

**Dangerous Dog
Offences**
Definitive Guideline

Revised - Effective from 1 July 2016

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Effective from 1 July 2016

Applicability of guideline

In accordance with section 120 of the Coroners and Justice Act 2009, the Sentencing Council issues this definitive guideline. It applies to all offenders aged 18 and older, who are sentenced on or after 1 July 2016, regardless of the date of the offence.

Section 125(1) of the Coroners and Justice Act 2009 provides that when sentencing offences committed after 6 April 2010:

“Every court –

- (a) must, in sentencing an offender, follow any sentencing guidelines which are relevant to the offender’s case, and
- (b) must, in exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant to the exercise of the function,

unless the court is satisfied that it would be contrary to the interests of justice to do so.”

This guideline applies only to offenders aged 18 and older.

Structure, ranges and starting points

For the purposes of section 125(3)-(4) of the Coroners and Justice Act 2009, the guideline specifies *offence ranges* – the range of sentences appropriate for each type of offence. Within each offence, the Council has specified a number of *categories* which reflect varying degrees of seriousness. The offence range is split into *category ranges* – sentences appropriate for each level of seriousness. The Council has also identified a starting point within each category.

Starting points define the position within a category range from which to start calculating the provisional sentence. The court should consider further features of the offence or the offender that warrant adjustment of the sentence within the range, including the aggravating and mitigating factors set out at step two. Starting points and ranges apply to all offenders, whether they have pleaded guilty or been convicted after trial. Credit for a guilty plea is taken into consideration only at step four in the decision making process, after the appropriate sentence has been identified.

Information on community orders and fine bands is set out in the annex at page 33.

Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where death is caused
Dangerous Dogs Act 1991 (section 3 (1))

Triable either way

Maximum: 14 years' custody

Offence range: High level community order – 14 years' custody

STEP ONE**Determining the offence category**

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

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

CULPABILITY demonstrated by one or more of the following:**A – High culpability**

Dog used as a weapon or to intimidate people

Dog known to be prohibited

Dog trained to be aggressive

Offender disqualified from owning a dog, or failed to respond to official warnings, or to comply with orders concerning the dog

B – Medium culpability

All other cases where characteristics for categories A or C are not present, and in particular:

Failure to respond to warnings or concerns expressed by others about the dog's behaviour

Failure to act on prior knowledge of the dog's aggressive behaviour

Lack of safety or control measures taken in situations where an incident could reasonably have been foreseen

Failure to intervene in the incident (where it would have been reasonable to do so)

Ill treatment or failure to ensure welfare needs of the dog (where connected to the offence and where not charged separately)

C – Lesser culpability

Attempts made to regain control of the dog and/or intervene

Provocation of the dog without fault of the offender

Evidence of safety or control measures having been taken

Incident could not have reasonably been foreseen by the offender

Momentary lapse of control/attention

HARM

There is no variation in the level of harm caused, as by definition the harm involved in an offence where a death is caused is always of the utmost seriousness.

STEP TWO**Starting point and category range**

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

High culpability	Starting point 8 years' custody	Category range 6 – 14 years' custody
Medium culpability	Starting point 4 years' custody	Category range 2 – 7 years' custody
Lesser culpability	Starting point 1 year's custody	Category range High level community order – 2 years' custody

The table is for single offences. Concurrent sentences reflecting the overall criminality of offending will ordinarily be appropriate where offences arise out of the same incident or facts: please refer to the *Offences Taken into Consideration and Totality* guideline.

The court should then consider any adjustment for any aggravating or mitigating factors. On the next page is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

See page 6.

