

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
www.sentencingcouncil.org.uk

Technical guidance

- a) If imposing more onerous requirements the length of the order may be extended up to 3 years or six months longer than the previous length, which ever is longer (but only once).
- b) If imposing unpaid work as a more onerous requirement and an unpaid work requirement was not previously included, the minimum number of hours that can be imposed is 20.
- c) The maximum fine that can be imposed is £2,500.
- d) If re-sentencing, a suspended sentence **MUST NOT** be imposed as a more severe alternative to a community order. A suspended sentence may only be imposed if it is fully intended that the offender serve a custodial sentence in accordance with the *Imposition of Community and Custodial Sentences* guideline.
- e) Where the order was imposed by the Crown Court, magistrates should consider their sentencing powers in dealing with a breach. Where the judge imposing the order reserved any breach proceedings commit the breach for sentence.

Powers of the court following a subsequent conviction

A conviction for a further offence does not constitute a breach of a community order. However, in such a situation, the court should consider the following guidance from the *Offences Taken into Consideration and Totality* guideline:¹

Offender convicted of an offence while serving a community order

The power to deal with the offender depends on his being convicted whilst the order is still in force; it does not arise where the order has expired, even if the additional offence was committed whilst it was still current.

If an offender, in respect of whom a community order made by a magistrates' court is in force, is convicted by a magistrates' court of an additional offence, the magistrates' court should ordinarily revoke the previous community order and sentence afresh for both the original and the additional offence.

Where an offender, in respect of whom a community order made by a Crown Court is in force, is convicted by a magistrates' court, the magistrates' court may, and ordinarily should, commit the offender to the Crown Court, in order to allow the Crown Court to re-sentence for the original offence and the additional offence.

The sentencing court should consider the overall seriousness of the offending behaviour taking into account the additional offence and the original offence. The court should consider whether the combination of associated offences is sufficiently serious to justify a custodial sentence.

If the court does not consider that custody is necessary, it should impose a single community order that reflects the overall totality of criminality. The court must take into account the extent to which the offender complied with the requirements of the previous order.

¹ https://www.sentencingcouncil.org.uk/wp-content/uploads/Definitive_guideline_TICs__totality_Final_web.pdf p.14

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Breach of a protective order (restraining and non-molestation orders)

Restraining orders: Protection
from Harassment Act 1997 (section 5(5) and (5A))
Non-molestation orders: Family Law Act 1996
(section 42A)

Triable either way
Maximum: 5 years' custody

Offence range: Fine – 4 years' custody

For reference only.
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STEP ONE

Determining the offence category

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

Culpability

In assessing culpability, the court should consider the **intention** and **motivation** of the offender in committing any breach.

A	<ul style="list-style-type: none"> Very serious and/or persistent breach
B	<ul style="list-style-type: none"> Deliberate breach falling between A and C
C	<ul style="list-style-type: none"> Minor breach Breach just short of reasonable excuse

Harm

The level of **harm** is determined by weighing up all the factors of the case to determine the harm that has been caused or was intended to be caused.

Category 1	Breach causes very serious harm or distress
Category 2	Cases falling between categories 1 and 3
Category 3	Breach causes little or no harm or distress*

* where a breach is committed in the context of a background of domestic abuse, the sentencer should take care not to underestimate the harm which may be present in a breach

See page 23.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
www.sentencingcouncil.org.uk

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 from the appropriate sentence table 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 1 year's custody	Starting point 12 weeks' custody
	Category range 1 – 4 years' custody	Category range High level community order – 2 years' custody	Category range Medium level community order – 1 year's custody
Category 2	Starting point 1 year's custody	Starting point 12 weeks' custody	Starting point High level community order
	Category range High level community order – 2 years' custody	Category range Medium level community order – 1 year's custody	Category range Low level community order – 26 weeks' custody
Category 3	Starting point 12 weeks' custody	Starting point High level community order	Starting point Low level community order
	Category range Medium level community order – 1 year's custody	Category range Low level community order – 26 weeks' custody	Category range Band B fine – High level community order

The table above refers to single offences. Where there are multiple offences consecutive sentences may be appropriate – please refer to the *Offences Taken Into Consideration and Totality* guideline.

