

Knowingly enters the United Kingdom without leave

Knowingly arrives in the United Kingdom without valid entry clearance

**Immigration Act 1971 section 24(B1)
Immigration Act 1971 section 24(D1)**

Triable either way

Maximum: Four years' imprisonment

Offence range: High level community order – 3 years' custody

STEP ONE**Determining the offence category**

CULPABILITY	
A - High Culpability	<ul style="list-style-type: none"> • Significant role played (more than simply a passenger) • Sophisticated planning by the offender beyond that which is inherent in the offence • Has made previous attempts to unlawfully enter/ arrive in the UK including by use of a false document
B - Medium culpability	<p>Other cases that fall between categories A and C because:</p> <ul style="list-style-type: none"> • Factors are present in A and C which balance each other out and/or • The offender's culpability falls between the factors as described in A and C
C - Lower culpability	<ul style="list-style-type: none"> • Offender fled persecution or serious danger • Involved due to coercion or pressure

HARM	
Category 1	<ul style="list-style-type: none"> • Seeking to enter/ arrive in order to engage in criminal activity • Exploited/ put pressure on others
Category 2	<ul style="list-style-type: none"> • All other cases

STEP TWO - Starting point and category range

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

Harm	Culpability		
	A	B	C
Category 1	Starting Point 2 years' custody Category Range 18 months - 3 years' custody	Starting Point 18 months custody Category Range 9 months' – 2 years' custody	Starting Point 1 years' custody Category Range 6 -18 months' custody
Category 2	Starting Point 18 months' custody Category Range 9 months' – 2 years' custody	Starting Point 1 years' custody Category Range 6 -18 months' custody	Starting Point 6 months' custody Category Range High level Community Order – 8 months' custody

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

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account in assessing culpability
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Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Previously deported, removed or extradited from the UK or deprived of UK citizenship

- Previous history of failed applications for leave to enter/ remain in the UK or for asylum (if not already taken into account at step 1)

Factors reducing seriousness or reflecting personal mitigation

- No recent or relevant convictions
- Good character and/or exemplary conduct
- Remorse
- Sole or primary carer for dependent relatives
- Age/lack of maturity
- Mental disorder or learning disability (where not taken into account at step 1)
- Physical disability or serious medical condition requiring urgent, intensive or long-term treatment
- Offender co-operated with investigation, made early admissions and/or voluntarily reported offending

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STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

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

STEP FOUR

Reduction for guilty pleas

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

STEP FIVE

Totality principle

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

STEP SIX

Ancillary orders

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

STEP SEVEN

Reasons

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

STEP EIGHT

Consideration for time spent on bail

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

Facilitation

Assisting unlawful immigration to the United Kingdom

Immigration Act 1971 section 25

Helping asylum-seeker to enter the United Kingdom

Immigration Act 1971 section 25A

Triable either way

Maximum: life imprisonment

Offence range: High-level community order – 16 years' custody

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STEP ONE**Determining the offence category**

CULPABILITY	
A- High Culpability	<ul style="list-style-type: none"> • Leading role in a commercial activity • Sophisticated nature of offence/ significant planning • Significant financial gain/ expectation of significant financial gain
B- Medium culpability	<p>Other cases that fall between categories A and C because:</p> <ul style="list-style-type: none"> • Factors are present in A and C which balance each other out and/or • The offender's culpability falls between the factors as described in A and C
C- Lower culpability	<ul style="list-style-type: none"> • Non – commercial activity • Minor role in group activity • Involved due to coercion or pressure

HARM	
Category 1	<ul style="list-style-type: none"> • Means or route of entry/ arrival involved a high risk of serious injury or death • Facilitating large numbers of individuals to illegally enter/ arrive in the UK • Exploited/ put pressure on others
Category 2	<ul style="list-style-type: none"> • Means or route of entry/ arrival involved some risk of serious injury or death • Facilitating small numbers of individuals to illegally enter/ arrive in the UK • Facilitating large numbers of individuals to remain unlawfully
Category 3	<ul style="list-style-type: none"> • All other cases

STEP TWO**Starting point and category range**

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

Harm	Culpability		
	A	B	C
Category 1	Starting Point 14 years' custody Category Range 10 - 16 years' custody	Starting Point 12 years' custody Category Range 9 - 14 years' custody	Starting Point 8 years' custody Category Range 6 - 10 years' custody
Category 2	Starting Point 8 years' custody Category Range 6 - 10 years' custody	Starting Point 5 years' custody Category Range 4 - 7 years' custody	Starting Point 3 years' custody Category Range 2 - 5 years' custody
Category 3	Starting Point 5 years' custody Category Range 4 - 7 years' custody	Starting Point 3 years' custody Category Range 2 - 5 years' custody	Starting Point 18 months' custody Category Range 12 months' custody – 2 years' custody

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

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account in assessing culpability

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Offending conducted over a sustained period of time
- Abuse of position of trust
- Recruited others to take part in offending (unless already taking into account at step 1)
- Significant risk of injury or death to those seeking to rescue individuals

Factors reducing seriousness or reflecting personal mitigation

- No recent or relevant convictions
- Good character and/or exemplary conduct
- Remorse
- Sole or primary carer for dependent relatives
- Age/lack of maturity
- Mental disorder or learning disability
- Physical disability or serious medical condition requiring urgent, intensive or long-term treatment
- Offender co-operated with investigation, made early admissions and/or voluntarily reported offending
- Limited understanding of scale of activity

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

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

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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.