Factors increasing seriousness

Statutory aggravating factors:

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

Offence committed whilst on bail

Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

Victim is a child or otherwise vulnerable because of personal circumstances

Location of the offence

Sustained or repeated attack

Significant ongoing effect on witness(es) to the attack

Serious injury caused to others (where not charged separately)

Allowing person insufficiently experienced or trained, to be in charge of the dog

Lack or loss of control of the dog due to influence of alcohol or drugs

Offence committed against those working in the public sector or providing a service to the public

Injury to other animals

Established evidence of community/wider impact

Failure to comply with current court orders (except where taken into account in assessing culpability)

Offence committed on licence

Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation:

No previous convictions **or** no relevant/recent convictions

No previous complaints against, or incidents involving the dog

Evidence of responsible ownership

Remorse

Good character and/or exemplary conduct

Serious medical condition requiring urgent, intensive or long-term treatment

Age and/or lack of maturity where it affects the responsibility of the offender

Mental disorder or learning disability

Sole or primary carer for dependent relatives

Determination and/or demonstration of steps having been taken to address offending behaviour

STEP THREE**Consider any factors which indicate a reduction, such as assistance to the prosecution**

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR**Reduction for guilty pleas**

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE**Totality principle**

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

STEP SIX**Compensation and ancillary orders**

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

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:**Disqualification from having a dog**

The court **may** disqualify the offender from having custody of a dog. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

If the dog is a **prohibited dog** refer to the guideline for possession of a prohibited dog in relation to destruction/contingent destruction orders.

The court **shall** make a destruction order unless the court is satisfied that the dog would not constitute a danger to public safety.

In reaching a decision, the court should consider the relevant circumstances which **must** include:

- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:

- other relevant circumstances.

If the court is satisfied that the dog would not constitute a danger to public safety and the dog is not prohibited, it **may** make a contingent destruction order requiring the dog be kept under proper control. A contingent destruction order may specify the measures to be taken by the owner for keeping the dog under proper control, which include:

- muzzling;
- keeping on a lead;
- neutering in appropriate cases; and
- excluding it from a specified place.

Where the court makes a destruction order, it **may** appoint a person to undertake destruction and order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

Fit and proper person

In determining whether a person is a fit and proper person to be in charge of a dog the following non-exhaustive factors may be relevant:

- any relevant previous convictions, cautions or penalty notices;
- the nature and suitability of the premises that the dog is to be kept at by the person;
- where the police have released the dog pending the court's decision whether the person has breached conditions imposed by the police; and
- any relevant previous breaches of court orders.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

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

Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where a person is injured
Dangerous Dogs Act 1991 (section 3 (1))

Triable either way

Maximum: 5 years' custody

Offence range: Discharge – 4 years' custody

STEP ONE**Determining the offence category**

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

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

CULPABILITY demonstrated by one or more of the following:**A – High culpability**

Dog used as a weapon or to intimidate people

Dog known to be prohibited

Dog trained to be aggressive

Failure to respond to official warnings or to comply with orders concerning the dog

Offender disqualified from owning a dog, or failed to respond to official warnings, or to comply with orders concerning the dog

B – Medium culpability

All other cases where characteristics for categories A or C are not present, and in particular:

Failure to respond to warnings or concerns expressed by others about the dog's behaviour

Failure to act on prior knowledge of the dog's aggressive behaviour

Lack of safety or control measures taken in situations where an incident could reasonably have been foreseen

Failure to intervene in the incident (where it would have been reasonable to do so)

Ill treatment or failure to ensure welfare needs of the dog (where connected to the offence and where not charged separately)

C – Lesser culpability

Attempts made to regain control of the dog and/or intervene

Provocation of the dog without fault of the offender

Evidence of safety or control measures having been taken

Incident could not have reasonably been foreseen by the offender

Momentary lapse of control/attention

HARMThe level of **harm** is assessed by weighing up all the factors of the case.