See page 24.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
www.sentencingcouncil.org.uk

The table below contains 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. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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:

Breach committed shortly after order made

History of disobedience to court orders (where not already taken into account as a previous conviction)

Breach involves a further offence (where not separately prosecuted)

Using contact arrangements with a child/children to instigate offence and/or proven history of violence or threats by offender

Breach results in victim or protected person being forced to leave their home

Impact upon children or family members

Victim or protected subject of order breached is particularly vulnerable

Offender takes steps to prevent victim or subject harmed by breach from reporting an incident or seeking assistance

Offence committed on licence or while subject to post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

Breach committed after long period of compliance

Prompt voluntary surrender/admission of breach or failure

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

Mental disorder or learning disability where linked to the commission of the offence

Sole or primary carer for dependent relatives

Contact not initiated by offender – a careful examination of all the circumstances is required before weight is given to this factor

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STEP THREE

Consider any factors which indicate a reduction for 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 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

Ancillary orders

In all cases the court should consider whether to make compensation and/or ancillary 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.

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Breach of a criminal behaviour order (also applicable to breach of an anti-social behaviour order)

**Anti-Social Behaviour, Crime and Policing Act
2014 (section 30)**

**Triable either way
Maximum: 5 years' custody**

Offence range: Fine – 4 years' custody

For reference only.
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STEP ONE

Determining the offence category

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

Culpability

A	<ul style="list-style-type: none"> Very serious or persistent breach
B	<ul style="list-style-type: none"> Deliberate breach falling between A and C
C	<ul style="list-style-type: none"> Minor breach Breach just short of reasonable excuse

Harm

The level of **harm** is determined by weighing up all the factors of the case to determine the harm that has been caused or was at risk of being caused.

In assessing any risk of harm posed by the breach, consideration should be given to the original offence(s) or activity for which the order was imposed and the circumstances in which the breach arose.

Category 1	<ul style="list-style-type: none"> Breach causes very serious harm or distress Breach demonstrates a continuing risk of serious criminal and/or anti-social behaviour
Category 2	<ul style="list-style-type: none"> Cases falling between categories 1 and 3
Category 3	<ul style="list-style-type: none"> Breach causes little or no harm or distress Breach demonstrates a continuing risk of minor criminal and/or anti-social behaviour

See page 29.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
www.sentencingcouncil.org.uk

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 from the appropriate sentence table 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 1 year's custody	Starting point 12 weeks' custody
	Category range 1 – 4 years' custody	Category range High level community order – 2 years' custody	Category range Medium level community order – 1 year's custody
Category 2	Starting point 1 year's custody	Starting point 12 weeks' custody	Starting point High level community order
	Category range High level community order – 2 years' custody	Category range Medium level community order – 1 year's custody	Category range Low level community order – 26 weeks' custody
Category 3	Starting point 12 weeks' custody	Starting point High level community order	Starting point Medium level community order
	Category range Medium level community order – 1 year's custody	Category range Low level community order – 26 weeks' custody	Category range Band B fine – High level community order

NOTE: A Conditional Discharge **MAY NOT** be imposed for breach of a criminal behaviour order.

See page 30.

For reference only.
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The table below contains 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. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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:

Offence is a further breach, following earlier breach proceedings

Breach committed shortly after order made

History of disobedience of court orders or orders imposed by local authorities

Breach constitutes a further offence (where not separately prosecuted)

Targeting of a person the order was made to protect or a witness in the original proceedings

Victim or protected subject of order breached is particularly vulnerable due to age, disability, culture, religion, language, or other factors

Offence committed on licence or while subject to post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

Genuine misunderstanding of terms of order

Breach committed after long period of compliance

Prompt voluntary surrender/admission of breach or failure

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

For reference only.
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STEP THREE

Consider any factors which indicate a reduction for 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 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

Ancillary orders

In all cases the court should consider whether to make compensation and/or ancillary 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.

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Breach of a sexual harm prevention order (also applicable to breach of a sexual offences prevention order and to breach of a foreign travel order)

Sexual Offences Act 2003 (section 103I)

Triable either way
Maximum: 5 years' custody

Offence range: Fine – 4 years and 6 months' custody

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
www.sentencingcouncil.org.uk

STEP ONE

Determining the offence category

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

Culpability

In assessing culpability, the court should consider the **intention** and **motivation** of the offender in committing any breach.

A	<ul style="list-style-type: none"> Very serious or persistent breach
B	<ul style="list-style-type: none"> Deliberate breach falling between A and C
C	<ul style="list-style-type: none"> Minor breach Breach just short of reasonable excuse

Harm

The level of **harm** is determined by weighing up all the factors of the case to determine the harm that has been caused or was at risk of being caused.

