

# Magistrates' Court Sentencing Guidelines

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## **Acknowledgements**

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### **Introduction**

These Sentencing Guidelines cover offences with which magistrates deal regularly and frequently in the adult criminal courts. They provide a sentencing structure which sets out how to:

- establish the seriousness of each case
- determine the most appropriate way of dealing with it.

The Sentencing Guidelines provide a method for considering individual cases and a guideline from which discussion should properly flow; but they are not a tariff and should never be used as such.

**The guideline sentences are based on a first-time offender pleading not guilty.**

### **Using the sentencing structure**

The sentencing structure used for these Guidelines was established by the Criminal Justice Act 1991. This reaffirms the principle of 'just deserts' so that any penalty must reflect the seriousness of the offence for which it is imposed and the personal circumstances of the offender. Magistrates must always start the sentencing process by taking full account of all the circumstances of the offence and making a judicial assessment of the seriousness category into which it falls. It is important that the court makes clear the factual basis on which the sentence is based.

In every case, the Criminal Justice Act 1991 requires sentencers to consider:

- Is discharge or a fine appropriate?
- Is the offence serious enough for a community penalty?
- Is it so serious that only custody is appropriate?

If the last, in either way cases, justices will also need to consider if magistrates' courts' powers are sufficient.

## ***The format of the Sentencing Guidelines***

**1.**

### **CONSIDER THE SERIOUSNESS OF THE OFFENCE**

Magistrates must always make an assessment of seriousness following the structure of the Criminal Justice Act 1991. **The guideline sentences are based on a first-time offender pleading not guilty.**

Where this guideline is discharge or fine, a suggested starting point guideline fine is also given. Refer to the guidance on pages 85–87 and 101–102.

Where the starting point guideline is a community penalty, refer to the guidance on pages 91 and 92.

Where the starting point guideline is custody, think in terms of weeks and credit as appropriate for a timely guilty plea.

For some either way offences the guideline is 'are your sentencing powers sufficient?'. This indicates that magistrates should be considering whether the seriousness of the offence is such that six months (or 12 months in the case of two or more offences) is insufficient, so that the case must be committed to the Crown Court (consult the legal adviser with regard to Crown Court sentencing and guideline cases). If the case is retained in the magistrates' court a substantial custodial sentence is likely to be necessary.

It should be noted that if magistrates consider (say) nine months to be the appropriate sentence, to be reduced for a timely guilty plea to six months, then the case falls within their powers and must be retained. Subject to offender mitigation, six months would appear to be the appropriate sentence. However, if sentence is passed on this basis the court should specifically say so in its reasons.

**2.**

### **CONSIDER AGGRAVATING AND MITIGATING FACTORS**

Make sure that all aggravating and mitigating factors are considered. The lists in the Sentencing Guidelines are neither exhaustive nor a substitute for the personal judgment of magistrates. **Factors which do not appear in the Guidelines may be important in individual cases.**

If the offence was racially or religiously aggravated, the court must treat that fact as an aggravating factor under statute (s.153 of the Powers of Criminal Courts (Sentencing) Act 2000). Refer to page 98 for further guidance.

If the offence was committed while the offender was on bail, the court must treat that as an aggravating factor under statute (s.151 Powers of Criminal Courts (Sentencing) Act 2000).

Consider previous convictions, or any failure to respond to previous sentences, in assessing seriousness. Courts should identify any convictions relevant for this purpose and then consider to what extent they affect the seriousness of the present offence.

3.

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

When an initial assessment of the seriousness of the offence has been formed, consider the offender.

The Guidelines set out some examples of offender mitigation but there are frequently others to be considered in individual cases. Any offender mitigation that the court accepts must lead to some downward revision of the provisional assessment of seriousness, although this revision may be minor. **Remember, however, that the guideline sentences are based on a first-time offender pleading not guilty.**

A previous criminal record may deprive the defendant of being able to say that he is a person of good character.

4.

### CONSIDER YOUR SENTENCE

The law requires the court to consider reducing the sentence for a timely guilty plea. Credit for a timely guilty plea may result in a sentencing reduction of up to one-third but the precise amount of credit will depend upon the facts of each case and a last minute plea of guilty may attract only a minimal reduction.

Credit may be given in respect of the amount of a fine or periods of community service or custody. Periods of mandatory disqualification or mandatory penalty points cannot be reduced for a guilty plea.

5.

### DECIDE YOUR SENTENCE

Remember that magistrates have a duty to consider the award of compensation in all appropriate cases, and to give reasons if compensation is not awarded. See pages 89–90, Section Three.

Agree the form of words that the Chairman will use when announcing sentence.

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*  
**GUIDELINE: → IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**  
*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

Busy public place  
Football related  
Group action  
Injuries caused  
People actually put in fear  
Vulnerable victim(s)  
*This list is not exhaustive*

### for example

Provocation  
Did not start the trouble  
Stopped as soon as the police arrived  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

### for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

# Aggravated vehicle-taking

Theft Act 1968 s.12A as inserted by Aggravated Vehicle-Taking Act 1992  
Triable either way – but in certain cases summarily only – consult legal adviser.  
Penalty: Level 5 and/or 6 months  
Must endorse and disqualify at least 12 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*

**GUIDELINE: → IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

- Competitive driving: racing, showing off
- Disregard of warnings, eg from passengers or others in vicinity
- Group action
- Police pursuit
- Pre-meditated
- Serious injury/damage
- Serious risk
- Trying to avoid detection or arrest
- Vehicle destroyed
- This list is not exhaustive*

### for example

- Passenger only
- Single incident of bad driving
- Speed not excessive
- Very minor injury/damage
- This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

### for example

- Health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level. Consider a reduction for a timely guilty plea. Order a re-test unless good reason not to.*

## DECIDE YOUR SENTENCE

**NB. COMPENSATION** – Give reasons if not awarding compensation.  
*In certain cases this offence is summary only – consult legal adviser.*

Protection of Animals Act 1911 s.1  
Triable only summarily  
Penalty: Level 5 and/or 6 months with powers to deprive ownership of the relevant animal and disqualify from keeping all or any animals

## Animal cruelty

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

*IS DISCHARGE OR FINE APPROPRIATE?*

***GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?***

***IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?***

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

- Adult involving children
- Animal(s) kept for livelihood
- Committed over a period or involving several animals
- Deriving pleasure from torturing or frightening
- Disregarded warnings of others
- Group action
- Offender in position of special responsibility towards the animal
- Premeditated/deliberate
- Prolonged neglect
- Serious injury or death
- Use of weapon
- This list is not exhaustive*

**for example**

- Ignorance of appropriate care
- Impulsive
- Minor injury
- Offender induced by others
- Single incident
- This list is not exhaustive*

***If offender is on bail, this offence is more serious***  
***If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.***

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse

### CONSIDER YOUR SENTENCE

***Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.***  
***Consider a reduction for a timely guilty plea.***  
***Always consider disqualifying the offender from having custody of animals, or depriving him or her of owning the animal concerned.***

### DECIDE YOUR SENTENCE

# Assault – actual bodily harm

Offences Against the Person Act 1861 s.47  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*

**GUIDELINE:** → *IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

- Abuse of trust (domestic setting)
- Deliberate kicking or biting
- Extensive injuries (may be psychological)
- Headbutting
- Group action
- Offender in position of authority
- On hospital/medical or school premises
- Premeditated
- Victim particularly vulnerable
- Victim serving the public
- Weapon
- This list is not exhaustive*

### for example

- Minor injury
- Provocation
- Single blow
- This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

Police Act 1996 s.89  
Triable only summarily  
Penalty: Level 5 and/or 6 months

## Assault on a police officer

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*  
**GUIDELINE: → IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Any injuries caused  
Gross disregard for police authority  
Group action  
Premeditated  
Spitting  
*This list is not exhaustive*

**for example**

Impulsive action  
Unaware that person was a police officer  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

## Breach of a community order

Criminal Justice Act 1991 sch. 2  
A fine – maximum £1,000  
A Community Punishment Order (up to 60 hours)  
In certain circumstances, an Attendance Centre Order  
Revocation of Order and re-sentence for original offence  
Commit a Crown Court Order to be dealt with at Crown Court

### CONSIDER THE EXTENT OF THE BREACH



#### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

No attempt to start the sentence  
Unco-operative  
*This list is not exhaustive*

**for example**

Completed a significant part of the order  
*This list is not exhaustive*

### CONSIDER OFFENDER MITIGATION (including timely admission)

### DECIDE IF THE ORDER SHOULD CONTINUE

**IF THE ORDER SHOULD CONTINUE**

*Is a fine appropriate? (Starting Point B)*

*Is a community punishment order appropriate?*

*Where the order is a community rehabilitation order, is an attendance centre order appropriate?*

*Is a curfew order appropriate?*

**IF THE ORDER SHOULD NOT CONTINUE AND IT IS A MAGISTRATES' COURT ORDER:**

*Revoke and re-sentence for original offence (see relevant guideline)*

**NB. IF THE ORDER WAS MADE BY THE CROWN COURT, MAY FINE AND ALLOW ORDER TO CONTINUE, OR COMMIT TO CROWN COURT TO BE DEALT WITH (CONSULT LEGAL ADVISER)**

Crime and Disorder Act 1998 s.1  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## Breach of anti-social behaviour order

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS FINE APPROPRIATE? (NB. A DISCHARGE IS NOT AVAILABLE FOR THIS OFFENCE)*

*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*

**GUIDELINE:** → *IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Breach of recently imposed order  
Breach amounted to commission of an offence  
Continues the pattern of behaviour the order sought to prohibit  
Group action  
Use of violence, threats, intimidation  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION** – Give reasons if not awarding compensation

# Burglary (dwelling)

Theft Act 1968 s.9  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?  
**GUIDELINE:** → **ARE YOUR SENTENCING POWERS SUFFICIENT?***

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

- Force used or threatened
- Group enterprise
- High value (in economic or sentimental terms) property stolen
- More than minor trauma caused
- Professional planning/organisation/execution
- Significant damage or vandalism
- Victim injured
- Victim present at the time
- Vulnerable victim

*IF ANY of the above factors are present you should commit for sentence.*

### for example

- First offence of its type AND low value property stolen AND no significant damage or disturbance AND no injury or violence
- Minor part played
- Theft from attached garage
- Vacant property

*ONLY if one or more of the above factors are present AND none of the aggravating factors listed are present should you consider NOT committing for sentence.*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER WHETHER THE CASE SHOULD BE COMMITTED FOR SENTENCE, THEN CONSIDER OFFENDER MITIGATION

### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

## CONSIDER COMMITMENT OR YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

Theft Act 1968 s.9  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## Burglary (non-dwelling)

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

- Forcible entry
- Group offence
- Harm to business
- Occupants frightened
- Professional operation
- Repeat victimisation
- School or medical premises
- Soiling, ransacking, damage
- This list is not exhaustive*

**for example**

- Low value
- Nobody frightened
- No damage or disturbance
- This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

# Common assault

Criminal Justice Act 1988 s.39  
Triable only summarily  
Penalty: Level 5 and/or 6 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE:** → **IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

- Abuse of trust (domestic setting)
- Group action
- Injury
- Offender in position of authority
- On hospital/medical or school premises
- Premeditated
- Spitting
- Victim particularly vulnerable
- Victim serving the public
- Weapon

*This list is not exhaustive*

### for example

- Impulsive
- Minor injury
- Provocation
- Single blow

*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

Criminal Damage Act 1971 s.1  
Triable either way or summarily only. Consult  
legal adviser  
Penalty: Either way – Level 5 and/or 6 months  
Summarily – Level 4 and/or 3 months

## Criminal damage

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

**GUIDELINE:** → **IS DISCHARGE OR FINE APPROPRIATE?**  
**IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
**IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**  
**ARE YOUR SENTENCING POWERS SUFFICIENT?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

### GUIDELINE FINE – STARTING POINT C



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Deliberate  
Group offence  
Serious damage  
Targeting  
Vulnerable victim  
*This list is not exhaustive*

for example

Impulsive action  
Minor damage  
Provocation  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

