the guideline should say *'sales to individuals under*

18' throughout; and one noted *'I'm not necessarily fully understanding of step 4 – taking into account section 74, not something for the magistrates' court'*.

7. Magistrates were asked whether they thought there were 'any particular words or phrases in the draft [individual] guideline that you think may contribute to **disparities in sentencing**'. The majority thought that there were not, with only one magistrate providing a possible issue: in *'high culpability, I wondered about the inclusion of the word 'standard' in standard measures – it denotes a collective knowledge/ regulation and the small person in an organisation/ employee in corner shop in sections of the community may not have the same access to what may be perceived by a huge organisation as standard measures. Is standard codified anywhere? Could 'standard' be replaced by 'reasonable' or 'acceptable' or some other alternative that does not connote a knowledge of what those measures are?'*

Comments across both guidelines

The following summarises comments applicable to both guidelines:

1. All 10 thought it was **clear which guideline to use** (i.e. when to use the one for an individual or for an organisation): four noted the court would be told which one to use.
2. The majority of the magistrates thought the **introductory text**¹⁵ in both guidelines was *'clear', 'easy to read' or 'self-explanatory'*, with three commenting about the number of knives, i.e. *'what is considered a small quantity of knives?'* and *'could that be made more explicit?'*, with one suggesting that it *'perhaps a definition could be added... could be an aggravating factor if four or five?'*
3. All of the magistrates thought both guidelines were **clear and easy to interpret**, although it must be noted that one initially struggled a little to navigate the individual guideline, until the interviewer displayed the guideline on their screen.
4. Magistrates generally agreed with **only one level of harm**, commenting: *'it is very difficult to determine harm as there doesn't appear to be a 'victim' - harm is to society itself and possibly individuals – it covers it quite well'; 'the issue here is there is a risk... selling knives to under 18, that the risk doesn't change, the harm is there'; and 'I don't know how you can put it into different categories, I don't know how else you could do it?'*. However, one noted it would be good to *'spell it out more'*, and another that they were *'moderately surprised there's only one level of harm because of the risk to everyone. You only have to think about a group of 17-year-olds getting knives and going out and stabbing the boy from the school next door. Very different to someone who just buys a kitchen knife for cooking purposes. Puzzled that harm is not said to play any part because harm is always the same. Other guidelines, such as dangerous driving, assault, take into account the degree of injury. Seems to be inconsistent with other guidelines.'*

¹⁵ The introductory text states: "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 retailers or those employed by retailers. It does not apply to cases of a more serious nature such as those involving large quantities of knives or the deliberate or reckless marketing of knives to children". Text in italic was in the individual guideline only.

Social Research Team

September 2022

Should be a consideration of any consequences of selling a knife to an underage person if that does result in injury or even threat – ought to attract a higher sentence.'

Social Research Team

September 2022

Annex A: Summary tables**Table 1: Scenario 1 – organisation, online purchase**

	Culp	Factors	SP	Aggravating	Mitigating	Step 3 – Adjustment of fine - additional factors considered	Impact on sentence	Final sentence
Expected	A	<ul style="list-style-type: none"> Failed to put in place standard measures to prevent underage sales 	£400,000	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> The value, worth or available means 	<ul style="list-style-type: none"> Increase 	£1 million (or more) ¹⁶
1	A	<ul style="list-style-type: none"> No age verification checks Informed the exercise was going to happen Acknowledge the risk of knives being purchased but thought it was highly unlikely Failure of duty of care 	£400,000	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Would consider how easily and quickly they could implement a compliance programme - given the size of the company, expect them to do something fairly quickly i.e. in a matter of weeks 	<ul style="list-style-type: none"> None stated 	£750,000
2	A	<ul style="list-style-type: none"> No age verification measures Decided, despite being warned, that it was highly unlikely they needed to take any action 	£400,000	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None applied 	<ul style="list-style-type: none"> Could increase as a larger organisation 	£400,000
3	A	<ul style="list-style-type: none"> Identified products as age related but made conscious decision not to implement age verification checks 	£400,000	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions Would want to know if remedial actions had been taken/ cooperation 	<ul style="list-style-type: none"> Want to ensure future compliance and properly punish the organisation Make it less financially attractive for them to continue to breach rather than implement measures to prevent underage sales 	<ul style="list-style-type: none"> None stated 	£500,000-£750,000