In assessing any risk of harm posed by the breach, consideration should be given to the original offence(s) for which the order was imposed and the circumstances in which the breach arose.

Category 1	Breach causes or risks very serious harm or distress
Category 2	Cases falling between categories 1 and 3
Category 3	Breach causes or risks little or no harm or distress

See page 35.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
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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 from the appropriate sentence table 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 2 years' custody	Starting point 1 year's custody
	Category range 2 – 4 years 6 months' custody	Category range 36 weeks – 3 years' custody	Category range High level community order – 2 years' custody
Category 2	Starting point 2 years' custody	Starting point 1 year's custody	Starting point High level community order
	Category range 36 weeks – 3 years' custody	Category range High level community order – 2 years' custody	Category range Medium level community order – 26 weeks' custody
Category 3	Starting point 1 year's custody	Starting point 26 weeks' custody	Starting point Medium level community order
	Category range High level community order – 2 years' custody	Category range Medium level community order – 36 weeks' custody	Category range Band B fine – High level community order

See page 36.

For reference only.
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The table below contains 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. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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:

Breach committed immediately or shortly after order made

History of disobedience of court orders (where not already taken into account as a previous conviction)

Breach involves a further offence (where not separately prosecuted)

Targeting of particular individual the order was made to protect

Victim or protected subject of order is particularly vulnerable

Offender takes steps to prevent victim or subject harmed by breach from reporting an incident or seeking assistance

Offence committed on licence or while subject to post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

Breach committed after long period of compliance

Prompt voluntary surrender/admission of breach

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

Mental disorder or learning disability where linked to the commission of the offence

Sole or primary carer for dependent relatives

See page 37.

For reference only.
Please refer to the guideline(s)
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STEP THREE

Consider any factors which indicate a reduction for 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 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

Ancillary orders

In all cases the court should consider whether to make compensation and/or ancillary 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.

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Fail to comply with notification requirements

Sexual Offences Act 2003 (section 91)

Triable either way
Maximum: 5 years' custody

Offence range: Fine – 4 years' custody

For reference only.
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STEP ONE

Determining the offence category

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

Culpability

In assessing culpability, the court should consider the **intention** and **motivation** of the offender in committing any breach.

A	<ul style="list-style-type: none"> • Determined attempts to avoid detection • Long period of non compliance
B	<ul style="list-style-type: none"> • Deliberate failure to comply with requirement
C	<ul style="list-style-type: none"> • Minor breach • Breach just short of reasonable excuse

Harm

The level of **harm** is determined by weighing up all the factors of the case to determine the harm that has been caused or was at risk of being caused.

In assessing any risk of harm posed by the breach, consideration should be given to the original offence(s) for which the order was imposed and the circumstances in which the breach arose.

Category 1	Breach causes or risks very serious harm or distress
Category 2	Cases falling between categories 1 and 3
Category 3	Breach causes or risks little or no harm or distress

See page 41.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
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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 from the appropriate sentence table 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 1 year's custody	Starting point 36 weeks' custody
	Category range 1 year's – 4 years' custody	Category range 26 weeks' – 2 years' custody	Category range 26 weeks' – 1 year 6 months' custody
Category 2	Starting point 1 year's custody	Starting point 36 weeks' custody	Starting point High level community order
	Category range 26 weeks' – 2 years' custody	Category range 26 weeks' – 1 year 6 months' custody	Category range Medium level community order – 36 weeks' custody
Category 3	Starting point 36 weeks' custody	Starting point High level community order	Starting point Low level community order
	Category range 26 weeks' – 1 year 6 months' custody	Category range Medium level community order – 36 weeks' custody	Category range Band B fine – Medium level community order

See page 42.

For reference only.
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The table below contains 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. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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:

Breach committed shortly after order made

History of disobedience of court orders (where not already taken into account as a previous conviction)

Breach constitutes a further offence (where not separately prosecuted)

Offence committed on licence or while subject to post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

Breach committed after long period of compliance

Prompt voluntary surrender/admission of breach or failure

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

Mental disorder or learning disability where linked to the commission of the offence

Sole or primary carer for dependent relatives

See page 43.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
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STEP THREE

Consider any factors which indicate a reduction for 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 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

Ancillary orders

In all cases the court should consider whether to make compensation and/or ancillary 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.