# Disorderly behaviour

Public Order Act 1986 s.5  
Triable only summarily  
Penalty: Level 3

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

**GUIDELINE:** → **IS DISCHARGE OR FINE APPROPRIATE?**  
**IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
(COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY  
AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

## GUIDELINE FINE – STARTING POINT B



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Football related  
Group action  
Vulnerable victim  
*This list is not exhaustive*

**for example**

Stopped as soon as police arrived  
Trivial incident  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

Public Order Act 1986 s.4A  
Triable only summarily  
Penalty: Level 5 and/or 6 months

## Disorderly behaviour with intent to cause harassment, alarm or distress

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Football related  
Group action  
High degree of planning  
Night time offence  
Victims specifically targeted  
Weapon  
*This list is not exhaustive*

**for example**

Short duration  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

# Drugs: Class A – possession

Misuse of Drugs Act 1971 s.5  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE

*IS DISCHARGE OR FINE APPROPRIATE?*  
**GUIDELINE:** → **IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*  
*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

An amount other than a very small quantity  
*This list is not exhaustive*

### for example

Very small quantity  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious*  
*If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

### for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.*  
*Consider a reduction for a timely guilty plea. Consider forfeiture and destruction.*

## DECIDE YOUR SENTENCE

Misuse of Drugs Act 1971 s.4  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## Drugs: Class A – production, supply

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*  
**GUIDELINE: → ARE YOUR SENTENCING POWERS SUFFICIENT?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Commercial production  
Deliberate adulteration  
Quantity  
Sophisticated operation  
Supply to children  
Venue, eg prisons, educational  
establishments  
*This list is not exhaustive*

**for example**

Small amount  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER WHETHER THE CASE SHOULD BE COMMITTED FOR SENTENCE, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse

### CONSIDER COMMITMENT OR YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea. Consider forfeiture and destruction.*

### DECIDE YOUR SENTENCE

## Drugs: Class B and C – possession

Misuse of Drugs Acts 1971 s.5  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 4 and/or 3 months

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE:** → **IS DISCHARGE OR FINE APPROPRIATE?**  
**IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
**IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**  
**ARE YOUR SENTENCING POWERS SUFFICIENT?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

### GUIDELINE FINE – STARTING POINT B



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example  
Large amount  
*This list is not exhaustive*

for example  
Small amount  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example  
Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea. Consider forfeiture and destruction.*

### DECIDE YOUR SENTENCE

Misuse of Drugs Act 1971 s.4  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

**Drugs: Class B and C – supply,  
possession with intent to supply**

**CONSIDER THE SERIOUSNESS OF THE OFFENCE  
(INCLUDING THE IMPACT ON THE VICTIM)**

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*  
**GUIDELINE: → ARE YOUR SENTENCING POWERS SUFFICIENT?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



**CONSIDER AGGRAVATING AND MITIGATING FACTORS  
AND THE WEIGHT TO ATTACH TO EACH**



**for example**

Commercial supply  
Deliberate adulteration  
Large amount  
Sophisticated operation  
Supply to children  
Venue, eg prisons, educational  
establishments  
*This list is not exhaustive*

**for example**

No commercial motive  
Small amount  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

**TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER  
WHETHER THE CASE SHOULD BE COMMITTED FOR SENTENCE,  
THEN CONSIDER OFFENDER MITIGATION**

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse

**CONSIDER COMMITMENT OR YOUR SENTENCE**

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea. Consider forfeiture and destruction.*

**DECIDE YOUR SENTENCE**

## Drugs: Cultivation of cannabis

Misuse of Drugs Act 1971 s.6  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Commercial cultivation  
Large quantity  
Use of sophisticated system  
*This list is not exhaustive*

for example

For personal use  
Not responsible for planting  
Small scale cultivation  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea. Consider forfeiture and destruction.*

### DECIDE YOUR SENTENCE

## CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE:** →

**IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
(COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY  
AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

## GUIDELINE FINE – STARTING POINT A



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Offensive language or behaviour  
On hospital/medical or school premises  
On public transport  
With group  
*This list is not exhaustive*

for example

Induced by others  
No significant disturbance  
Not threatening  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

# Evasion of duty

Customs and Excise Management Act 1979 s.170  
Triable either way – see Mode of Trial Guidelines  
Penalty: 6 months and/or £5000/or 3 times the  
value of the goods (whichever is the greater)

## CONSIDER THE SERIOUSNESS OF THE OFFENCE

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

- Abuse of power (eg use of children/  
vulnerable adults)
- Offender is Customs/Police Officer
- Playing an organisational role
- Professional operation
- Repeated imports over a period of time
- Substantial amount of duty evaded
- Threats of violence
- Two or more types of goods
- Warning previously given
- This list is not exhaustive*

for example

- Co-operation with authorities
- No evidence of pre-planning
- Small amounts of duty evaded
- Under pressure from others to commit  
offence
- This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

- Age, health (physical or mental)
- Co-operation with authorities
- Evidence of genuine remorse
- Voluntary restitution

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea. Consider forfeiture.*

## DECIDE YOUR SENTENCE

**NB.** *The guideline above approximates to a low level offender with duty  
evaded in the region of £1000 to £10000. Restitution should be made.  
For offences above this level seek advice from legal adviser.*

Bail Act 1976 s.6  
Triable only summarily  
Penalty: Level 5 and/or 3 months

## Failure to surrender to bail

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE:** → **IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

- Leaves jurisdiction
- Long term evasion
- Results in ineffective trial date
- Wilful evasion
- This list is not exhaustive*

for example

- Appears late on day of hearing
- Genuine misunderstanding
- Voluntary surrender
- This list is not exhaustive*

*A curfew order may be particularly suitable*

*Previous convictions for this offence increase the seriousness – consider custody*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

## Football-related offences: being drunk in, or whilst trying to enter ground

Sporting Events (Control of Alcohol etc)  
Act 1985 s.2(2)  
Triable only summarily  
Penalty: Level 2

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE:** →

**IS DISCHARGE OR FINE APPROPRIATE?**

*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*

*(NB. COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY  
AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

### GUIDELINE FINE – STARTING POINT A



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Group action  
Offensive language/behaviour used  
*This list is not exhaustive*

for example

No significant disturbance  
Not threatening  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**MUST CONSIDER IMPOSING A BANNING ORDER  
IF NO BANNING ORDER IS MADE, COURT MUST GIVE REASONS  
Seek advice from the legal adviser**

Football (Offences) Act 1991 s.4  
Triable only summarily  
Penalty: Level 3

**Football-related offences:  
going onto playing area or  
adjacent area to which  
spectators are not admitted**

## CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE: →**

**IS DISCHARGE OR FINE APPROPRIATE?**

**IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

**(NB. COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY  
AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)**

**THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY**

## GUIDELINE FINE – STARTING POINT A



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Being drunk  
Deliberate provocative act  
Inciting others  
*This list is not exhaustive*

***If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.***

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse

## CONSIDER YOUR SENTENCE

***Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.***

## DECIDE YOUR SENTENCE

***MUST CONSIDER IMPOSING A BANNING ORDER  
IF NO BANNING ORDER IS MADE, COURT MUST GIVE REASONS  
Seek advice from the legal adviser***

# Football-related offences: possession of liquor whilst entering or trying to enter the ground

Sporting Events (Control of Alcohol etc)  
Act 1985 s.2(1)  
Triable only summarily  
Penalty: Level 3 and/or 3 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE:** →

**IS DISCHARGE OR FINE APPROPRIATE?**  
**IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
**IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

## GUIDELINE FINE – STARTING POINT B



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Concealed  
Group action  
High alcoholic-content liquor  
Large amount of alcohol  
Offensive language/behaviour used  
*This list is not exhaustive*

for example

Low alcoholic-content liquor  
Small amount of alcohol  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**MUST CONSIDER IMPOSING A BANNING ORDER**  
**IF NO BANNING ORDER IS MADE, COURT MUST GIVE REASONS**  
*Seek advice from the legal adviser*

Football (Offences) Act 1991 s.2  
Triable only summarily  
Penalty: Level 3

## Football-related offences: throwing missiles

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE:** →

**IS DISCHARGE OR FINE APPROPRIATE?**

**IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

**(NB. COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY  
AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

### GUIDELINE FINE – STARTING POINT B



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Object likely to cause injury (eg coin,  
glass bottle, stone)  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**MUST CONSIDER IMPOSING A BANNING ORDER  
IF NO BANNING ORDER IS MADE, COURT MUST GIVE REASONS  
Seek advice from the legal adviser**

# Football-related offences: unauthorised sale or attempted sale of ticket

Criminal Justice and Public Order Act 1994 s.166  
Triable only summarily  
Penalty: Level 5

## CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE: →**      **IS DISCHARGE OR FINE APPROPRIATE?**  
**IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
(NB. COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY  
AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

## GUIDELINE FINE – STARTING POINT B



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Commercial operation  
Counterfeit tickets  
In possession of a large number of tickets/  
potential high value  
Sophisticated operation  
*This list is not exhaustive*

**for example**

Single ticket  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**MUST CONSIDER IMPOSING A BANNING ORDER**  
**IF NO BANNING ORDER IS MADE, COURT MUST GIVE REASONS**  
*Seek advice from the legal adviser*

Theft Act 1968 s.25  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months  
May disqualify where committed with reference  
to the theft or taking of a vehicle

**Going equipped  
for theft etc.**

## CONSIDER THE SERIOUSNESS OF THE OFFENCE

*IS DISCHARGE OR FINE APPROPRIATE?*  
**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*  
*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Group action  
Number of items  
People put in fear  
Sophisticated  
Specialised equipment  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea. Consider forfeiture and destruction.*

## DECIDE YOUR SENTENCE

# Handling stolen goods

Theft Act 1968 s.22  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

- High level of profit accruing to handler
- High value (including sentimental) of goods
- Provision by handler of regular outlet for stolen goods
- Proximity of the handler to the primary offence
- Seriousness of the primary offence
- Sophistication
- The particular facts, eg the goods handled were the proceeds of a domestic burglary
- Threats of violence or abuse of power by handler in order to obtain goods

*This list is not exhaustive*

for example

- Isolated offence
- Little or no benefit accruing to handler
- Low monetary value of goods

*This list is not exhaustive*

***If offender is on bail, this offence is more serious***  
***If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.***

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

## CONSIDER YOUR SENTENCE

***Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.***  
***Consider a reduction for a timely guilty plea.***

## DECIDE YOUR SENTENCE

***NB. COMPENSATION – Give reasons if not awarding compensation***

Protection from Harassment Act 1997 s.4  
Triable either way  
Penalty: Level 5 and/or 6 months  
Consider making a restraining order

## Harassment

Conduct causing fear of violence

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*  
*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*  
**GUIDELINE:** → *IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*  
*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

- Disregard of warning
- Excessive persistence
- Interference with employment/business
- Invasion of victim's home
- Involvement of others
- Threat to use weapon or substance  
(including realistic imitations)
- Use of violence or grossly offensive material
- Where photographs or images of a personal nature are involved

*This list is not exhaustive*

**for example**

- Initial provocation
- Short duration

*This list is not exhaustive*

*If offender is on bail, this offence is more serious*  
*If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.*  
*Consider a reduction for a timely guilty plea.*  
*Restraining order – consider making an order in addition to the sentence to protect the victim or any named person from further conduct which would amount to harassment, or which would cause the fear of violence.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

# Harassment

## Conduct causing harassment

Protection from Harassment Act 1997 s.2  
Triable only summarily  
Penalty: Level 5 and/or 6 months  
Consider making a restraining order

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



#### for example

- Disregard of warning
- Excessive persistence
- Interference with employment/business
- Invasion of victim's home
- Involvement of others
- Use of violence or grossly offensive material
- Where photographs or images of a personal nature are involved

*This list is not exhaustive*

#### for example

- Initial provocation
- Short duration

*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

#### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.*

*Consider a reduction for a timely guilty plea.*

*Restraining order – consider making an order in addition to the sentence to protect the victim or any named person from further conduct which would amount to harassment.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

Sexual Offences Act 1956 ss.14&15  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months  
Entry in Sex Offender's Register (consult legal adviser)