Category 1	Serious injury (which includes disease transmission)
	Serious psychological harm
Category 2	Harm that falls between categories 1 and 3
Category 3	Minor injury and no significant psychological harm

STEP TWO**Starting point and category range**

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

Harm	Culpability		
	A	B	C
Category 1	Starting point 3 years' custody	Starting point 1 year 6 months' custody	Starting point High level community order
	Category range 2 years 6 months' – 4 years' custody	Category range 6 months' – 2 years 6 months' custody	Category range Medium level community order – 6 months' custody
Category 2	Starting point 2 years' custody	Starting point 6 months' custody	Starting point Band C fine
	Category range 1 year – 3 years' custody	Category range Medium level community order – 1 year's custody	Category range Band B fine – High level community order
Category 3	Starting point 6 months' custody	Starting point Low level community order	Starting point Band B fine
	Category range High level community order – 1 year 6 months' custody	Category range Band C fine – 6 months' custody	Category range Discharge – Band C fine

The table is for single offences. Concurrent sentences reflecting the overall criminality of offending will ordinarily be appropriate where offences arise out of the same incident or facts: please refer to the *Offences Taken into Consideration and Totality* guideline.

The court should then consider any adjustment for any aggravating or mitigating factors. On the next page is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

Factors increasing seriousness

Statutory aggravating factors:

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

Offence committed whilst on bail

Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity.

Other aggravating factors:

Victim is a child or otherwise vulnerable because of personal circumstances

Location of the offence

Sustained or repeated attack

Significant ongoing effect on witness(es) to the attack

Serious injury caused to others (where not charged separately)

Significant practical and financial effects of offence on relatives/carers

Allowing person insufficiently experienced or trained, to be in charge of the dog

Lack or loss of control of dog due to influence of alcohol or drugs

Offence committed against those working in the public sector or providing a service to the public

Injury to other animals

Established evidence of community/wider impact

Failure to comply with current court orders (except where taken into account in assessing culpability)

Offence committed on licence

Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Isolated incident

No previous complaints against, or incidents involving the dog

Evidence of responsible ownership

Remorse

Good character and/or exemplary conduct

Serious medical condition requiring urgent, intensive or long-term treatment

Age and/or lack of maturity where it affects the responsibility of the offender

Mental disorder or learning disability

Sole or primary carer for dependent relatives

Determination and/or demonstration of steps having been taken to address offending behaviour

STEP THREE

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

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR

Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE

Totality principle

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

STEP SIX

Compensation and ancillary orders

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

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:

Disqualification from having a dog

The court **may** disqualify the offender from having custody of a dog. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

If the dog is a **prohibited dog** refer to the guideline for possession of a prohibited dog in relation to destruction/contingent destruction orders.

The court **shall** make a destruction order unless the court is satisfied that the dog would not constitute a danger to public safety.

In reaching a decision, the court should consider the relevant circumstances which **must** include:

- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:

- other relevant circumstances.

If the court is satisfied that the dog would not constitute a danger to public safety and the dog is not prohibited, it **may** make a contingent destruction order requiring the dog be kept under proper control. A contingent destruction order may specify the measures to be taken by the owner for keeping the dog under proper control, which include:

- muzzling;
- keeping on a lead;
- neutering in appropriate cases; and
- excluding it from a specified place.

Where the court makes a destruction order, it **may** appoint a person to undertake destruction and order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

Fit and proper person

In determining whether a person is a fit and proper person to be in charge of a dog the following non-exhaustive factors may be relevant:

- any relevant previous convictions, cautions or penalty notices;
- the nature and suitability of the premises that the dog is to be kept at by the person;
- where the police have released the dog pending the court's decision whether the person has breached conditions imposed by the police; and
- any relevant previous breaches of court orders.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

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

Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place) where an assistance dog is injured or killed
Dangerous Dogs Act 1991 (section 3 (1))

Triable either way

Maximum: 3 years' custody

Offence range: Discharge – 2 years 6 months' custody

STEP ONE
Determining the offence category

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

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender’s culpability.**

CULPABILITY demonstrated by one or more of the following:

- A – High culpability**
- Dog used as a weapon or to intimidate people or dogs
 - Dog known to be prohibited
 - Dog trained to be aggressive
 - Offender disqualified from owning a dog, or failed to respond to official warnings, or to comply with orders concerning the dog
 - Offence motivated by, or demonstrating hostility to the victim (assisted person) based on the victim’s disability (or presumed disability)

- B – Medium culpability**
- All other cases where characteristics for categories A or C are not present, and in particular:
- Failure to respond to warnings or concerns expressed by others about the dog’s behaviour
 - Failure to act on prior knowledge of the dog’s aggressive behaviour
 - Lack of safety or control measures taken in situations where an incident could reasonably have been foreseen
 - Failure to intervene in the incident (where it would have been reasonable to do so)
 - Ill treatment or failure to ensure welfare needs of the dog (where connected to the offence and where not charged separately)

- C – Lesser culpability**
- Attempts made to regain control of the dog and/or intervene
 - Provocation of the dog without fault of the offender
 - Evidence of safety or control measures having been taken
 - Incident could not have reasonably been foreseen by the offender
 - Momentary lapse of control/attention

HARM
 The level of **harm** is assessed by weighing up all the factors of the case.

Category 1	Fatality or serious injury to an assistance dog and/or Serious impact on the assisted person (whether psychological or other harm caused by the offence)
Category 2	Harm that falls between categories 1 and 3
Category 3	Minor injury to assistance dog and impact of the offence on the assisted person is limited

STEP TWO**Starting point and category range**

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

Harm	Culpability		
	A	B	C
Category 1	Starting point 2 years' custody	Starting point 9 months' custody	Starting point Medium level community order
	Category range 1 year – 2 years 6 months' custody	Category range Medium level community order – 1 year's custody	Category range Low level community order – High level community order
Category 2	Starting point 1 years' custody	Starting point High level community order	Starting point Band B fine
	Category range 6 months' – 1 year 6 months' custody	Category range Low level community order – 6 months' custody	Category range Band A fine – Low level community order
Category 3	Starting point High level community order	Starting point Band C fine	Starting point Band A fine
	Category range Medium level community order – 6 months' custody	Category range Band B fine – High level community order	Category range Discharge – Band B fine

The court should then consider any adjustment for any aggravating or mitigating factors. On the next page is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

Factors increasing seriousness

Statutory aggravating factors:

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

Offence committed whilst on bail

Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, sexual orientation or transgender identity

Other aggravating factors:

Location of the offence

Sustained or repeated attack

Significant ongoing effect on witness(es) to the attack

Allowing person insufficiently experienced or trained, to be in charge of the dog

Lack or loss of control of the dog due to influence of alcohol or drugs

Offence committed against those working in the public sector or providing a service to the public

Injury to other animals

Cost of retraining an assistance dog

Established evidence of community/wider impact

Failure to comply with current court orders (except where taken into account in assessing culpability)

Offence committed on licence

Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Isolated incident

No previous complaints against, or incidents involving the dog

Evidence of responsible ownership

Remorse

Good character and/or exemplary conduct

Serious medical condition requiring urgent, intensive or long-term treatment

Age and/or lack of maturity where it affects the responsibility of the offender

Mental disorder or learning disability

Sole or primary carer for dependent relatives

Determination and/or demonstration of steps having been taken to address offending behaviour

STEP THREE**Consider any factors which indicate a reduction, such as assistance to the prosecution**

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR**Reduction for guilty pleas**

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE**Totality principle**

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

STEP SIX**Compensation and ancillary orders**

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

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:**Disqualification from having a dog**

The court **may** disqualify the offender from having custody of a dog. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

If the dog is a **prohibited dog** refer to the guideline for possession of a prohibited dog in relation to destruction/contingent destruction orders.

The court **shall** make a destruction order unless the court is satisfied that the dog would not constitute a danger to public safety.

In reaching a decision, the court should consider the relevant circumstances which **must** include:

- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:

- other relevant circumstances.

