

**Public Order Act, s.4 –
threatening behaviour – fear or
provocation of violence
Racially or religiously aggravated
threatening behaviour**

Public Order Act 1986, s.4

Crime and Disorder Act 1998, s.31

Threatening behaviour: triable only summarily
Maximum: Level 5 fine and/or 6 months

Racially or religiously aggravated threatening behaviour: triable either way
Maximum when tried summarily: Level 5 fine and/or 6 months
Maximum when tried on indictment: 2 years

Where offence committed in domestic context, refer to page 177 for guidance

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Fear or threat of low level immediate unlawful violence such as push, shove or spit	Low level community order	Band B fine to medium level community order
Fear or threat of medium level immediate unlawful violence such as punch	High level community order	Low level community order to 12 weeks custody
Fear or threat of high level immediate unlawful violence such as use of weapon; missile thrown; gang involvement	12 weeks custody	6 to 26 weeks custody

Offence seriousness (culpability and harm)

**B. Consider the effect of aggravating and mitigating factors
(other than those within examples above)**

Common aggravating and mitigating factors are identified in the pullout card – the following may be particularly relevant but **these lists are not exhaustive**

<p>Factors indicating higher culpability</p> <ol style="list-style-type: none"> 1. Planning 2. Offender deliberately isolates victim 3. Group action 4. Threat directed at victim because of job 5. History of antagonism towards victim <p>Factors indicating greater degree of harm</p> <ol style="list-style-type: none"> 1. Offence committed at school, hospital or other place where vulnerable persons may be present 2. Offence committed on enclosed premises such as public transport 3. Vulnerable victim(s) 4. Victim needs medical help/counselling 	<p>Factors indicating lower culpability</p> <ol style="list-style-type: none"> 1. Impulsive action 2. Short duration 3. Provocation
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**Form a preliminary view of the appropriate sentence
If offender charged and convicted of the racially or religiously
aggravated offence, increase the sentence to reflect this element**

Refer to pages 178-179 for guidance

Consider offender mitigation

Common factors are identified in the pullout card

Consider a reduction for a guilty plea

**Consider ancillary orders, including compensation and
football banning order (where appropriate)**

Refer to pages 168-174 for guidance on available ancillary orders

**Decide sentence
Give reasons**