## Indecent assault

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
GUIDELINE: → IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?  
ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Age differential  
Breach of trust  
Injury (may be psychological)  
Prolonged assault  
Very young victim  
Victim deliberately targeted  
Victim serving the public  
Vulnerable victim  
*This list is not exhaustive*

**for example**

Slight contact  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.  
Entry in Sex Offender's Register (consult legal adviser).*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

## Indecent photographs etc.

Protection of Children Act 1978 s.1(1)  
Criminal Justice Act 1988 s.160(1)  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months  
Entry in Sex Offender's Register  
(consult legal adviser)

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

**GUIDELINE:** →

**ARE YOUR SENTENCING POWERS SUFFICIENT?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



#### for example

- Abuse of trust
- Commercial gain
- Involvement in production
- Large number of images
- Particularly young or vulnerable children

*This list is not exhaustive*

#### for example

- Images at the lowest categories of COPINE\*  
(seek advice from the legal adviser)
- One photograph only
- Possession for own use
- Pseudo images

*This list is not exhaustive*

*\*The COPINE (Combating Paedophile Information Networks in Europe) Project was founded in 1997, and is based in the Department of Applied Psychology, University College Cork, Ireland*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER WHETHER THE CASE SHOULD BE COMMITTED FOR SENTENCE, THEN CONSIDER OFFENDER MITIGATION

#### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

### CONSIDER COMMITTAL OR YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level. Consider a reduction for a timely guilty plea. Consider forfeiture and destruction. Entry in Sex Offender's Register (consult legal adviser).*

### DECIDE YOUR SENTENCE

Theft Act 1978 s.3  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## Making off without payment

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

**GUIDELINE:** →

**IS DISCHARGE OR FINE APPROPRIATE?**  
*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*  
*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*  
**ARE YOUR SENTENCING POWERS SUFFICIENT?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

### GUIDELINE FINE – STARTING POINT B



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Deliberate plan  
High value  
Two or more involved  
Victim particularly vulnerable  
*This list is not exhaustive*

for example

Impulsive action  
Low value  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

# Obstructing a police officer

Police Act 1996 s.89(2)  
Triable only summarily  
Penalty: Level 3 and/or 1 month

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

**GUIDELINE:** → **IS DISCHARGE OR FINE APPROPRIATE?**  
*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*  
*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

## GUIDELINE FINE – STARTING POINT B



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Attempt to impede arrest  
Group action  
Premeditated  
*This list is not exhaustive*

for example

Genuine misjudgement  
Impulsive action  
Minor obstruction  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Age, health (physical or mental)  
Subsequent co-operation with police  
Evidence of genuine remorse

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

Theft Act 1968 s.15  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## Obtaining by deception

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Committed over lengthy period  
Large sums or valuable goods  
Two or more involved  
Use of stolen credit/debit card, cheque  
books, or giro  
Victim particularly vulnerable  
*This list is not exhaustive*

**for example**

Impulsive action  
Short period  
Small sum  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

# Possession of a bladed instrument

Criminal Justice Act 1988 s.139  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*

**GUIDELINE:** → *IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

- Group action or joint possession
- Location of offence
- Offender under influence of drink or drugs
- People put in fear/weapon brandished
- Planned use
- Very dangerous weapon

*This list is not exhaustive*

### for example

- Acting out of genuine fear
- Carried only on a temporary basis
- No attempt to use
- Not premeditated

*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level. Consider a reduction for a timely guilty plea. Consider forfeiture and destruction.*

## DECIDE YOUR SENTENCE

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*

**GUIDELINE: → IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

- Group action or joint possession
- Location of offence
- Offender under influence of drink or drugs
- People put in fear/weapon brandished
- Planned use
- Very dangerous weapon
- This list is not exhaustive*

### for example

- Acting out of genuine fear
- Carried only on a temporary basis
- No attempt to use
- Not premeditated
- This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level. Consider a reduction for a timely guilty plea. Consider forfeiture and destruction.*

## DECIDE YOUR SENTENCE

# Racially or religiously aggravated assault – actual bodily harm

Offences Against the Person Act 1861 s.47  
Crime and Disorder Act 1998 s.29  
Anti-Terrorism, Crime and Security Act 2001  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

**GUIDELINE: → ARE YOUR SENTENCING POWERS SUFFICIENT?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

- Deliberate kicking or biting
- Extensive injuries (may be psychological)
- Group action
- Headbutting
- Motivation** for the offence was racial or religious
- Offender in position of authority
- On hospital/medical or school premises
- Premeditated
- Setting out to humiliate the victim
- Victim particularly vulnerable
- Victim serving the public
- Weapon

*This list is not exhaustive*

### for example

- Minor injury
- Provocation
- Single blow

*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER WHETHER THE CASE SHOULD BE COMMITTED FOR SENTENCE, THEN CONSIDER OFFENDER MITIGATION

### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

## CONSIDER COMMITTAL OR YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

Criminal Justice Act 1988 s.39  
Crime and Disorder Act 1998 s.29  
Anti-Terrorism, Crime and Security Act 2001  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## Racially or religiously aggravated common assault

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*

**GUIDELINE: → IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



#### for example

Group action  
Injury  
**Motivation** for the offence was racial or religious  
Offender in position of authority  
On hospital/medical or school premises  
Premeditated  
Setting out to humiliate the victim  
Victim particularly vulnerable  
Victim serving the public  
Weapon  
*This list is not exhaustive*

#### for example

Impulsive  
Minor injury  
Provocation  
Single blow  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

#### for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

## Racially or religiously aggravated criminal damage

Criminal Damage Act 1971 s.1  
Crime and Disorder Act 1998 s.30  
Anti-Terrorism, Crime and Security Act 2001  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE:** → **IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Deliberate  
Group offence  
**Motivation** for the offence was racial or religious  
Serious damage  
Setting out to humiliate the victim  
Vulnerable victim  
*This list is not exhaustive*

for example

Impulsive action  
Minor damage  
Provocation  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

Public Order Act 1986 s.5  
Crime and Disorder Act 1998 s.31  
Anti-Terrorism, Crime and Security Act 2001  
Triable only summarily  
Penalty: Level 4

## Racially or religiously aggravated disorderly behaviour

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE:** → **IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
(COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Group action  
**Motivation** for the offence was racial or religious  
Setting out to humiliate the victim  
Vulnerable victim  
*This list is not exhaustive*

for example

Stopped as soon as police arrived  
Trivial incident  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

**Racially or religiously aggravated disorderly behaviour with intent to cause harassment, alarm or distress**

Public Order Act 1986 s.4A  
 Crime and Disorder Act 1998 s.31  
 Anti-Terrorism, Crime and Security Act 2001  
 Triable either way –  
 see Mode of Trial Guidelines  
 Penalty: Level 5 and/or 6 months

**CONSIDER THE SERIOUSNESS OF THE OFFENCE  
 (INCLUDING THE IMPACT ON THE VICTIM)**

*IS DISCHARGE OR FINE APPROPRIATE?  
 IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
**GUIDELINE:** → **IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**  
 ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



**CONSIDER AGGRAVATING AND MITIGATING FACTORS  
 AND THE WEIGHT TO ATTACH TO EACH**



for example

- Football related
- Group action
- High degree of planning
- Motivation** for the offence was racial or religious
- Night time offence
- Setting out to humiliate the victim
- Victims specifically targeted
- Weapon
- This list is not exhaustive*

for example

- Single incident
- This list is not exhaustive*

*If offender is on bail, this offence is more serious  
 If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

**TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN  
 CONSIDER OFFENDER MITIGATION**

for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

**CONSIDER YOUR SENTENCE**

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
 Consider a reduction for a timely guilty plea.*

**DECIDE YOUR SENTENCE**

**NB. COMPENSATION – Give reasons if not awarding compensation**

Protection from Harassment Act 1997 s.4  
Crime and Disorder Act 1998 s.32  
Anti-Terrorism, Crime and Security Act 2001  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months  
Consider making a restraining order

## Racially or religiously aggravated harassment

Conduct causing fear of violence

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

**GUIDELINE:** → **ARE YOUR SENTENCING POWERS SUFFICIENT?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Disregard of warning  
Excessive persistence  
Interference with employment/business  
Invasion of victim's home  
Involvement of others  
**Motivation** for the offence was racial or religious  
Setting out to humiliate the victim  
Threat to use weapon or substance (including realistic imitations)  
Use of violence or grossly offensive material  
Where photographs or images of a personal nature are involved  
*This list is not exhaustive*

**for example**

Initial provocation  
Short duration  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER WHETHER THE CASE SHOULD BE COMMITTED FOR SENTENCE, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER COMMITTAL OR YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.  
Restraining order – consider making an order in addition to the sentence to protect the victim or any named person from further conduct which would amount to harassment, or which would cause the fear of violence.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

**Racially or religiously aggravated harassment**  
**Conduct causing harassment**

Protection from Harassment Act 1997 s.2  
 Crime and Disorder Act 1998 s.32  
 Anti-Terrorism, Crime and Security Act 2001  
 Triable either way – see Mode of Trial Guidelines  
 Penalty: Level 5 and/or 6 months  
 Consider making a restraining order

**CONSIDER THE SERIOUSNESS OF THE OFFENCE**  
**(INCLUDING THE IMPACT ON THE VICTIM)**

*IS DISCHARGE OR FINE APPROPRIATE?*  
*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*  
**GUIDELINE: → IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**  
*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



**CONSIDER AGGRAVATING AND MITIGATING FACTORS**  
**AND THE WEIGHT TO ATTACH TO EACH**



**for example**

Disregard of warning  
 Excessive persistence  
 Interference with employment/business  
 Invasion of victim's home  
 Involvement of others  
**Motivation** for the offence was racial or religious  
 Setting out to humiliate the victim  
 Use of violence or grossly offensive material  
 Where photographs or images of a personal nature are involved  
*This list is not exhaustive*

**for example**

Initial provocation  
 Short duration  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious*  
*If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

**TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN**  
**CONSIDER OFFENDER MITIGATION**

**for example**

Age, health (physical or mental)  
 Co-operation with police  
 Evidence of genuine remorse  
 Voluntary compensation

**CONSIDER YOUR SENTENCE**

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.*  
*Consider a reduction for a timely guilty plea.*  
*Restraining order – consider making an order in addition to the sentence to protect the victim or any named person from further conduct which would amount to harassment.*

**DECIDE YOUR SENTENCE**

**NB. COMPENSATION – Give reasons if not awarding compensation**

Public Order Act 1986 s.4  
Crime and Disorder Act 1998 s.32  
Anti-Terrorism, Crime and Security Act 2001  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## Racially or religiously aggravated threatening behaviour

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*  
**GUIDELINE: → IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**  
*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Group action  
**Motivation** for the offence was racial or religious  
On hospital/medical or school premises  
People put in fear  
Setting out to humiliate the victim  
Victim serving the public  
Vulnerable victim  
*This list is not exhaustive*

**for example**

Minor matter  
Short duration  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

## Racially or religiously aggravated wounding – grievous bodily harm

Offences Against the Person Act 1861 s.20  
Crime and Disorder Act 1998 s.29  
Anti-Terrorism, Crime and Security Act 2001  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

**GUIDELINE:** →

**ARE YOUR SENTENCING POWERS SUFFICIENT?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

- Deliberate kicking/biting
- Extensive injuries
- Group action
- Motivation** for the offence was racial or religious
- Offender in position of authority
- On hospital/medical or school premises
- Premeditated
- Setting out to humiliate the victim
- Victim particularly vulnerable
- Victim serving the public
- Weapon
- This list is not exhaustive*

**for example**

- Minor wound
- Provocation
- This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER WHETHER THE CASE SHOULD BE COMMITTED FOR SENTENCE, THEN CONSIDER OFFENDER MITIGATION

**for example**

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

### CONSIDER COMMITMENT OR YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

## CONSIDER THE SERIOUSNESS OF THE OFFENCE

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Harmful effect on other children in the family  
Lack of parental effort to ensure attendance  
Parental collusion  
Threats to teachers, pupils and/or officials  
*This list is not exhaustive*