If the court is satisfied that the dog would not constitute a danger to public safety and the dog is not prohibited, it **may** make a contingent destruction order requiring the dog be kept under proper control. A contingent destruction order may specify the measures to be taken by the owner for keeping the dog under proper control, which include:

- muzzling;
- keeping on a lead;
- neutering in appropriate cases; and
- excluding it from a specified place.

Where the court makes a destruction order, it **may** appoint a person to undertake destruction and order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

Fit and proper person

In determining whether a person is a fit and proper person to be in charge of a dog the following non-exhaustive factors may be relevant:

- any relevant previous convictions, cautions or penalty notices;
- the nature and suitability of the premises that the dog is to be kept at by the person;
- where the police have released the dog pending the court's decision whether the person has breached conditions imposed by the police; and
- any relevant previous breaches of court orders.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

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

Owner or person in charge of a dog dangerously out of control in any place in England or Wales (whether or not a public place)

Dangerous Dogs Act 1991 (section 3 (1))

Triable only summarily

Maximum: 6 months' custody

Offence range: Discharge – 6 months' custody

STEP ONE**Determining the offence category**

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

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

CULPABILITY demonstrated by one or more of the following:**A – Higher culpability**

Dog used as a weapon or to intimidate people
--

Dog known to be prohibited

Dog trained to be aggressive

Offender disqualified from owning a dog, or failed to respond to official warnings, or to comply with orders concerning the dog

B – Lower culpability

Attempts made to regain control of the dog and/or intervene

Provocation of dog without fault of the offender
--

Evidence of safety or control measures having been taken
--

Incident could not have reasonably been foreseen by the offender
--

Momentary lapse of control/attention

HARM

The level of harm is assessed by weighing up all the factors of the case.

Greater harm	Presence of children or others who are vulnerable because of personal circumstances
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	Injury to other animals
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Lesser harm	Low risk to the public
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STEP TWO
Starting point and category range

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

Harm	Culpability	
	A	B
Greater harm	Starting point Medium level community order	Starting point Band B fine
	Category range Band C fine – 6 months’ custody	Category range Band A fine – Band C fine
Lesser harm	Starting point Band C fine	Starting point Band A fine
	Category range Band B fine – Low level community order	Category range Discharge – Band B fine

The court should then consider any adjustment for any aggravating or mitigating factors. On the next page is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

Factors increasing seriousness

Statutory aggravating factors:

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

Offence committed whilst on bail

Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

Location of the offence

Significant ongoing effect on the victim and/or others

Failing to take adequate precautions to prevent the dog from escaping

Allowing person insufficiently experienced or trained, to be in charge of the dog

Ill treatment or failure to ensure welfare needs of the dog (where connected to the offence and where not charged separately)

Lack or loss of control of the dog due to influence of alcohol or drugs

Offence committed against those working in the public sector or providing a service to the public

Established evidence of community/wider impact

Failure to comply with current court orders (unless this has already been taken into account in assessing culpability)

Offence committed on licence

Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Isolated incident

No previous complaints against, or incidents involving the dog

Evidence of responsible ownership

Remorse

Good character and/or exemplary conduct

Serious medical condition requiring urgent, intensive or long-term treatment

Age and/or lack of maturity where it affects the responsibility of the offender

Mental disorder or learning disability

Sole or primary carer for dependent relatives

Determination and/or demonstration of steps having been taken to address offending behaviour

STEP THREE**Consider any factors which indicate a reduction, such as assistance to the prosecution**

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR**Reduction for guilty pleas**

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE**Totality principle**

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

STEP SIX**Compensation and ancillary orders**

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

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:***Disqualification from having a dog***

The court **may** disqualify the offender from having custody of a dog. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

If the dog is a **prohibited dog** refer to the guideline for possession of a prohibited dog in relation to destruction/contingent destruction orders.

If the dog is not prohibited and the court is satisfied that the dog would constitute a danger to public safety the court **may** make a destruction order.