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In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

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

STEP EIGHT

Consideration for time spent on bail

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

Breach of Deportation Order

Immigration Act 1971 section 24(A1)

Triable either way

Maximum: Five years' imprisonment

Offence range: 6 months' – 3 years 6 months' custody

STEP ONE**Determining the offence category**

CULPABILITY	
A - High Culpability	<ul style="list-style-type: none"> • Breached order shortly after its imposition • Has previously breached a deportation order • Sophisticated method of breach
B - Medium culpability	<p>Other cases that fall between categories A and C because:</p> <ul style="list-style-type: none"> • Factors are present in A and C which balance each other out and/or • The offender's culpability falls between the factors as described in A and C
C - Lower culpability	<ul style="list-style-type: none"> • Complied with order for lengthy period of time • Involved due to coercion or pressure • Unsophisticated nature of conduct

HARM	
Category 1	<ul style="list-style-type: none"> • Committed new serious offence(s) • Returned with the intention of committing further serious offence(s) • Been in the UK in breach of a deportation order for a lengthy period
Category 2	All other cases

STEP TWO**Starting point and category range**

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

Harm	Culpability		
	A	B	C
Category 1	Starting Point 2 years' 6 months' custody Category Range 2 - 3 years 6 months' custody	Starting Point 2 years' custody Category Range 1-3 years custody	Starting Point 1 year 6 months' custody Category Range 6 months' – 2 years' custody
Category 2	Starting Point 2 years' custody Category Range 1-3 years custody	Starting Point 1 year 6 months' custody Category Range 6 months' – 2 years' custody	Starting Point 1 years' custody Category Range 6 months' – 1 years' 6 months custody

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

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account in assessing culpability

Factors increasing seriousness*Statutory aggravating factors:*

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Use of false documents (where not charged separately or taken in account at step 1)

Factors reducing seriousness or reflecting personal mitigation

- No recent or relevant convictions
- Good character and/or exemplary conduct
- Remorse
- Sole or primary carer for dependent relatives
- Age/lack of maturity
- Mental disorder or learning disability (where not taken into account at step 1)
- Physical disability or serious medical condition requiring urgent, intensive or long-term treatment
- Offender co-operated with investigation, made early admissions and/or voluntarily reported offending

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

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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.

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In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

STEP SEVEN

Reasons

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

STEP EIGHT

Consideration for time spent on bail

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

Deception

Immigration Act 1971 section 24A

Triable either way

Maximum: Two years' imprisonment

Offence range: Band C fine – 20 months' custody

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STEP ONE**Determining the offence category**

CULPABILITY	
A - High Culpability	<ul style="list-style-type: none"> • Sophisticated nature of the offence or significant planning • Multiple or repeated deceptions
B - Medium culpability	<p>Other cases that fall between categories A and C because:</p> <ul style="list-style-type: none"> • Factors are present in A and C which balance each other out and/or • The offender's culpability falls between the factors as described in A and C
C - Lower culpability	<ul style="list-style-type: none"> • Unplanned or limited in scope • Unsophisticated nature of conduct • Offender's responsibility substantially reduced by mental disorder or learning disability • Involved due to coercion or pressure

HARM	
Category 1	<ul style="list-style-type: none"> • Deception results in lengthy period of stay
Category 2	<ul style="list-style-type: none"> • All other cases

STEP TWO**Starting point and category range**

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

Harm	Culpability		
	A	B	C
Category 1	Starting Point 15 Months custody	Starting Point 12 months' custody	Starting Point 6 months' custody
	Category Range 10-20 months' custody	Category Range 9 - 18 months' custody	Category Range High Level CO -9 months' custody
Category 2	Starting Point 12 months' custody	Starting Point 9 months' custody	Starting Point High Level CO
	Category Range 9 - 18 months' custody	Category Range 6 - 12 months' custody	Category Range Band C fine – 6 months custody

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

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account in assessing culpability

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Involvement of others through pressure, influence
- *Use of false documents (where not charged separately or taken in account at step 1)*

Factors reducing seriousness or reflecting personal mitigation

- No recent or relevant convictions
- Good character and/or exemplary conduct
- Remorse
- Sole or primary carer for dependent relatives
- Age/lack of maturity
- Mental disorder or learning disability (where not taken into account at step 1)
- Physical disability or serious medical condition requiring urgent, intensive or long-term treatment
- Offender co-operated with investigation, made early admissions and/or voluntarily reported offending

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In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

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

STEP EIGHT

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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.