**for example**

Physical or mental health of child  
Substantiated history of bullying, drugs etc.  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with the Education Authority  
Evidence of genuine remorse

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.  
Consider a parenting order where appropriate.*

## DECIDE YOUR SENTENCE

*Prosecutions under s.444 are penalty level 3 only – consult legal adviser.*

## Social Security – false representation to obtain benefit

Social Security Act 1992 s.112  
Triable only summarily  
Penalty: Level 5 and/or 3 months

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

*IS DISCHARGE OR FINE APPROPRIATE?*

***GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?***

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



#### for example

- Claim fraudulent from the start
- Fraudulent claims over a long period
- Large amount
- Organised group offence
- Planned deception
- This list is not exhaustive*

#### for example

- Misunderstanding of regulations
- Pressurised by others
- Small amount
- This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

#### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

***NB. COMPENSATION – Give reasons if not awarding compensation***

Theft Act 1968 s.12  
Triable only summarily  
Penalty: Level 5 and/or 6 months  
May disqualify

## Taking vehicle without consent

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Group action  
Premeditated  
Related damage  
Professional hallmarks  
Vulnerable victim  
*This list is not exhaustive*

for example

Misunderstanding with owner  
Soon returned  
Vehicle belonged to family or friend  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

# Theft

Theft Act 1968 s.1  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months  
May disqualify where committed with reference to the theft or taking of a vehicle

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE:** → **IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

High value  
Planned  
Sophisticated  
Adult involving children  
Organised team  
Related damage  
Vulnerable victim  
*This list is not exhaustive*

for example

Impulsive action  
Low value  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

Theft Act 1968 s.1  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## Theft in breach of trust

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*  
**GUIDELINE: → IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**  
*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



#### for example

- Casting suspicion on others
- Committed over a period
- High value
- Organised team
- Planned
- Senior employee
- Sophisticated
- Vulnerable victim
- This list is not exhaustive*

#### for example

- Impulsive action
- Low value
- Previous inconsistent attitude by employer
- Single item
- Unsupported junior
- This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

#### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

# Threatening behaviour

Public Order Act 1986 s.4  
Triable only summarily  
Penalty: Level 5 and/or 6 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE:** → **IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

- Football related
- Group action
- On hospital/medical or school premises
- People put in fear
- Victim serving the public
- Vulnerable victim

*This list is not exhaustive*

### for example

- Minor matter
- Short duration

*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

## CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

**CONSIDER THE SERIOUSNESS OF THE OFFENCE**

**GUIDELINE: →**

**IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
(COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY  
AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

**GUIDELINE FINE – STARTING POINT A**



**CONSIDER AGGRAVATING AND MITIGATING FACTORS  
AND THE WEIGHT TO ATTACH TO EACH**



**for example**

Failure to respond to payment  
opportunities  
*This list is not exhaustive*

**for example**

Accidental oversight  
Confusion of responsibility  
Licence immediately obtained  
Very short unlicensed use  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

**TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN  
CONSIDER OFFENDER MITIGATION**

**for example**

Age, health (physical or mental)

**CONSIDER YOUR SENTENCE**

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

**DECIDE YOUR SENTENCE**

## Vehicle interference

Criminal Attempts Act 1981 s.9  
Triable only summarily  
Penalty: Level 4 and/or 3 months

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE:** → **IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Disabled passenger vehicle  
Emergency service vehicle  
Group action  
Planned  
Related damage  
*This list is not exhaustive*

**for example**

Impulsive action  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

Public Order Act 1986 s.2  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## Violent disorder

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

**GUIDELINE: →** *ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Busy public place  
Fighting between rival groups  
Large group  
People in fear  
Planned  
Vulnerable victims  
Weapon  
*This list is not exhaustive*

**for example**

Impulsive  
Provocation  
*This list is not exhaustive*

*If racially or religiously aggravated, or offender is on bail, this offence is more serious. If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER WHETHER THE CASE SHOULD BE COMMITTED FOR SENTENCE, THEN CONSIDER OFFENDER MITIGATION

**for example**

Age, health (physical or mental)  
Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER COMMITTAL OR YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

# Wounding – grievous bodily harm

Offences Against the Person Act 1861 s.20  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months

## CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?  
ARE YOUR SENTENCING POWERS SUFFICIENT?*

**GUIDELINE:** →

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



## CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



### for example

- Abuse of trust (domestic setting)
- Deliberate kicking/biting
- Extensive injuries
- Group action
- Offender in position of authority
- On hospital/medical or school premises
- Premeditated
- Prolonged assault
- Victim particularly vulnerable
- Victim serving the public
- Weapon

*This list is not exhaustive*

### for example

- Minor wound
- Provocation

*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

## TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER WHETHER THE CASE SHOULD BE COMMITTED FOR SENTENCE, THEN CONSIDER OFFENDER MITIGATION

### for example

- Age, health (physical or mental)
- Co-operation with police
- Evidence of genuine remorse
- Voluntary compensation

## CONSIDER COMMITTAL OR YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

## DECIDE YOUR SENTENCE

**NB. COMPENSATION – Give reasons if not awarding compensation**

Road Traffic Act 1988 s.3  
Triable only summarily  
Penalty: Level 4  
Must endorse (3-9 points OR may disqualify)

## Careless driving

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

***GUIDELINE:*** →

***IS DISCHARGE OR FINE APPROPRIATE?  
IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?  
(COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY  
AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)***

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

### ***GUIDELINE FINE – STARTING POINT B***



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Excessive speed  
High degree of carelessness  
Serious risk  
Using a hand-held mobile telephone  
*This list is not exhaustive*

**for example**

Minor risk  
Momentary lapse  
Negligible/parking damage  
Sudden change in weather conditions  
*This list is not exhaustive*

*Death, serious injury or damage is capable of being aggravation*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Endorse (3-9 points OR period of disqualification)  
Consider other measures (including disqualification until test passed if appropriate –  
for example, age, infirmity or medical condition)  
Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

## Dangerous driving

Road Traffic Act 1988 s.2  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5 and/or 6 months  
Must endorse and disqualify at least 12 months  
Must endorse (3-11 points) if not disqualified  
**MUST ORDER EXTENDED RE-TEST**

### CONSIDER THE SERIOUSNESS OF THE OFFENCE (INCLUDING THE IMPACT ON THE VICTIM)

*IS DISCHARGE OR FINE APPROPRIATE?*

*IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?*

***GUIDELINE: → IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?***

*ARE YOUR SENTENCING POWERS SUFFICIENT?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



#### for example

Avoiding detection or apprehension  
Competitive driving, racing, showing off  
Disregard of warnings, eg from passengers  
or others in vicinity  
Evidence of alcohol or drugs  
Excessive speed  
Police pursuit  
Prolonged, persistent, deliberate bad driving  
Serious risk  
Using a mobile telephone  
*This list is not exhaustive*

#### for example

Emergency  
Speed not excessive  
*This list is not exhaustive*

*Serious injury or damage is capable of being aggravation*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

#### for example

Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

*Endorse licence and disqualify at least 12 months unless special reasons apply.  
**MUST ORDER EXTENDED RE-TEST.***

*Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

Road Traffic Act 1988 s.103  
Triable only summarily  
Penalty: Level 5 and/or 6 months  
Must endorse: (6 points OR may disqualify again)

## Driving whilst disqualified

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE:** → **IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Driver has never past a test  
Driving for remuneration  
Efforts to avoid detection  
Long distance driven  
Planned, long term evasion  
Recent disqualification  
*This list is not exhaustive*

**for example**

Emergency established  
Full period expired but test not re-taken  
Short distance driven  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Co-operation with police  
Evidence of genuine remorse

### CONSIDER YOUR SENTENCE

*Endorse (6 points OR period of disqualification)  
Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

## Excess alcohol (drive or attempt to drive)

Road Traffic Act 1988 s.5(1)(a)  
Penalty: Level 5 and/or 6 months  
Triable only summarily  
Must endorse and disqualify **at least** 12 months:  
disqualify at least 36 months for a further  
offence within 10 years

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

*THE LEVEL OF SERIOUSNESS AND GUIDELINE SENTENCE ARE RELATED TO THE BREATH/BLOOD/URINE LEVEL*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



#### for example

Ability to drive seriously impaired  
Caused injury/fear/damage  
Police pursuit  
Evidence of nature of the driving  
Type of vehicle, eg carrying passengers for  
reward/large goods vehicle  
High reading (and in combination with  
above)  
*This list is not exhaustive*

#### for example

Emergency  
Moving a vehicle a very short distance  
Spiked drinks  
*This list is not exhaustive*

***If offender is on bail, this offence is more serious***  
***If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.***

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

#### for example

Co-operation with police

### CONSIDER YOUR SENTENCE

***Offer a rehabilitation course.***  
***Compare your decision with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.***  
***Consider a reduction for a timely guilty plea.***

### DECIDE YOUR SENTENCE

BREATH	BLOOD	URINE	DISQUALIFY NOT LESS THAN	GUIDELINE
36-55	80-125	107-170	12 months	B
56-70	126-160	171-214	16 months	C
71-85	161-195	215-260	20 months	C
86-100	196-229	261-308	24 months	CONSIDER COMMUNITY PENALTY
101-115	230-264	309-354	28 months	
116-130	265-300	355-400	32 months	CONSIDER CUSTODY
131+	301+	401+	36 months	

Road Traffic Act 1988 s.170(4)  
Triable only summarily  
Penalty: Level 5 and/or 6 months  
Must endorse: (5-10 points OR disqualify)

## Failing to stop Failing to report

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE:** →

**IS DISCHARGE OR FINE APPROPRIATE?**  
**IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
**IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

### GUIDELINE FINE – STARTING POINT C



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

Evidence of drinking or drugs  
Serious injury  
Serious damage  
*This list is not exhaustive*

for example

Believed identity to be known  
Failed to stop but reported  
Genuine fear of retaliation  
Negligible damage  
No one at scene but failed to report  
Stayed at scene but failed to give/left  
before giving full particulars  
*This list is not exhaustive*

***If offender is on bail, this offence is more serious***  
***If offender has previous convictions, their relevance and any failure to respond to previous sentences should be considered – they may increase the seriousness. The court should make it clear, when passing sentence, that this was the approach adopted.***

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Co-operation with police  
Evidence of genuine remorse  
Voluntary compensation

### CONSIDER YOUR SENTENCE

***Endorse (5-10 points OR period of disqualification)***  
***Compare it with the suggested guideline level of sentence and reconsider your reasons carefully if you have chosen a sentence at a different level.***  
***Consider a reduction for a timely guilty plea.***

### DECIDE YOUR SENTENCE

## Fraudulent use etc. Vehicle excise licence etc.

Vehicle Excise and Registration Act 1994 s.44  
Triable either way – see Mode of Trial Guidelines  
Penalty: Level 5

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE: →**                    **IS DISCHARGE OR FINE APPROPRIATE?**  
   **IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**  
   **(COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY**  
   **AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)**  
   **ARE YOUR SENTENCING POWERS SUFFICIENT?**

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*

### GUIDELINE FINE – STARTING POINT B



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Bought fraudulently  
Deliberately planned  
Disc forged or altered  
Long term defrauding  
LGV, HGV, PCV, PSV, taxi or private hire  
vehicle  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Co-operation with police  
Evidence of genuine remorse

### CONSIDER YOUR SENTENCE

*Compare it with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

Road Traffic Act 1988 s.143  
Triable only summarily  
Penalty: Level 5  
Must endorse (6-8 points OR may disqualify)

## No insurance

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE: →**

**IS DISCHARGE OR FINE APPROPRIATE?**

**IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

**(COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY  
AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)**

**THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY**

### GUIDELINE FINE – STARTING POINT B



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Defective vehicle  
Deliberate driving without insurance  
Driver has never passed a test  
Gave false details  
LGV, HGV, PCV, PSV or taxi or private hire  
vehicle  
No reference to insurance ever having  
been held  
*This list is not exhaustive*

**for example**

Accidental oversight  
Genuine mistake  
Responsibility for providing insurance  
resting with another – the parent/  
owner/lender/hirer  
Smaller vehicle, eg moped  
*This list is not exhaustive*