¹⁶ Please note: the expected final sentence is not precise – it would depend on the adjustment made at Step 3, at the magistrates’ discretion

Social Research Team

September 2022

	Culp	Factors	SP	Aggravating	Mitigating	Step 3 – Adjustment of fine - additional factors considered	Impact on sentence	Final sentence
4	A	<ul style="list-style-type: none"> Lack of standard measures of a reliable online age verification tool or a collect in-store with checks Might be said that they failed to make appropriate changes following advice – you could say that the warning in advance of test purchases potentially amounts to advice 	£400,000	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Appropriate punishment – but fining an organisation £1million plus for selling some knives online feels disproportionate. 	<ul style="list-style-type: none"> Decrease 	£10,000
5	A	<ul style="list-style-type: none"> Failed to put in standard measures about age verification checks. Failed to make appropriate changes as had been a warning test purchases would be taking place and they didn't do anything 	£400,000	<ul style="list-style-type: none"> 3-piece knife set Would want to know if time had lapsed as would have had time to consider 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> None, fine has to be about punishment and deterrence. 	<ul style="list-style-type: none"> N/A 	£1 million
6	A	<ul style="list-style-type: none"> Company had been warned Failed to put in place the standard measures for online sales 	£400,000	<ul style="list-style-type: none"> 3 knives Child only 13 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None applied 	<ul style="list-style-type: none"> N/A 	£400,000
7	A	<ul style="list-style-type: none"> Failed to put in place age verification measures Active decision to act against guidance 	£400,000	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Outside the range with a turnover of 1.5 billion. 	<ul style="list-style-type: none"> Increase - calculated 1% of turnover = £12 million, then reduced 	£10 million

Social Research Team

September 2022

	Culp	Factors	SP	Aggravating	Mitigating	Step 3 – Adjustment of fine - additional factors considered	Impact on sentence	Final sentence
8	A	<ul style="list-style-type: none"> No online age verification tool 	£400,000	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> If £400,000 is applicable to a company with a £50 million turnover, larger fine is necessary for a company with a lot larger turnover They should have the resources available to put the necessary safeguards in place 	<ul style="list-style-type: none"> Increase 	£1 million
9	A	<ul style="list-style-type: none"> Age restricted items were identified on the website, but there was a failure to use reliable online verification tools. 	£400,000	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Very large organisation Fine needs to be substantial enough to bring it home to management etc that they need to operate within the law Got to be appropriate punishment and a deterrent in future 	<ul style="list-style-type: none"> Increase 	£1 million
10	B	<ul style="list-style-type: none"> Originally thought A but moved to B because there were systems in place but not sufficiently adhered to - had put on their website things about knives, but not enough work on the age verification process 	£200,000	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> None applied 	<ul style="list-style-type: none"> N/A 	£200,000