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FAIL TO COMPLY WITH NOTIFICATION REQUIREMENTS

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For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
www.sentencingcouncil.org.uk

Breach of disqualification from acting as a director

Company Directors Disqualification Act 1986
(section 13)

Triable either way

Maximum: 2 years' custody

Offence range: Discharge – 1 year and 6 months' custody

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
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STEP ONE

Determining the offence category

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

Culpability

A	<ul style="list-style-type: none"> • Breach involves deceit/dishonesty in relation to actual role within company • Breach involves deliberate concealment of disqualified status
B	<ul style="list-style-type: none"> • All other cases

Harm

The level of **harm** is determined by weighing up all the factors of the case to determine the harm that has been caused or was at risk of being caused.

In assessing any risk of harm posed by the breach, consideration should be given to the original offence(s) or activity for which the order was imposed and the circumstances in which the breach arose.

Category 1	Breach results in significant risk of or actual serious financial loss OR Breach results in significant risk of or actual serious non-financial harm to company/organisation or others
Category 2	Cases falling between categories 1 and 3
Category 3	Breach results in very low risk of or little or no harm (financial or non-financial) to company/organisation or others

See page 47.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
www.sentencingcouncil.org.uk

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 from the appropriate sentence table below. The starting point applies to all offenders irrespective of plea or previous convictions. The court should then consider further adjustment within the category range for aggravating or mitigating features.

Harm	Culpability	
	A	B
Category 1	Starting point 1 year's custody	Starting point 12 weeks' custody
	Category range 26 weeks – 1 year 6 months' custody	Category range High level community order – 36 weeks' custody
Category 2	Starting point 26 weeks' custody	Starting point High level community order
	Category range 12 weeks' – 36 weeks' custody	Category range Medium level community order – 26 weeks' custody
Category 3	Starting point 12 weeks' custody	Starting point Medium level community order
	Category range Medium level community order – 26 weeks' custody	Category range Band C Fine – High level community order

See page 48.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
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The table below contains 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. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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:

Breach committed shortly after order made

Breach continued after warnings received

Breach is continued over a sustained period of time

Breach involves acting as a director in multiple companies

Breach motivated by personal gain

Offence committed on licence or while subject to post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

Breach not motivated by personal gain

Breach committed after long period of compliance

Genuine misunderstanding of terms of disqualification

Evidence of voluntary reparation/compensation made to those suffering loss

Breach activity minimal or committed for short duration

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

Mental disorder or learning disability where linked to the commission of the offence

Sole or primary carer for dependent relatives

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
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STEP THREE

Consider any factors which indicate a reduction for 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 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

Ancillary orders

In all cases the court should consider whether to make compensation and/or ancillary 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.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
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Please refer to the guideline(s)
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Breach of disqualification from keeping an animal

Animal Welfare Act 2006 (section 32)

Triable either way
Maximum: 6 months' custody

Offence range: Discharge – 26 weeks' custody

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
www.sentencingcouncil.org.uk

STEP ONE

Determining the offence category

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

Culpability

A	Serious and/or persistent breach
B	All other cases

Harm

The level of **harm** is determined by weighing up all the factors of the case to determine the harm that has been caused or was at risk of being caused.

In assessing any risk of harm posed by the breach, consideration should be given to the original offence(s) for which the order was imposed and the circumstances in which the breach arose.

Category 1	<ul style="list-style-type: none"> Breach causes or risks death or very serious harm or suffering to animal(s) Breach results in risk of or actual serious harm to individual(s)
Category 2	<ul style="list-style-type: none"> Cases falling between categories 1 and 3
Category 3	<ul style="list-style-type: none"> Breach causes or risks little or no harm or suffering to animal(s) Breach results in very low risk of or little or no harm to individual(s)

See page 53.

For reference only.
Please refer to the guideline(s)
on the Sentencing Council website:
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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 from the appropriate sentence table below. The starting point applies to all offenders irrespective of plea or previous convictions. The court should then consider further adjustment within the category range for aggravating or mitigating features.

Harm	Culpability	
	A	B
Category 1	Starting point 16 weeks' custody	Starting point 8 weeks' custody
	Category range 6 weeks' – 26 weeks' custody	Category range Medium level community order – 16 weeks' custody
Category 2	Starting point 8 weeks' custody	Starting point Medium level community order
	Category range Medium level community order – 16 weeks' custody	Category range Band C Fine – High level community order
Category 3	Starting point Medium level community order	Starting point Band A Fine
	Category range Band C Fine – High level community order	Category range Discharge – Band B Fine

See page 54.