***If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.***

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Difficult domestic circumstances  
Evidence of genuine remorse

### CONSIDER YOUR SENTENCE

***Endorse licence.***

***Consider the option of a short period of disqualification  
where there are aggravating factors.***

***Compare your decision with the suggested guideline level of sentence and reconsider  
your reasons carefully if you have chosen a sentence at a different level.***

***Consider a reduction for a timely guilty plea.***

### DECIDE YOUR SENTENCE

## Refuse evidential specimen (Drive or attempt to drive)

Road Traffic Act 1988 s.7(6)  
Penalty: Level 5 and/or 6 months:  
Triable only summarily`  
Must endorse and disqualify at least 12 months:  
disqualify at least 36 months for a further  
offence within 10 years

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

*IS DISCHARGE OR FINE APPROPRIATE?*

**GUIDELINE: → IS IT SERIOUS ENOUGH FOR A COMMUNITY PENALTY?**

*IS IT SO SERIOUS THAT ONLY CUSTODY IS APPROPRIATE?*

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



**for example**

Ability to drive seriously impaired  
Caused injury/fear/damage  
Evidence of nature of the driving  
Police pursuit  
Type of vehicle, eg carrying passengers for  
reward/large goods vehicle  
*This list is not exhaustive*

**for example**

Not the driver

*If offender is on bail, this offence is more serious  
If offender has previous convictions, their relevance and any failure to respond to previous  
sentences should be considered – they may increase the seriousness. The court should make  
it clear, when passing sentence, that this was the approach adopted.*

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

**for example**

Evidence of genuine remorse  
Voluntary completion of alcohol impaired driver course (if available)

### CONSIDER YOUR SENTENCE

*Offer a rehabilitation course.  
Endorse licence. DISQUALIFY – a minimum period of 24 months is suggested.  
Examine carefully aggravating/mitigating factors disclosed – do these justify any variation  
in period of disqualification suggested? If substantial aggravating factors, consider higher  
fine/community penalty/custody  
Compare it with the suggested guideline level of sentence and reconsider your reasons  
carefully if you have chosen a sentence at a different level.  
Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

Road Traffic Act 1984 s.89(10)  
 Triable only summarily  
 Penalty: Level 3 (Level 4 if motorway)  
 Must endorse (3-6 points OR may disqualify)

## Speeding

### CONSIDER THE SERIOUSNESS OF THE OFFENCE

**GUIDELINE: →** **IS DISCHARGE OR FINE APPROPRIATE?**  
 (COMMUNITY REHABILITATION AND CURFEW ORDERS ARE THE ONLY  
 AVAILABLE COMMUNITY PENALTIES FOR THIS OFFENCE)

*THIS IS A GUIDELINE FOR A FIRST-TIME OFFENDER PLEADING NOT GUILTY*



### CONSIDER AGGRAVATING AND MITIGATING FACTORS AND THE WEIGHT TO ATTACH TO EACH



for example

LGV, HGV, PCV or taxi or private-hire vehicles  
 Location/time of day/visibility  
 Serious risk  
 Towing caravan/trailer  
*This list is not exhaustive*

for example

Emergency established  
*This list is not exhaustive*

*If offender is on bail, this offence is more serious  
 If offender has previous convictions, their relevance and any failure to respond to previous  
 sentences should be considered – they may increase the seriousness. The court should make  
 it clear, when passing sentence, that this was the approach adopted.*

GUIDELINE PENALTY POINTS	LEGAL SPEED LIMITS	EXCESS SPEED – MPH	FINE
3	20-30 mph 40-50 mph 60-70 mph	Up to 10 mph Up to 15 mph Up to 20 mph	A
4 or 5 OR disqualify up to 42 days	20-30 mph 40-50 mph 60-70 mph	From 11-20 mph From 16-25 mph From 21-30 mph	B
6 OR disqualify up to 56 days	20-30 mph 40-50 mph 60-70 mph	From 21-30 mph From 26-35 mph From 31-40 mph	B

### TAKE A PRELIMINARY VIEW OF SERIOUSNESS, THEN CONSIDER OFFENDER MITIGATION

for example

Co-operation with police  
 Fixed penalty not taken up for valid reason

### CONSIDER YOUR SENTENCE

*Endorse (3-6 points OR period of disqualification. If a new driver accumulates 6 points this will  
 result in automatic revocation of the licence by the DVLA, see note on page 100.)  
 Consider other measures (including disqualification until test passed if appropriate).  
 Compare it with the suggested guideline level of sentence and reconsider  
 your reasons carefully if you have chosen a sentence at a different level.  
 Consider a reduction for a timely guilty plea.*

### DECIDE YOUR SENTENCE

**Offences considered appropriate for guideline of discharge or fine,  
other than in exceptional circumstances**

	PENALTY POINTS	MAXIMUM PENALTY	GUIDELINE FINE
<b>ALCOHOL/DRUGS</b>			
In charge over excess alcohol limit OR in charge whilst unfit through drink/drugs or refusing evidential specimen <i>*Consider disqualification.</i>	10*	Level 4 and/or 3 months E	C
Refusing roadside breath test	4	Level 3 E	A
<b>DRIVER</b>			
Not supplying details <i>*If company-owned, use higher fine when unable to apply endorsement as a minimum</i>	3*	Level 3 E	C
<b>LICENCE OFFENCES</b>			
† No driving licence, where could be covered, eg if licence not renewed, but would have covered class of vehicle driven, or holder of full licence has lost or misplaced it	–	Level 3	A
† Driving not in accordance with provisional licence (includes where no licence ever held)	3-6	Level 3 E	A
† No excise licence	–	Level 3 or 5 times annual duty (whichever greater)	Actual duty lost plus penalty of Guideline Fine – Starting Point A (1-3 months unpaid duty), B (4-6 months), C (7-12 months) consider a maximum of twice the annual duty
<b>LIGHTS</b> – Driving without	–	Level 3	A
<b>OWNERSHIP</b> – Not notifying DVLA of change etc.		Level 3	A
<b>PARKING OFFENCES</b>			
† Dangerous position	3	Level 3 E	A
† Pelican/zebra crossing	3	Level 3 E	A
<b>TEST CERTIFICATE</b> – Not held	–	Level 3	A
<b>TRAFFIC DIRECTION OFFENCES</b>			
† Fail to comply with height restriction	3	Level 3 E	A
† Fail to comply with red traffic light	3	Level 3 E	A
† Fail to comply with no entry sign	3	Level 3 E	A
† Fail to comply with stop sign/double white lines	3	Level 3 E	A
† Fail to give precedence – pelican/zebra crossing	3	Level 3 E	A
<b>TRAFFIC OR POLICE SIGNS (non endorsable)</b>			
† Fail to comply	–	3	A
† <i>These offences are eligible for fixed penalty offer. Where there is a valid reason why the case could not be dealt with by fixed penalty (eg holder of a non-uk driving licence, licence at DVLA for change of details etc), impose a fine equivalent to fixed penalty, endorse licence as appropriate and do not order costs.</i>			
<i>In all cases, consider the safety factor, damage to roads, commercial gain and, if driver is not the owner, with whom prime responsibility should lie.</i>			

**E: Must ENDORSE (unless special reasons) and may disqualify**

Offences considered appropriate for guideline of discharge or fine, other than in exceptional circumstances – contd.			
	PENALTY POINTS	MAXIMUM PENALTY	GUIDELINE FINE
<b>VEHICLE DEFECTS UP TO AND INCLUDING 3.5 TONNES GROSS VEHICLE WEIGHT</b>			
<b>DEFECTS</b>			
† Brakes/Steering/Tyres (each)	3	Level 4 E	A
† Loss of wheel	3	Level 4 E	A
† Exhaust emission	–	Level 3	A
† Other offences	–	Level 3	A
<b>LOADS</b>			
† Condition of vehicle/accessories/equipment	3	Level 4 E	A
† Purpose of use/passenger numbers/how carried	3	Level 4 E	A
† Weight, position or distribution of load	3	Level 4 E	A
† Insecure load	3	Level 3	A
† Overloading or exceeding maximum axle weight	–	Level 5	A* Plus increase in proportion to percentage of overloading
* Examine carefully evidence of responsibility for overload and, if commercial gain relates to owner, increase the fine.			
† These offences are eligible for fixed penalty offer. Where there is a valid reason why the case could not be dealt with by fixed penalty (eg holder of a non-UK driving licence, licence at DVLA for change of details etc), impose a fine equivalent to fixed penalty, endorse licence as appropriate and do not order costs.			
In all cases, consider the safety factor, damage to roads, commercial gain and, if driver is not the owner, with whom prime responsibility should lie.			

***E: Must ENDORSE (unless special reasons) and may disqualify***

<b>Motorway Offences</b>			
	<b>PENALTY POINTS</b>	<b>MAXIMUM PENALTY</b>	<b>GUIDELINE FINE</b>
<b>DRIVING</b> (Consider disqualification)			
† Driving in reverse on motorway	3	Level 4 E	B
† Driving in reverse on sliproad	3	Level 4 E	A
† Driving in wrong direction on motorway	3	Level 4 E	B
† Driving in wrong direction on sliproad	3	Level 4 E	A
† Driving off carriageway – central reservation	3	Level 4 E	A
† Driving off carriageway – hard shoulder	3	Level 4 E	A
† Driving on sliproad against no entry sign	3	Level 4 E	A
† Making U-Turn	3	Level 4 E	A
<b>LEARNERS</b>			
† Learner driver or excluded vehicle	3	Level 4 E	A
<b>STOPPING</b>			
† Stopping on hard shoulder of motorway	–	Level 4	A
† Stopping on hard shoulder of sliproad	–	Level 4	A
<b>PROHIBITED LANE</b>			
† Vehicle over 7.5 tonnes or drawing trailer, or prohibited PSV	3	Level 4 E	A
<b>WALKING</b>			
† Walking on motorway or sliproad	–	Level 4	A
† Walking on hard shoulder or verge	–	Level 4	A
† <i>These offences are eligible for fixed penalty offer. Where there is a valid reason why the case could not be dealt with by fixed penalty (eg holder of a non-UK driving licence, licence at DVLA for change of details etc), impose a fine equivalent to fixed penalty, endorse licence as appropriate and do not order costs.</i>			
<i>In all cases, consider the safety factor, damage to roads, commercial gain and, if driver is not the owner, with whom prime responsibility should lie.</i>			

<b>Offences relating to buses and goods vehicles over 3.5 tonnes gross vehicle weight (GVW)</b>				
	<b>PENALTY POINTS</b>	<b>MAXIMUM PENALTY</b>	<b>OWNER/ OPERATOR**</b>	<b>DRIVER</b>
<b>DEFECTS</b>				
Brakes	3	Level 5 E	C	B
Steering	3	Level 5 E	C	B
Tyres (per tyre)	3	Level 5 E	C	B
Loss of wheel	3	Level 5 E	C	B
Exhaust emission	–	Level 4	C	B
Other offences	–	Level 4	C	B
<b>LOADS</b>				
Condition of vehicle/accessories/ equipment	3	Level 5 E	C	B
Purpose of use/number of passengers/ how carried	3	Level 5 E	C	B
Weight, position or distribution of load	3	Level 5 E	C	B
Insecure load	3	Level 4	C	B
Overloading or exceeding maximum axle weight	–	Level 5	C*	B*
<b>*Plus increase in proportion to percentage of overloading</b>				
<b>OPERATORS LICENCE</b>				
Not held	–	Level 4	C	B
<b>TACHOGRAPH</b>				
Not properly used	–	Level 5	C	B
Falsification/fraudulent use	–	Level 5	C	B
<b>SPEED LIMITERS – WHERE APPLICABLE</b>				
Not being used or incorrectly calibrated	–	Level 5	C	B
<b>** For an owner/operator, take net turnover into account as appropriate</b>				

***E: Must ENDORSE (unless special reasons) and may disqualify***



# Seriousness

## ***Establishing the Seriousness of the Offence***

In establishing the seriousness of the case before them, courts should:

- make sure that all factors which aggravate or mitigate the offence are considered. The lists in the *Guidelines* are neither exhaustive nor a substitute for the personal judgment of magistrates. Factors which do not appear in the *Guidelines* may be important in individual cases;
- consider the various seriousness indicators, remembering that some will carry more weight than others;
- take into account, as a seriousness factor, the impact of the offence upon the victim;
- note that, by statute, racial and religious aggravation increases the seriousness of any offence – s.153 Powers of Criminal Courts (Sentences) Act 2000 – but see the note on specific racially aggravated offences created under ss.29-32 of the same Act on page 98;
- always bear in mind that, by statute, the commission of an offence on bail aggravates its seriousness;
- consider the effect of using previous convictions, or any failure to respond to previous sentences, in assessing seriousness. Courts should identify any convictions relevant for this purpose and then consider to what extent they affect the seriousness of the present offence;
- note that, when there are several offences to be sentenced, the court must have regard to the totality principle. This means that the overall effect of the sentence must be commensurate with the total criminality involved.