Social Research Team

September 2022

Table 2: Scenario 2 – organisation, in store purchase

No	Culp	Factors	SP	Aggravating	Mitigating	Step 3 – Adjustment of fine – additional factors considered	Impact on sentence	Final sentence without GP	Final sentence with GP
Expected	A	<ul style="list-style-type: none"> Failed to put in place standard measures to prevent underage sales 	£12,500	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Micro organisation Not profitable 	<ul style="list-style-type: none"> Decrease 	£6,000	£4,000 ¹⁷
1	A or B	<ul style="list-style-type: none"> System in place for solvents but not knives. Could they adapt and apply to offensive weapons? System in place but not sufficiently adhered to or implemented 	Between £6,000 and £12,500	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions Would want to see if there was evidence of any steps taken 	<ul style="list-style-type: none"> Impact of fine on offender's ability to implement effective compliance programme 	<ul style="list-style-type: none"> Reduction of fine 	£3,000-£5,000	£2,000-£2,500
2	A	<ul style="list-style-type: none"> Failed to identify age restricted items No age verification checks 	£12,500	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Ability to pay 	<ul style="list-style-type: none"> Would do a payment plan with instalments 	£1,000	£660
3	A	<ul style="list-style-type: none"> Failed to identify products as age-related Not taken any action Not checking age Not properly training staff 	£12,500	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Fairness - very small business, precarious financial state, limited income, financial dependants Not very profitable Need to see 3 years Turnover very low 	<ul style="list-style-type: none"> Reduce to £10,000, third off for GP (£6,666), impact on business and ability to pay = £3,000 	None stated	£3,000

¹⁷ Please note: the expected final sentences are not precise – it would depend on the adjustment made at Step 3, at the magistrates' discretion.

Social Research Team

September 2022

No	Culp	Factors	SP	Aggravating	Mitigating	Step 3 – Adjustment of fine – additional factors considered	Impact on sentence	Final sentence without GP	Final sentence with GP
4	A	<ul style="list-style-type: none"> Absence of measures to prevent underage sales Did have a warning - could see that as failed to make appropriate changes following advice and/or prior incidents 	£12,500	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Appropriate punishment Micro organization, operating on thin margins Impact of fine on the employment of staff, service users May impact future compliance Means of the offender On the edge of viability 	<ul style="list-style-type: none"> Reduce 	None stated	£300
5	A	<ul style="list-style-type: none"> Failed to make appropriate changes following advice – were notified a test purchase was going to happen and they didn't do anything 	£12,500	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions Would explore reasonable record of compliance as had restrictions for solvents 	<ul style="list-style-type: none"> Company was not profitable so would explore impact of a fine on employment of staff 	<ul style="list-style-type: none"> Reduce 	£6,000	£4,000
6	B	<ul style="list-style-type: none"> Sent documentation and notification about test cases which they didn't understand/ take heed of 	£6,000	<ul style="list-style-type: none"> 14-year old 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None applied 	<ul style="list-style-type: none"> N/A 	£6,000	£4,000
7	A	<ul style="list-style-type: none"> Had warning Failed to identify knives as age restricted 	£12,500	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Turnover at low end and not profitable - £12,500 not appropriate 	<ul style="list-style-type: none"> Reduce 	£3,000	£2,000

Social Research Team

September 2022

No	Culp	Factors	SP	Aggravating	Mitigating	Step 3 – Adjustment of fine – additional factors considered	Impact on sentence	Final sentence without GP	Final sentence with GP
8	A	<ul style="list-style-type: none"> • Hadn't identified knives as age-restricted products • Made no attempts to establish the age of person buying the knife 	£12,500	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • No previous convictions 	<ul style="list-style-type: none"> • Company is losing money 	<ul style="list-style-type: none"> • Reduce 	£8,000	£5,280
9	A	<ul style="list-style-type: none"> • Failed to identify knives as age restricted products 	£12,500	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • No previous convictions • GP indicates accepts responsibility 	<ul style="list-style-type: none"> • Business made a £5,000 loss in the last year • Fine within category range will potentially wipe the business out • Could be loss of employment • Need more information 	<ul style="list-style-type: none"> • Reduce 	£6,000	£4,000
10	A	<ul style="list-style-type: none"> • Had warning but hadn't done anything about it • Had some restrictions for solvents in place, but nothing for knives 	£12,500	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • No previous convictions 	<ul style="list-style-type: none"> • Micro company making a loss • Could put them out of business 	<ul style="list-style-type: none"> • Reduce 	£6,000	£4,000