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Please refer to the guideline(s)
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The table below contains 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. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

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:

Breach committed immediately or shortly after order made

History of disobedience to court orders

Breach conducted in commercial context

Breach involves deceit regarding ownership of/responsibility for animal

Harm risked or caused to multiple animals (where not taken into account at step one)

Offence committed on licence or while subject to post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

Breach committed after long period of compliance

Genuine misunderstanding of terms of order

Prompt voluntary surrender/admission of breach or failure

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

Mental disorder or learning disability where linked to the commission of the offence

Sole or primary carer for dependent relatives

See page 55.

For reference only.
Please refer to the guideline(s)
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STEP THREE

Consider any factors which indicate a reduction for 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 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

Ancillary orders

In all cases the court should consider whether to make compensation and/or ancillary 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.

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Other breach offences

Where an offence is not covered by a sentencing guideline a court is also entitled to use, and may be assisted by, a guideline for an analogous offence subject to differences in the elements of the offences and the statutory maxima.

In sentencing the breach offences below, the court should refer to the sentencing approach in step one of the guideline for breach of a criminal behaviour order to determine culpability and harm, and determine an appropriate sentence bearing in mind the maximum penalty for the offence.

Offence	Mode of Trial	Maximum Sentence
Breach of football banning order (section 14) Football Spectators Act 1989	Triable summarily only	A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.
Failure to comply with dispersal order Part 3 Anti-social Behaviour, Crime and Policing Act 2014 (Requires a person committing, or likely to commit ASB to leave an area for up to 48 hours.)	Triable summarily only	A person guilty of an offence under subsection (1) (Failure to move on) is liable on summary conviction - to imprisonment for a period not exceeding 3 months, or to a fine not exceeding level 4 on the standard scale. A person guilty of an offence under subsection (3) (Failure to hand over items) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
Community protection notice Part 4, Chapter 1 Anti-social Behaviour, Crime and Policing Act 2014 (Stops a person, business or organisation committing ASB which spoils the community's quality of life.)	Triable summarily only	A person guilty of an offence under this section is liable on summary conviction - to a fine not exceeding level 4 on the standard scale, in the case of an individual; to a fine of up to £20,000, in the case of a body. (If dealt with by way of fixed penalty, a fixed penalty notice of up to £100.)
Breach of public spaces protection order Part 4, Chapter 2 Anti-social Behaviour, Crime and Policing Act 2014 (Stops people committing ASB in a particular public place.)	Triable summarily only	A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale. (If dealt with by way of fixed penalty, a fixed penalty notice of up to £100.)
Closure Power Part 4, Chapter 3 Anti-social Behaviour, Crime and Policing Act 2014 (Allows the police or local council to close premises where ASB is being committed, or is likely to be committed.)	Triable summarily only	A person guilty of obstructing a person acting under section 79 or 85(1) is liable on summary conviction - (a) to imprisonment for a period not exceeding 3 months, or (b) to a fine A person who is guilty of remaining on or entering premises in contravention of a closure order is liable on summary conviction - (a) to imprisonment for a period not exceeding 6 months, or (b) to a fine, or to both.

For reference only.
 Please refer to the guideline(s)
 on the Sentencing Council website:
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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

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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"> • Any appropriate rehabilitative requirement(s) • 40 – 80 hours of unpaid work • Curfew requirement within the lowest range (for example up to 16 hours per day for a few weeks) • Exclusion requirement, for a few months • Prohibited activity requirement • Attendance centre requirement (where available) 	Suitable requirements might include: <ul style="list-style-type: none"> • Any appropriate rehabilitative requirement(s) • Greater number of hours of unpaid work (for example 80 – 150 hours) • Curfew requirement within the middle range (for example up to 16 hours for 2 – 3 months) • Exclusion requirement lasting in the region of 6 months • Prohibited activity requirement 	Suitable requirements might include: <ul style="list-style-type: none"> • Any appropriate rehabilitative requirement(s) • 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
* If order does not contain a punitive requirement, suggested fine levels are indicated below:		
BAND A FINE	BAND B FINE	BAND C FINE

The *Magistrates' Court Sentencing Guidelines* includes further guidance on fines. The table above is also set out in the *Imposition of Community and Custodial Sentences* guideline which includes further guidance on community orders.

For reference only.
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