When the court has formed an initial assessment of the seriousness of the offence(s), consider any offender mitigation.

## ***Victim personal statements***

A victim personal statement gives victims a formal opportunity to say how a crime has affected them. Where the victim has chosen to make such a statement, a court should consider and take it into account prior to passing sentence. (LCJ Practice Direction made 16 October 2001.)

Evidence of the effects of an offence on the victim must be in the form of a s.9 witness statement or expert's report and served on the defence prior to sentence.

Except where inferences can properly be drawn from the nature or circumstances surrounding the offence, a sentencer must not make assumptions unsupported by evidence about the effects of an offence on the victim.

The court must pass what it judges to be the appropriate sentence having regard to the circumstances of the offence and of the offender, taking into account, so far as the court considers it appropriate, the consequences to the victim.

**The opinions of the victim or the victim's close relatives as to what the sentence should be are not relevant.**

## Reduction in sentence for guilty pleas

(Section 152, Powers of Criminal Courts (Sentencing) Act 2000)

In deciding what sentence to pass on a person who has pleaded guilty the court has to take into account the stage in the proceedings at which that plea was indicated and the circumstances in which the indication was given. If the court imposes a less severe penalty than it would have given, it must state this in open court. It would be a matter of good practice for the court to say how much credit has been given, with a brief reason for the decision.

The principles of 'discount' apply as much to magistrates' courts as they do to Crown Courts. A timely guilty plea may attract a sentencing reduction of up to a third but the precise amount will depend on the facts of each case. A change of plea on the day set down for trial may attract only a minimal reduction in sentence; the court must still consider whether credit should be given.

Reductions apply to fines, periods of community sentences and custody. An early guilty plea may also affect the length of a disqualification or the number of penalty points. However, minimum periods of disqualification and mandatory penalty points cannot be reduced for a guilty plea. Reasons should be given for decisions.

## Pre-sentence reports

(See also the section on *community sentences* on pages 91 and 92.)

The purpose of all reports is to provide information to help the court decide on the most suitable sentence. They are required in most cases where the threshold of 'serious enough' (community penalties) or 'so serious' (custody) is reached – and should only be sought in such cases. They can be in the form of a PSR (pre-sentence report) or SSR (specific sentence report).

PSRs are written reports to assist the courts in determining sentence. In accordance with National Standards 2002 they contain:

- a full risk assessment;
- a proposal for sentence commensurate with the risk of harm, likelihood of re-offending, the nature of the offence and the suitability of the offender.

A PSR must be provided within 15 working days or any agreed shorter period.

### **SSRs**

An SSR is a PSR for legal purposes as it meets the definition of section 162 of the Powers of Criminal Courts (Sentencing) Act 2000. SSRs are designed to speed up the provision of information to courts to allow sentencing without delay in relatively straightforward cases. They are a specific limited enquiry undertaken at the request of the court into an offender's suitability for a particular community sentence.

They are designed to be available on the day requested (or next morning). If there is doubt about a defendant's suitability for a specific sentence report the probation officer may recommend an adjournment for a full PSR.

## Giving reasons

Magistrates should normally give reasons for their findings and decisions; this is obligatory under the Human Rights Act.

- The offender should be told the reasons for the decision.
- The victim will want to know the reasons for the decision.
- The public are entitled to know what is going on in the criminal justice system, and to have confidence in it.
- If a sentence is unusual the importance of giving reasons is greater.
- Ill-informed criticism in the media may be reduced if reasons have been given in public and recorded.
- In preparing an SSR or a PSR, or in implementing a community sentence, the probation service must know what the magistrates had in mind and what findings of fact they made.
- If a case has to be adjourned, and a differently constituted bench sits next time, the later bench must know the reasons for the decisions and findings of the earlier bench.

And:

- The reasons will be necessary if there is an appeal by way of case stated.

There are now many instances where the giving of reasons is required by law.

- Why bail is refused.
- Why the offence is so serious as to justify prison.
- Why a defaulter is being sent to prison.
- If a compensation order is not awarded.
- If a sentence is reduced because of a guilty plea.
- If the court does not disqualify the driver or endorse his licence for 'special reasons'.
- If the court does not impose a 'totting up' disqualification.

Having reached their findings through a structured approach, it is perfectly proper for the magistrates to seek the advice and assistance of the legal adviser in how best to formulate and articulate their reasons for the purpose of the pronouncement.

It is the responsibility of the legal adviser to provide the justices with any advice they require properly to perform their functions, whether or not the justices have requested that advice. The Practice Direction on the functions and responsibilities of Justices' Clerks and authorised legal advisers, made by the Lord Chief Justice on 2 October 2000, makes it clear that this responsibility extends to giving advice on the appropriate decision-making structure to be applied in any given case, reminding the bench of the evidence, and assisting the court, where appropriate as to the formulation of reasons and the recording of those reasons.

## Financial penalties

### **Fining**

Fines are suitable as punishment for cases which are not serious enough to merit a community penalty, nor so serious that a custodial sentence must be considered.

The aim should be for the fine to have equal impact on rich or poor and before fixing the amount of a fine, the court must enquire into the offender's financial circumstances, preferably using a standard means form.

A fine must not exceed the upper statutory limit. Where this is expressed in terms of a 'level' the maxima are:

Level 1	£200
Level 2	£500
Level 3	£1,000
Level 4	£2,500
Level 5	£5,000

The fine must reflect the seriousness of the offence and must be proportionate to the offender's means.

A reduction must be considered for a guilty plea – up to a third if the plea was timely (see page 82), and the appropriate announcement made.

Where compensation and costs are in issue (see pages 88–90) then the order of priorities is compensation – fine – costs. The totality of the financial penalty must be considered in reaching a decision on the level of fine.

Where a defendant is to be fined for several offences and his means are limited it may be better to fix the relevant fine level for the most serious offence and order 'no separate penalty' on the lesser matters.

The suggested fines in these *Guidelines* are given as either A, B or C. These represent 50%, 100% and 150% of the defendant's weekly take home pay/benefit. (Weekly take home pay or benefit means weekly income after all deductions made by an employer (take home pay) or the amount of weekly benefit payment.) These levels take into account ordinary living expenses. This guidance should not be used as a tariff and every offender's means must be individually considered.

The defendant should be given a document which sets out the total fines, rate of payment, date of first payment and place of payment before leaving the court.

### **Assessing means**

Before fixing the amount of any fine the Powers of Criminal Courts (Sentencing) Act 2000, section 128 requires the court to enquire into the financial circumstances of the offender so far as they are known. Defendants should be asked to complete a means form to provide this information.

The first figure needed is take home pay/benefit which is used to ensure the fairest approach to those in different financial circumstances – the guideline fines (which are only a starting point) are based on this income and reflect ordinary living expenses.

The court should be aware of other information including:

- whether the offender has savings or other disposable or realisable capital assets;
- liability to pay outstanding fines;
- level of outgoings.

And should in every case consider individual circumstances, but outgoings will only be relevant if they are out of the ordinary and substantially reduce ability to pay, leading to undue hardship.

The financial circumstances of third parties, eg other members of the family, are irrelevant, save insofar as the offender derives income or benefit from such persons, or he is thereby relieved of a proportion of household expenses.

If for any reason the magistrates are not satisfied with the information they have received, and they feel they cannot sentence until they have such information, they may adjourn the case for further information to be supplied, and they may make a financial circumstances order requiring a statement of means to be provided, Powers of the Criminal Courts (Sentencing) Act 2000, section 126.

**The fine is payable in full on the day and the defendant should always be asked for immediate payment.** If periodic payments are allowed, the fine should normally be payable within a maximum of 12 months. It should be remembered however, that for those on very low incomes it is often unrealistic to expect them to maintain weekly payments for as long as a year.

The fine should be a hardship, depriving the offender of the capacity to spend the money on 'luxuries', but care should be taken not to force him or her below a reasonable 'subsistence' level.

### ***Fining in the defendant's absence***

If, having been given a reasonable opportunity to inform the court of his means, the offender refuses or fails to do so, the magistrates may draw such inference as to means as they think just in the circumstances, using all available information. It is inappropriate simply to fine the maximum level.

For further advice on the fines procedure, see the flowchart on the next page and the guidance on fine enforcement on page 101.

## 1. DECIDE SENTENCING BAND ACCORDING TO SERIOUSNESS

Consider the aggravating and mitigating features of the offence, plus any personal mitigation relating to the offender – decide that a fine is appropriate

## 2. DECIDE LEVEL OF FINE ACCORDING TO SERIOUSNESS

Taking the above factors into account, decide on the level of fine (A, B or C) that reflects those factors

## 3. OBTAIN FINANCIAL INFORMATION

The court is required by statute to enquire into financial circumstances and to take them into account so far as they are known. Full information (from means form/questioning in court) should cover income, savings (if any) and outgoings including other court fines.

## 4. SET FINE

A fine is meant to have an equal impact on rich and poor. To ensure a fair approach the starting point in all cases should be **weekly take home pay/weekly benefit payment**.

Select level A (50%), level B (100%) or level C (150%) of this weekly amount according to decision on seriousness (see 2 above).

**NB these levels already take into account ordinary living expenses.**

## 5. CONSIDER FACTORS RELEVANT TO INDIVIDUAL CASE

**OUTGOINGS:** *These are only relevant if they are out of the ordinary and substantially reduce ability to pay, leading to undue hardship.*

**TIMELY GUILTY PLEA:** give credit where appropriate.

**COMPENSATION/COSTS:** If these are applicable then total financial penalty must be considered in relation to known means, including savings. If means insufficient for all three elements, apply usual priority of compensation – fine – costs.

**CONFIRM ORIGINAL FIGURE OR JUSTIFY ANY CHANGE**

## 6. ANNOUNCE AMOUNT OF FINE: SEEK IMMEDIATE PAYMENT

If payment in full not possible, seek immediate part payment  
If time is asked for, consider all information above in setting level of payments/time to clear total sum

## Costs

The following guidance was given by the Court of Appeal in *R. v. Northallerton Magistrates' Court ex parte Dove*:

1. An order for costs to the prosecutor should never exceed the sum which, having regard to the defendant's means and any other financial order imposed upon him, he is able to pay and which it is reasonable to order him to pay.
2. Such an order should never exceed the sum which the prosecutor had actually and reasonably incurred.
3. The purpose of the order is to compensate the prosecutor and not to punish the defendant.
4. The costs ordered to be paid should not in the ordinary way be grossly disproportionate to the fine imposed for the offence. If the total of the proposed fine and the costs sought by the prosecutor exceeds the sum which the defendant could reasonably be ordered to pay, it was preferable to achieve an acceptable total by reducing the sum of costs ordered, rather than by reducing the fine.
5. It is for the defendant to provide the justices with such data relevant to his financial position as would enable them to assess what he could reasonably afford to pay, and if he fails to do so the justices are entitled to draw reasonable inferences as to his means from all the circumstances of the case.
6. It is incumbent on any court which proposed to make any financial order against a defendant to give him a fair opportunity to adduce any relevant financial information and to make any appropriate submissions.

## Compensation orders

### ***The Legal Framework***

As well as assessing the seriousness of the offence, including the impact on the victim, and any mitigating factors affecting the offender, the court is under a duty to consider compensation in every case where loss, damage or injury has resulted from the offence, whether or not an application has been made (Powers of Criminal Courts (Sentencing) Act 2000, s.130).