In reaching a decision, the court should consider the relevant circumstances which **must** include:

- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:

- other relevant circumstances.

If the court is satisfied that the dog would not constitute a danger to public safety and the dog is not prohibited, it **may** make a contingent destruction order requiring the dog be kept under proper control. A contingent destruction order may specify the measures to be taken by the owner for keeping the dog under proper control, which include:

- muzzling;
- keeping on a lead;
- neutering in appropriate cases; and
- excluding it from a specified place.

Where the court makes a destruction order, it **may** appoint a person to undertake destruction and order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

Fit and proper person

In determining whether a person is a fit and proper person to be in charge of a dog the following non-exhaustive factors may be relevant:

- any relevant previous convictions, cautions or penalty notices;
- the nature and suitability of the premises that the dog is to be kept at by the person;
- where the police have released the dog pending the court's decision whether the person has breached conditions imposed by the police; and
- any relevant previous breaches of court orders.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

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

Possession of a prohibited dog

Dangerous Dogs Act 1991 (section 1 (7))

Breeding, selling, exchanging or

advertising a prohibited dog

Dangerous Dogs Act 1991 (section 1 (7))

Triable only summarily

Maximum: 6 months' custody

Offence range: Discharge – 6 months' custody

STEP ONE**Determining the offence category**

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

The level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

CULPABILITY demonstrated by one or more of the following:**A – Higher culpability:**

Possessing a dog known to be prohibited
Breeding from a dog known to be prohibited
Selling, exchanging or advertising a dog known to be prohibited
Offence committed for gain
Dog used to threaten or intimidate
Permitting fighting
Training and/or possession of paraphernalia for dog fighting
B – Lower culpability:
All other cases

B – Lower culpability:**HARM**

The level of harm is assessed by weighing up all the factors of the case.

Greater harm	High risk to the public and/or animals
Lesser harm	Low risk to the public and/or animals

See page 29.

STEP TWO
Starting point and category range

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

Harm	Culpability	
	A	B
Greater harm	Starting point Medium level community order	Starting point Band B fine
	Category range Band C fine – 6 months’ custody	Category range Band A fine – Low level community order
Lesser harm	Starting point Band C fine	Starting point Band A fine
	Category range Band B fine – Medium level community order	Category range Discharge – Band B fine

See page 30.

The court should then consider any adjustment for any aggravating or mitigating factors. Below is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender.

Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

Factors increasing seriousness

Statutory aggravating factors:

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

Offence committed whilst on bail

Other aggravating factors:

Presence of children or others who are vulnerable because of personal circumstances

Ill treatment or failure to ensure welfare needs of the dog (where connected to the offence and where not charged separately)

Established evidence of community/wider impact

Failure to comply with current court orders

Offence committed on licence

Offences taken into consideration

Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Unaware that dog was prohibited type despite reasonable efforts to identify type

Evidence of safety or control measures having been taken by owner

Prosecution results from owner notification

Evidence of responsible ownership

Remorse

Good character and/or exemplary conduct

Serious medical condition requiring urgent, intensive or long-term treatment

Age and/or lack of maturity where it affects the responsibility of the offender

Mental disorder or learning disability

Sole or primary carer for dependent relatives

Determination and/or demonstration of steps having been taken to address offending behaviour

Lapse of time since the offence where this is not the fault of the offender

STEP THREE**Consider any factors which indicate a reduction, such as assistance to the prosecution**

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

STEP FOUR**Reduction for guilty pleas**

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

STEP FIVE**Totality principle**

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

STEP SIX**Compensation and ancillary orders**

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

Compensation order

The court should consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:***Disqualification from having a dog***

The court **may** disqualify the offender from having custody of a dog for such period as it thinks fit. The test the court should consider is whether the offender is a fit and proper person to have custody of a dog.