Social Research Team

September 2022

Table 3: Scenario 3 – individual, in store purchase

No	Culp	Factors	SP	Aggravating	Mitigating	Step 3 – Adjustment of fine – additional factors considered	Impact on sentence	Final sentence before GP	Final sentence after GP
Expected	A	<ul style="list-style-type: none"> Failed to put in place standard measures to prevent underage sales 	MLCO or Band E fine of £8,000	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Financial position 	<ul style="list-style-type: none"> Decrease 	£900	£600 ¹⁸
1	A or B	<ul style="list-style-type: none"> If they had something they were going to implement and didn't, it's B. If totally disregarded it, it's A 	MLCO	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Would discuss - may have mental/ physical health problem, lack a skill/ understanding, which could be fixed by a programme 	<ul style="list-style-type: none"> None stated 	MLCO with programme requirement	Depends on requirement of MLCO - reduction in no. of days
2	A	<ul style="list-style-type: none"> Hadn't identified age restricted products Warned 	MLCO	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions Level of cooperation 	<ul style="list-style-type: none"> None applied 	<ul style="list-style-type: none"> N/A 	MLCO	L or M CO, 75 hours UPW or 6 weeks curfew 6am-8pm
3	A	<ul style="list-style-type: none"> Failed as a person or responsibility Didn't identify product as age-related Didn't check age properly Didn't impose a policy/ train staff 	MLCO or Band E fine	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> None applied 	<ul style="list-style-type: none"> N/A 	Band E fine - 300-500%	£1,000

¹⁸ Please note: the expected final sentences are not precise – it would depend on the adjustment made at Step 3, at the magistrates' discretion

Social Research Team

September 2022

No	Culp	Factors	SP	Aggravating	Mitigating	Step 3 – Adjustment of fine – additional factors considered	Impact on sentence	Final sentence before GP	Final sentence after GP
4	A	<ul style="list-style-type: none"> Absence of measures to prevent underage sales Had a warning - could see that as failed to make appropriate changes following advice and or prior incidents 	MLCO or Band E fine	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> None applied, but gives discretion 	<ul style="list-style-type: none"> N/A 	None stated	£300
5	A	<ul style="list-style-type: none"> Owner/ manager - their responsibility to put in place standard measures Failed to act on concerns 	MLCO or Band E fine	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions Sole/ primary carer for dependent relatives 	<ul style="list-style-type: none"> Ensure fine is proportionate Explore compliance as had them in place for solvents 	<ul style="list-style-type: none"> None stated 	Band E fine	Band D fine
6	A	<ul style="list-style-type: none"> Lack of standard measures 	MLCO or Band E fine	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions GP suggests high level cooperation with investigation Accepts responsibility Sole/ primary carer for dependant relatives 	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> N/A 	LLCO with 80 hours UPW	LLCO with 50 hours UPW

Social Research Team

September 2022

No	Culp	Factors	SP	Aggravating	Mitigating	Step 3 – Adjustment of fine – additional factors considered	Impact on sentence	Final sentence before GP	Final sentence after GP
7	A	<ul style="list-style-type: none"> Warned Failed to identify knives as age restricted 	MLCO or Band E fine	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Fine is most appropriate as CO is more serious Range of 300-500% 	<ul style="list-style-type: none"> Reduce to 300% 	£1,500	£1,000
8	A	<ul style="list-style-type: none"> Hadn't identified knives as age-restricted products Made no attempts to establish age 	MLCO or Band E fine	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> None applied 	<ul style="list-style-type: none"> N/A 	LLCO or lower end MLCO	Third off
9	A	<ul style="list-style-type: none"> Failed to identify knives as age restricted products 	MLCO or Band E fine	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Opt for financial penalty rather than CO Give him time to pay it 	<ul style="list-style-type: none"> N/A 	Band E fine - £2,000	Band E fine - £1,333
10	A	<ul style="list-style-type: none"> Warned but done nothing about it 	MLCO or Band E fine	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> No previous convictions 	<ul style="list-style-type: none"> Income and levels of fines – he hasn't really got any money 	<ul style="list-style-type: none"> Reduce 	£1,000	£666

Social Research Team

September 2022

Blank page