### ***Priorities***

If the sentence is to be financial, then the order of priorities is compensation, fine, costs. If the sentence is to be a community penalty, the court should consider carefully the overall burdens placed on the offender if a compensation order is to be made too. If the sentence is to be custody, then a compensation order will be unlikely unless the offender has financial resources available with which to pay immediately or on release.

### ***Giving Reasons***

If, having considered making a compensation order, the court decides that it is not appropriate to make one, it has a statutory duty to give its reasons for not ordering compensation.

### ***Limitations on Powers***

Magistrates have the power to award compensation for personal injury, loss or damage up to a total of £5,000 for each offence. An exception is where the injury, loss or damage arises from a road accident: a compensation order may not be made in such a case unless there is conviction of an offence under the Theft Act or if the offender is uninsured and the Motor Insurers' Bureau will not cover the loss. If in doubt, seek advice from the legal adviser. Compensation should only be awarded in fairly clear, uncomplicated cases: if there are disputes and complications, the matter should be left to the civil courts.

### ***No Double Compensation***

Any victim may bring a civil action for damages against the offender: if that action is successful, the civil court will deduct the amount paid by the offender under a compensation order. In this way, there should be no double compensation. The same applies where the victim receives a payment under the Criminal Injuries Compensation Scheme. The magistrates' court should therefore take no account of these other possibilities.

### ***Criminal Injuries Compensation Scheme***

The Criminal Injuries Compensation Scheme provides state compensation for the victims of crimes of violence, particularly those who are seriously injured. The minimum award is currently £1,000. Courts are encouraged to make compensation orders, whether or not the case falls within the Criminal Injuries Compensation Scheme, in order to bring home to offenders themselves the consequences of their actions.

### ***The Purpose of Compensation Orders***

The purpose of making a compensation order is to compensate the victim for his or her losses. The compensation may relate to offences taken into consideration, subject to a maximum of £5,000 per charge. Compensation for personal injury may include compensation for terror, shock or distress caused by the offence. The court must have regard to the means of the offender when calculating the amount of the order.

## **The Approach to Compensation**

In calculating the gross amount of compensation, courts should consider compensating the victim for two types of loss. The first, sometimes called 'special damages', includes compensation for financial loss sustained as a result of the offence – eg the cost of repairing damage, or in cases of injury, any loss of earnings or dental expenses. If these costs are not agreed, the court should ask for evidence of them. The second type of loss, sometimes called 'general damages', covers compensation for the pain and suffering of the injury itself and for any loss of facility.

## **Calculating the Compensation**

The amount of compensation should be determined in the light of medical evidence, the victim's sex and age, and any other factors which appear to the court to be relevant in the particular case. If the court does not have sufficient information, then the matter should be adjourned to obtain more facts.

The Table below gives some general guidance on appropriate starting points for general damages for personal injuries.

Once the court has made a preliminary calculation of the appropriate compensation, it is required to have regard to the means of the offender before making an order. Where the offender has little money, the order may have to be scaled down significantly. However, even a compensation order for a fairly small sum may be important to the victim.

Type of injury	Description	Starting point
Graze	Depending on size	Up to £75
Bruise	Depending on size	Up to £100
Black eye		£125
Cut: no permanent scar	Depending on size and whether stitched	£100-£500
Sprain	Depending on loss of mobility	£100-£1,000
Finger	Fractured little finger, recovery within month	£1,000
Loss of non-front tooth Loss of front tooth	Depending on cosmetic effect	£500-£1,000 £1,500
Eye	Blurred or double vision	£1,000
Nose Nose Nose	Undisplaced fracture of nasal bone Displaced fracture of bone requiring manipulation Not causing fracture but displaced septum requiring sub-mucous resection	£1,000 £1,500 £2,000
Facial scar	However small, resulting in permanent disfigurement	£1,500
Wrist Wrist	Closed fracture, recovery within month Displaced fracture, limb in plaster, recovery in 6 months	£3,000 £3,500
Leg or arm	Closed fracture of tibia, fibula, ulna or radius, recovery within month	£3,500
Laparotomy	Stomach scar 6-8 inches (resulting from operation)	£3,500

## Community sentences

The purpose of a community sentence is to provide a rigorous and effective punishment for an offender whose offence requires more than a financial penalty but is not so serious as to necessitate imprisonment. A community sentence has three principal elements: restriction of liberty, reparation and prevention of re-offending.

Community sentences include:

- attendance centre orders;
- community rehabilitation orders with or without special requirements;
- community punishment orders;
- community punishment and rehabilitation orders;
- curfew orders;
- drug treatment and testing orders.

The restrictions on liberty imposed by the sentence must be commensurate with the seriousness of the offence and the order must be the one most suitable for the offender.

It is generally good practice to require a pre-sentence or specific sentence report when considering whether to impose a community sentence. Where a report is considered necessary the shorter report should be requested whenever this will be sufficient, to enable the case to be finalised more speedily. In ordering such a report the court should indicate any relevant findings of fact, view of the level of seriousness and the aim of the sentence. In pronouncing sentence the court should stress the need of the offender to co-operate and the consequences of breach.

Penalties for breach of a community sentence are:

- a fine of up to £1,000, the order to continue;
- community punishment of up to 60 hours, the order to continue;
- revocation and re-sentencing for the original offence (in which case the probable sentence will be custody);
- attendance centre order.

See the revised National Standards and the new inter-agency publication *Towards Good Practice – Community Sentences and the Courts*.

The court may ask to be kept informed of the offender's progress under the order.

### **Electronic monitoring of curfew orders**

Curfew orders enforced by electronic monitoring are available for offenders aged ten and over.

The curfew order is a community sentence requiring an offender to remain at a specified place from 2 to 12 hours a day on from 1 to 7 days a week, for a maximum period of six months. The court must obtain and consider information about the proposed curfew address including the attitude of others affected by the order. The order must take account of religious beliefs, employment, education and the requirements of other community orders.

The offender's consent is not required.

The aims of the order are:

- to restrict liberty in a systematic controlled way;
- to make it harder for the offender to commit further crimes;
- to interrupt the pattern of offending by removing the offender from the circumstances of his/her offending;
- provide clear evidence of curfew compliance.

The order can be used as a stand alone order, in combination with any other community order, or can be added to a pre-existing community order.

When considering whether to impose an order the offence must be assessed by the court to be 'serious enough' for a community penalty. When ordering a pre-sentence report the court should specifically ask the probation service to carry out a curfew assessment in all appropriate cases.

## **Breach of court orders**

The breach of court orders should never be treated lightly. They should be rigorously enforced. In making any pronouncement on sentence the breach should be given special mention.

A failure by the court to respond effectively to a breach can:

- erode public confidence in the courts;
- undermine the work of the agency supervising the order;
- allow the offender to feel he has 'got away with it'.

The offender should be clearly told of the seriousness of the offence and, if the court decides to allow an order to continue, be told what is expected of him/her and the likely consequence of any further breach.

In the case of community sentences there are National Standards revised in April 2002 which lay down strict enforcement requirements for the probation service.

## Environmental Protection Act 1990

## Health and Safety at Work Act 1974

### **Legislation**

The main environmental protection and drinking water offences are:

- Section 23 Environmental Protection Act 1990 – carrying on a prescribed process without, or in breach of, authorisation in integrated pollution control and local authority air pollution control.
- Section 33 Environmental Protection Act 1990 – depositing, recovering or disposing of waste without a site licence or in breach of its conditions.
- Sections 33 and 34 Environmental Protection Act 1990 – fly-tipping (offence is aggravated by dangerous or offensive material, tipping near housing etc., escape of waste, intention to avoid paying landfill tax).
- Section 85 Water Resources Act 1991 – polluting controlled waters.
- Section 70 Water Industry Act 1991 – supplying water unfit for human consumption.

The main health and safety offences are:

- Section 33 Health and Safety at Work Act 1974, sub-sections (1)(g) and (o) – failing to comply with an improvement or prohibition notice, or a court remedy order.
- Section 33(1)(a) – breaching general duties in sections 2 to 6 Health and Safety at Work Act.
- Section 33(1)(c) – breach of health and safety regulations or licensing conditions.

It is important to seek guidance from the legal adviser in all these serious cases. The Court of Appeal, in *R v Howe (1999 2 Cr App R (S) 37)* gave guidance on health and safety sentencing.

### **Seriousness**

Offences under these Acts are serious, especially where the maximum penalty in the magistrates' court is £20,000. Imprisonment is available for some offences. It is important to be careful when accepting jurisdiction as to whether the cases ought properly to be heard in the Crown Court. This is especially so when dealing with large companies. In *R v Howe*, the Court of Appeal said that a fine needs to be large enough to bring home to those who manage a company, and their shareholders, the need to protect the health and safety of workers and the public. A company is presumed to be able to pay any fine the court is minded to impose unless financial information to the contrary is available to the court before the hearing. A deliberate breach of the legislation by a company or an individual with a view to profit seriously aggravates the offence. If a guilty plea is made for an either way offence, again a committal for sentence under section 4 Powers of Criminal Courts (Sentencing) Act 2000 might be more appropriate. Simple cases can, of course, be dealt with by the magistrates' court.

In the case of *Friskies Petcare (UK) Ltd [2000] 2 Cr App R (s) 401* it was recommended that the Health and Safety Executive should list in writing the aggravating features of the case, and the defence should do likewise with the mitigating features, so as to assist the court in coming to the proper basis for sentence after a guilty plea.

Matters to consider when assessing seriousness include:

- offence deliberate or reckless breach of the law rather than carelessness;
- action or lack of action prompted by financial motives – profit or cost-saving or neglecting to put in place preventative measures or avoiding payment for relevant licence;
- considerable potential for harm to workers or public;
- regular or continuing breach, not isolated lapse;
- failure to respond to advice, cautions or warning from regulatory authority;
- death or serious injury or ill-health has been a consequence of the offence;
- ignoring concerns raised by employees or others;
- an awareness of the specific risks likely to arise from action taken but ignoring them;
- previous offences of a similar nature;
- extent of damage and cost of rectifying it (expensive clean up operation required);
- attitude to the enforcing authorities;
- offending pattern;
- serious extent of damage resulting from offence (but lack of actual damage does not render the offence merely technical; it is still serious if there is risk);
- animal health or flora affected;
- defendant carrying out operations without an appropriate licence;
- other lawful activities interfered with.

Other factors may provide some mitigation:

- the offender's minor role with little personal responsibility;
- genuine lack of awareness or understanding of specific regulations;
- an isolated lapse.

There may be some offender mitigation:

- prompt reporting;
- ready co-operation with regulatory authority;
- good previous record;
- timely plea of guilt.

Sometimes in a case much more damage has occurred than could have been reasonably anticipated. Any sentence should give weight to the environmental impact but should primarily reflect the culpability of the offender.

### ***The level of fines – general approach***

A fine is considered by the Sentencing Advisory Panel to be the appropriate form of penalty for both companies and individuals for these offences. The normal principles of the Criminal Justice Act 1991 should apply and the seriousness of the offence and the financial circumstances of the defendant should be taken into account. The level of fine should reflect the extent to which the defendant's behaviour has fallen below the required standard. High culpability should be matched by a high fine even though actual damage turned out to be less than might reasonably have been anticipated.

In line with *R v Howe*, the level of the fine should reflect any economic gain from the offence by failure to take precautions. It has been said that a deliberate failure to take the necessary precautions can be a form of stealing commercial advantage from law-abiding competitors.

In all cases with corporate offenders the company's financial circumstances must be carefully considered. No single measure of ability to pay can apply in all cases. Turnover, profitability and liquidity should all be considered. It is not usual for an expert accountant to be available in summary cases.

If a company does not produce its accounts the court can assume that the company can pay whatever fine the court imposes. In most cases it is hard to imagine a company failing to provide such information, although with large known companies of national or international standing this may not be a necessary requirement. Where necessary the payment of fines can be spread over a longer period than the usual 12 months, if payment in full would be unduly burdensome on say, a smaller company.