Possession of false identity documents etc with improper intention

Identity Documents Act 2010 section 4

Indictable Only

Maximum: 10 years' imprisonment

Offence range: High level community order- 8 years' custody

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STEP ONE**Determining the offence category**

CULPABILITY	
D-	<ul style="list-style-type: none"> • Possession of a large number of documents used for commercial scale criminal activity • Substantial financial gain or expectation of substantial financial gain • A leading role where offending is part of a group activity • Sophisticated nature of offence or significant planning
E-	<ul style="list-style-type: none"> • Possession of multiple documents intended for the use of others • Financial gain or expectation of financial gain • A lesser role where offending is part of a group activity
F-	<ul style="list-style-type: none"> • Possession of one or two false documents for own use • Involved due to coercion or pressure

HARM	
Category 1	<ul style="list-style-type: none"> • Document(s) used or intended for use to evade immigration controls
Category 2	<ul style="list-style-type: none"> • Document used or intended for use to assist criminal activity (other than that described in category 1 or 3) • Document used or intended for use to evade responsibility for criminal activity other than that described in category 1 or 3) • Document used or intended for use to falsely demonstrate a lawful right to drive in the UK
Category 3	<ul style="list-style-type: none"> • Document used or intended for use to obtain rights, services or benefits [such as employment, accommodation, bank accounts etc]
Category 4	<ul style="list-style-type: none"> • All other cases

STEP TWO**Starting point and category range**

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

Harm	Culpability		
	A	B	C
Category 1	<p>Starting Point 7 years' custody</p> <p>Category Range 5 – 8 years' custody</p>	<p>Starting Point 3 years' custody</p> <p>Category Range 2 – 4 years' custody</p>	<p>Starting Point 2 years' custody</p> <p>Category Range 18 months – 30 months years' custody</p>
Category 2	<p>Starting Point 3 years' custody</p> <p>Category Range 2 – 4 years' custody</p>	<p>Starting Point 18 months' custody</p> <p>Category Range 1 – 2 years' custody</p>	<p>Starting Point 1 year custody</p> <p>Category Range 6 months' – 18 months' custody</p>
Category 3	<p>Starting Point 18 months' custody</p> <p>Category Range 1 – 2 years' custody</p>	<p>Starting Point 1 year custody</p> <p>Category Range 6 months' – 18 months' custody</p>	<p>Starting Point 9 months' custody</p> <p>Category Range 6 - 12 months' custody</p>
Category 4	<p>Starting Point 1 year custody</p> <p>Category Range 6 months' – 18 months' custody</p>	<p>Starting Point 9 months' custody</p> <p>Category Range 6 - 12 months' custody</p>	<p>Starting Point 6 months' custody</p> <p>Category Range High level CO - 9 months' custody</p>

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

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account in assessing culpability

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Offending conducted over a sustained period
- Involvement of others through pressure, influence
- Offender not lawfully present in the UK (unless taken into account at step 1)
- Abuse of position of trust

Factors reducing seriousness or reflecting personal mitigation

- No recent or relevant convictions
- Good character and/or exemplary conduct
- Remorse
- Sole or primary carer for dependent relatives
- Age/lack of maturity
- Mental disorder or learning disability
- Physical disability or serious medical condition requiring urgent, intensive or long-term treatment
- Offender co-operated with investigation, made early admissions and/or voluntarily reported offending
- Limited understanding of scale of activity

STEP THREE

Consider any factors which indicate a reduction for assistance to the prosecution

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

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STEP FIVE

Totality principle

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

STEP SIX

Ancillary orders

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

STEP SEVEN

Reasons

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

STEP EIGHT

Consideration for time spent on bail

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

Possession of false identity documents etc without reasonable excuse

Identity Documents Act 2010 section 6

Triable either way

Maximum: 2 years' imprisonment

Offence range: Band C Fine – 18 Months' custody

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STEP ONE**Determining the offence category**

CULPABILITY	
G-	<ul style="list-style-type: none"> • Possession of multiple documents • Possession of any apparatus, article or material that could be used to make multiple documents
H-	<ul style="list-style-type: none"> • Possession of a single document • Possession of any apparatus, article or material that could be used to make a single document

HARM	
Category 1	<ul style="list-style-type: none"> • Passport, other immigration document, or a document that can be used instead of a passport • Apparatus, article or material is capable of making a passport or other immigration document
Category 2	<ul style="list-style-type: none"> • Driving licence • Apparatus, article or material is capable of making a driving licence

STEP TWO**Starting point and category range**

Harm	Culpability	
	A	B
Category 1	<p>Starting Point 12 months' custody</p> <p>Category Range 9 - 18 months' custody</p>	<p>Starting Point 9 months' custody</p> <p>Category Range 6-12 months' custody</p>
Category 2	<p>Starting Point 6 months' custody</p> <p>Category Range High Level Community Order -9 months' custody</p>	<p>Starting Point High Level Community Order</p> <p>Category Range Band C fine – 6 months custody</p>

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Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Offending conducted over a sustained period
- Offence committed on licence or post sentence supervision
- Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation

- No recent or relevant convictions
- Good character and/or exemplary conduct
- Remorse
- Sole or primary carer for dependent relatives
- Age/lack of maturity
- Mental disorder or learning disability
- Possession due to coercion or intimidation
- Physical disability or serious medical condition requiring urgent, intensive or long-term treatment
- Offender co-operated with investigation, made early admissions and/or voluntarily reported offending

STEP THREE

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