Destruction order/contingent destruction order

In any case where the offender is not the owner of the dog, the owner must be given an opportunity to be present and make representations to the court.

The court **shall** make a destruction order unless the court is satisfied that the dog would not constitute a danger to public safety.

In reaching a decision, the court should consider the relevant circumstances which **must** include:

- the temperament of the dog and its past behaviour;
- whether the owner of the dog, or the person for the time being in charge of it is a fit and proper person to be in charge of the dog;

and **may** include:

- other relevant circumstances.

If the court is satisfied that the dog would not constitute a danger to public safety, it **shall** make a contingent destruction order requiring that the dog be exempted from the prohibition on possession or custody within the requisite period.

Where the court makes a destruction order, it **may** appoint a person to undertake destruction and order the offender to pay what it determines to be the reasonable expenses of destroying the dog and keeping it pending its destruction.

Fit and proper person

In determining whether a person is a fit and proper person to be in charge of a dog the following non-exhaustive factors may be relevant:

- any relevant previous convictions, cautions or penalty notices;
- the nature and suitability of the premises that the dog is to be kept at by the person;
- where the police have released the dog pending the court's decision whether the person has breached conditions imposed by the police; and
- any relevant previous breaches of court orders.

Note: the court must be satisfied that the person who is assessed by the court as a fit and proper person can demonstrate that they are the owner or the person ordinarily in charge of that dog at the time the court is considering whether the dog is a danger to public safety. Someone who has previously not been in charge of the dog should not be considered for this assessment because it is an offence under the Dangerous Dogs Act 1991 to make a gift of a prohibited dog.

STEP SEVEN

Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.

STEP EIGHT

Consideration for time spent on bail

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

Annex

Fine bands and community orders

FINE BANDS

In this guideline, fines are expressed as one of three fine bands (A, B, C).

Fine Band	Starting point <i>(applicable to all offenders)</i>	Category range <i>(applicable to all offenders)</i>
Band A	50% of relevant weekly income	25 – 75% of relevant weekly income
Band B	100% of relevant weekly income	75 – 125% of relevant weekly income
Band C	150% of relevant weekly income	125 – 175% of relevant weekly income

COMMUNITY ORDERS

In this guideline, community sentences are expressed as one of three levels (low, medium and high). An illustrative description of examples of requirements that might be appropriate for each level is provided below. Where two or more requirements are ordered, they must be compatible with each other. Save in exceptional circumstances, the court must impose at least one requirement for the purpose of punishment, or combine the community order with a fine, or both (see section 177 Criminal Justice Act 2003).

Low	Medium	High
Offences only just cross community order threshold, where the seriousness of the offence or the nature of the offender’s record means that a discharge or fine is inappropriate	Offences that obviously fall within the community order band	Offences only just fall below the custody threshold or the custody threshold is crossed but a community order is more appropriate in the circumstances
In general, only one requirement will be appropriate and the length may be curtailed if additional requirements are necessary		More intensive sentences which combine two or more requirements may be appropriate
Suitable requirements might include: <ul style="list-style-type: none"> • 40 – 80 hours unpaid work • Prohibited activity requirement • Curfew requirement within the lowest range (e.g. up to 16 hours per day for a few weeks) • Attendance centre requirement (where available) • Exclusion requirement, without electronic monitoring, for a few months 	Suitable requirements might include: <ul style="list-style-type: none"> • Greater number of hours of unpaid work (e.g. 80 – 150 hours) • Prohibited activity requirement • Curfew requirement within the middle range (e.g. up to 16 hours for 2 – 3 months) • Exclusion requirement lasting in the region of 6 months 	Suitable requirements might include: <ul style="list-style-type: none"> • 150 – 300 hours of unpaid work • Curfew requirement up to 16 hours per day for 4 – 12 months • Exclusion order lasting in the region of 12 months

The tables are also set out in the *Magistrates’ Court Sentencing Guidelines* which includes further guidance on fines and community orders.