### ***Fining too little?***

A fine suited to the circumstances of a small local company would make no impact at all on a multi-national corporation with a huge turnover. The fine to any company should be substantial enough to have a real economic impact, which together with attendant bad publicity would pressure both management and shareholders to tighten their regulatory compliance. Such fines on large companies might often be beyond the summary fines limit and in such circumstances the case should be transferred to the Crown Court for trial or sentence. Where the court does not transfer the case of a larger company to the higher court magistrates should look to a starting point near the maximum fine level then consider aggravating and mitigating factors.

### ***Fining too much?***

Care should be taken to ensure that fines imposed on smaller companies are not beyond their capability to pay. The court might not wish the payment of the fine to result in the company not being able to pay for improved procedures or cause the company to go into liquidation or make its employees redundant.

### ***Other sentencing options***

Whilst fines will be the usual outcome in proceedings of this sort, other sentencing options are available.

- A discharge will rarely be appropriate.
- Compensation should be considered if there is a specific victim who has suffered injury, loss or damage. You should give reasons if you decide not to make a compensation order. The current limit is £5,000 per offence, although substantial civil claims are often pending in such cases.
- The legislation provides for the possibility of directors and senior managers appearing before the courts, and custodial sentences are available in specific instances. The courts have power to disqualify directors under the Company Directors Disqualification Act 1986. This is important particularly in health and safety enforcement, and breach of an order is itself a criminal offence carrying a term of imprisonment for up to two years.

## **Costs**

The prosecution will normally claim the costs of investigation and presentation. These may be substantial, and can incorporate time and activity expended on containing and making the area safe. Remediation costs for pollution offences may also be significant. For water pollution offences enforcing authorities are able to recover them through the criminal courts (Water Resources Act 1991, as amended). In other cases there are powers for the courts to order offenders to remedy the cause of the offence, or for the Environment Agency to require them to undertake clean-up at their own expense, or for the agency to carry out remedial costs and seek to recover them through the civil courts.

The enforcing authorities' costs should be fully recouped from the offender.

The order for costs should not be disproportionate to the level of the fine imposed. The court should fix the level of the fine first, then consider awarding compensation, and then determine the costs. If the total sum exceeds the defendant's means, the order for costs should be reduced rather than the fine. Compensation should take priority over both the fine and costs.

**As always, magistrates should seek the advice of the legal adviser on sentencing options and guidelines in all cases.**

For more information, access the environmental offences training materials on the Magistrates' Association website. [www.magistrates-association.org.uk](http://www.magistrates-association.org.uk)

## Racially or religiously aggravated offences

There are special provisions on racial and religious aggravation, under the Crime and Disorder Act 1998 as amended. There are two forms of aggravation: an offence is racially or religiously aggravated EITHER if it is racially or religiously motivated, OR if in committing the offence the offender demonstrates racial or religious hostility (eg by making a racist remark). The guideline case for sentencing for these offences is *Kelly and Donnelly 2001*, and three situations should be treated separately:

- i) there are a few specific racially or religiously aggravated offences in the Crime and Disorder Act, which have higher maximum penalties than the non-aggravated versions of those offences (eg common assault, abh, criminal damage, etc). Where a defendant is convicted of one of these special offences, the court should determine its sentence for the basic offence (such as criminal damage or assault), and then decide how much to add for the racial or religious aggravation. When the sentence is announced, the court should state how much it added to the basic offence in order to reflect the racial or religious aggravation.
- ii) most offences do not have a specific racially or religiously aggravated version, however. Here, the general principle applies, which is that racial or religious aggravation is a factor that should increase the severity of the sentence.
- iii) where an offender is convicted of an offence which has a racially or religiously aggravated version, but is convicted only of the basic offence, it is wrong in principle to pass a higher sentence on racial or religious grounds. If the racially or religiously aggravated version of the offence is not charged or not proved, that is the end of the matter.

## Road traffic offences

### **Disqualification**

Some offences carry mandatory disqualification. This mandatory disqualification period may be automatically lengthened by the existence of certain previous convictions and disqualifications.

Sentencers should not disqualify defendants in their absence although there is provision in statute to do so provided that an offender is given adequate notice of the hearing at which the court will consider disqualification. This discretionary power should only be exercised in out of the ordinary circumstances. As with all decisions of this type, account should be taken of human rights legislation. The court must give cogent and explicit reasons for any decision to disqualify in absence.

### **Penalty points and disqualification**

All endorsable offences carry also as an alternative discretionary power to disqualify instead of imposing penalty points.

Dangerous driving carries an obligatory minimum disqualification of one year and a mandatory extended re-test.

For any offence which carries penalty points the courts have a discretion to order a re-test provided there is evidence of inexperience, incompetence or infirmity. It would be an ordinary test except where disqualification is obligatory when an extended test would be required.

The number of variable penalty points or the period of disqualification is targeted strictly at the seriousness of the offence and in either case must not be reduced below the statutory minimum, where applicable.

Offences committed on different occasions may carry points, even where they are dealt with on the same occasion.

### **Disqualification until a test is passed**

A magistrates' court **must** disqualify an offender until he passes an *extended driving test* where he is convicted of an offence of dangerous driving.

The court has a **discretion** to disqualify until a test is passed where the offender has been convicted of an offence involving obligatory disqualification. In this case it is the ordinary driving test that must be undertaken.

An offender disqualified as a 'totter' under the penalty points provisions **may** also be ordered to re-take a driving test, in which case it will be the *extended test*.

The discretion is likely to be exercised where there is evidence of inexperience, incompetence or infirmity; or the disqualification period imposed is lengthy (ie the offender is going to be 'off the road' for a considerable time).

### **Disqualifications for less than 56 days**

A disqualification for less than 56 days is also more lenient in that it does not revoke the licence and cannot increase subsequent mandatory periods even if it is imposed under the points provisions.

### ***Reduction for guilty plea***

The precise amount of credit for a timely guilty plea will depend on the facts of each case. It should be given in respect of the fine or periods of community sentence or custody. An early guilty plea may also affect the length of a disqualification or the number of penalty points but cannot apply so as to reduce minimum mandatory periods of disqualification.

### ***The multiple offender***

Where an offender is convicted of several offences committed on one occasion, it is suggested that the court should concentrate on the most serious offence, carrying the greatest number of penalty points or period of disqualification.

The application of the totality principle may then result in the court deciding to impose no separate penalty for the lesser offences, or to reduce fines for these offences below the level which might normally be imposed.

### ***Totting***

Repeat offenders who reach 12 points or more within a period of three years become liable to a minimum disqualification for 6 months, and in some instances 12 months or 2 years – but must be given an opportunity to address the court and/or bring evidence to show why such disqualification should not be ordered or should be reduced. Totting disqualifications, unlike other disqualifications, erase all penalty points.

Totting disqualifications can be reduced or avoided for exceptional hardship or other circumstances. No account is to be taken of non-exceptional hardship or circumstances alleged to make the offence(s) not serious. No such ground can be used again to mitigate totting, if previously taken into account in totting mitigation within the three years preceding the conviction.

### ***New drivers***

Newly qualified drivers who incur 6 points or more during a two-year probationary period from the date of passing the driving test will automatically have their licence revoked by the Secretary of State and will have to apply for a provisional licence until they pass a repeat test. This total must include any points imposed prior to passing the test provided they are within three years.

### ***Fixed penalties***

If a fixed penalty was offered, the court should consider any reasons for not taking it up and, if valid, fine the amount of the appropriate fixed penalty (provided the amount is within the means of the offender), endorse if required, waive costs and allow a maximum of 28 days to pay. If a fixed penalty was refused or not offered, the court should consider whether there are aggravating factors which merit increasing the fine or there should be any credit for a guilty plea.

## Fine enforcement

Unless an offender is appearing at the fine enforcement court because a review date was fixed when the fine was imposed, he will be either answering to a summons or on a warrant following a summons; in both instances he will probably have also had a reminder (court practices differ in this respect).

The court should first receive information about the history of the case(s): the offence, the original means form, the date of the sentence, the order of the court regarding payment and the record of payment to date.

Then, an up-to-date means form should be considered, followed by questioning by the legal adviser and/or the magistrates to establish any change of circumstances since the fine was imposed and the reason given for the failure to pay as ordered.

The court can remit fines after a means enquiry and may order it if the court 'thinks it just to do so having regard to a change of circumstances' which may reasonably be found where:

- the defaulter's means have changed;
- information available to the court on a means enquiry was not before the sentencing court;
- arrears have accumulated by the imposition of additional fines to a level which makes repayment of the total amount within a reasonable time unlikely;
- defaulters are serving a term of imprisonment, remission may be a more practical alternative than the lodging of concurrent warrants of imprisonment;
- compensation and costs cannot be remitted but in circumstances where payment is unlikely or impractical due to the defaulter's means or circumstances the sum may be discharged or reduced. Victims and claimants should be consulted and given an opportunity to attend a hearing.

NB: Excise penalties (which include fines and back duty for using an untaxed vehicle) cannot be remitted.

The Magistrates' Courts Act 1980 section 82 requires that before a court may issue a warrant of commitment for non-payment of fines it must have: 'considered or tried all other methods of enforcing payment of the sum and it appears to the court that they are inappropriate or unsuccessful'. The court must record the reasons for not trying each of the methods.

The options are:

- **Detention in the precincts of the court** (section 135 MCA 1980)
- **Money Payment Supervision Order:** for those under 21 years of age the court must place the defaulter under such an order (before making any decision to submit to detention) unless satisfied it is undesirable or impracticable so to do.
- **Attendance Centre Order:** for under 25 year olds only. It requires a defaulter to attend for two or three hours on a Saturday at a local attendance centre. The total number of hours must not exceed 24 if the defaulter is under 16, or 36 when he/she is 16 or over. NB. Not all sentencers have an Attendance Centre available to them.

- **Deduction from Benefit:** the court may request the Department for Work and Pensions to make payments direct from the offender's benefit, subject to any right of review or appeal he may have.
- **Attachment of Earnings Order:** the order requires an employer to make periodical payments from the defaulter's earnings to the court so this method is only suitable where the defaulter is in settled employment. A protected earnings rate (the rate below which his earnings will not be reduced as a result of the order) needs to be fixed together with a normal deduction rate, after enquiring into the defendant's means and needs and obligations.
- **Distress Warrant:** authorises the bailiffs to seize goods belonging to the defaulter and sell them in order to pay the fine, together with the bailiff's costs. Its issue may be postponed on terms.
- **Warrants of overnight detention:** the defaulter can be held overnight in the police station. He must be released at eight o'clock the following morning or the same morning if arrested after midnight.
- **Imprisonment:** the court must conduct a means enquiry before finding the defaulter guilty of culpable neglect or wilful refusal to pay. An opportunity must be provided for legal representation. The aim in fixing a period of commitment should be to identify the shortest period which is likely to succeed in obtaining payment and the periods prescribed in schedule 4 of the Magistrates' Courts Act 1980 (set out below) should be regarded as maxima rather than the norm. The period of imprisonment may be suspended pending regular payments. Where such payments are not made, the defaulter should be brought back before the court for consideration of whether the period of imprisonment should be implemented.

#### **Maximum periods of imprisonment in default of payment**

An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months
An amount exceeding £10,000	12 months

#### **Notes**

**Search:** magistrates can order the defaulter to be searched and any money found on him/her to be used to pay the fine.

## Stating the reasons for sentence

1. We are dealing with an offence of:  
.....
  
2. We have considered the impact on the victim which was .....  
.....
  
3. We have taken into account these features which make the offence more serious:  
.....  
.....
  
4. We have taken into account these features which make the offence less serious:  
.....  
.....
  
5. (*where relevant*) We have taken into account that the offence was:  
    racially and/or religiously aggravated  
    committed on bail
  
6. We have taken into account your previous record, specifically the offences of.....  
..... and your failure to respond to the sentences imposed.
  
7. We have taken into account what we have heard in your favour about the offence and about you:  
.....  
.....
  
8. We have taken into account the fact that you pleaded guilty [at an early stage] [but not until .....] and we have reduced the sentence by [state how much].
  
9. And, as a result, we have decided that the most appropriate sentence for you is:  
.....
  
10. (*where relevant*) We have decided not to award compensation in this case because:  
.....

