Guideline Judgments Case Compendium – Update 5: March 2010

SUBJECT	CASE NAME AND REFERENCE
(A) Generic sentencing principles	
Suspended sentence orders ▪ Activation of a suspended sentence	**R v Sheppard [2008] EWCA Crim 799** (date of judgment: 28 February 2008) **R v Chalmers [2009] EWCA Crim 1814** (date of judgment: 7 August 2009)
Sentence discounts ▪ Totality: Mandatory minimum sentences	**R v Raza [2009] EWCA Crim 1413** (date of judgment: 24 June 2009)
Sentence length ▪ Early release provisions ▪ Imprisonment for public protection ▪ Offence committed whilst on release on licence	**R v Round; R v Dunn [2009] EWCA Crim 2667** (date of judgment: 16 December 2009) **A-G's Reference No.55 of 2008; R v C and other appeals [2008] EWCA Crim 2790** (date of judgment: 26 November 2008) **R v Costello [2010] EWCA Crim 371** (date of judgment: 2 March 2010)
(B) Homicide and related offences	
Murder ▪ With a knife	**R v M [2009] EWCA Crim 2544** (date of judgment: 13 November 2009) **Note**: New starting point for offences of murder committed on or after 2 March 2010 where knife or weapon taken to the scene and used to commit the offence.
Manslaughter ▪ By diminished responsibility ▪ Single punch manslaughter	**R v Wood [2009] EWCA Crim 651** (date of judgment: 2 April 2009) **A-G's Reference Nos.60, 92 and 63 of 2009; R v Appleby; R v Cowles; R v Bryan [2009] EWCA Crim 2693** (date of judgment: 18 December 2009)
(G) Public order offences	

SUBJECT	CASE NAME AND REFERENCE
Firearm offences	**R v Wilkinson and others; A-G's Reference No.43 of 2009; R v Bennett [2009] EWCA Crim 1925** (date of judgment: 6 October 2009)
(H) Theft Acts Offences/Fraud	
▪ Domestic burglary ▪ Insider dealing	**R v Saw and others [2009] EWCA Crim 1** (date of judgment: 16 January 2009) **R v McQuoid [2009] EWCA Crim 1301** (date of judgment: 10 June 2009)
(I) Offences against public justice	
Perverting the course of justice	**R v Tunney [2006] EWCA Crim 2066** (date of judgment: 11 August 2006)
(J) Counterfeiting and money laundering	
False passports	**R v Mabengo and others [2008] EWCA Crim 1699** (date of judgment: 18 June 2008) **R v Ovieriakhi [2009] EWCA Crim 452** (date of judgment: 26 February 2009)

(A) GENERIC SENTENCING PRINCIPLES

Young Offenders

Sentencing youth offenders

Please refer to the definitive guideline 'Overarching Principles: Sentencing Youths' published by the Sentencing Guidelines Council on 20 November 2009 and effective from 30 November 2009.

The following case summaries can be removed as the principles are addressed in the Council guideline:

- R v Ghafoor [2003] 1 Cr App R (S) 84
- R v Eagles [2006] EWCA Crim 2368

Sentencing/Ancillary orders

Anti-Social Behaviour Orders (ASBO's)

Please refer to the definitive guideline 'Breach of an Anti-Social Behaviour Order' published by the Sentencing Guidelines Council on 9 December 2008 and effective from 5 January 2009.

The following case summaries can be removed as the principles are addressed in the Council guideline:

- R v Wadmore; Foreman [2006] EWCA Crim 686
- R v H, Stevens and Lovegrove [2006] EWCA Crim 255

Suspended sentence orders

Activation of a suspended sentence

R v Sheppard [2008] EWCA Crim 799 (date of judgment: 28 February 2008)

The provisions dealing with a breach of a suspended sentence order in part 2, paragraph 8 of Schedule 12 to the Criminal Justice Act 2003 set out a two stage test:

(1) Where there has been a breach, the court must order that the suspended sentence take effect either in whole or in part unless it would be unjust to do so. The extent of compliance with the original order is relevant to that decision.

(2) If it is not unjust to activate the suspended sentence, then the court must decide whether to order the original term be served or to modify the term.

Where an offender has partially completed some or all of the requirements under the order, that may be relevant to either stage. There is a presumption in favour of activating the sentence; the extent of compliance will be relevant to the decision whether it would be unjust to do so. An example given was that 95% compliance might well lead a court to conclude that it would be unjust to activate the sentence in full or in part. Where it is decided that it would not be unjust to activate the sentence, the extent of compliance may be relevant to the determination of the length of sentence. Where there has been substantial and prompt compliance with the requirement(s), the court may impose a lesser term.

R v Chalmers [2009] EWCA Crim 1814 (date of judgment: 7 August 2009)

On activation of a suspended sentence, credit should be given for good performance on the community part, in particular, where there was regular and worthwhile attendance. Time spent in custody prior to imposition of the suspended sentence order may also be relevant (7 weeks in this case). This should be reflected by a reduction to the sentence.

Sentencing discounts

Totality: Mandatory minimum sentences

Legislation: s.166(3)(b), Criminal Justice Act 2003

R v Raza [2009] EWCA Crim 1413 (date of judgment: 24 June 2009)

When considering the application of totality when sentencing for multiple offences and a mandatory minimum sentence is required to be passed, the sentencer should ensure that:

- the sentence does not undermine the will of Parliament and any reduction does not dilute the impact of the sentence;
- the total sentence passed is tailored to the offenders degree of culpability;
- any reduction in sentence should not reduce the deterrent effect of the sentence; and
- any reduction that is necessary should be made against the sentence of another offence being imposed at the same time, not against the mandatory minimum sentence.

Sentence length

Early release provisions

R v Round; R v Dunn [2009] EWCA Crim 2667 (date of judgment: 16 December 2009)

The grounds for appeal were that the commencement, or non-commencement, of sentencing legislation has led to an anomaly whereby the offender's eligibility for release under Home Detention Curfew ('HDC') is not as early as it would be if the sentence had been constructed differently.

The cases raised the question whether a court is obliged to structure consecutive sentences in a way which, if the offender should turn out to be eligible for HDC, made him eligible at the earliest possible date, even if this meant expressing the sentences in an unnatural way.

The court stated that it is not incumbent on sentencers to alter the ordinary manner of expressing sentences to maximise the uncertain possibilities of HDC.

(1) The natural structure of the sentence will normally, although not always, be to pass the principal (and thus the longest) term first: see R v Wolstenholme [2009] EWCA Crim 1902.

(2) The general principle that early release, licence and their various ramifications should be left out of account upon sentence is a matter of principle of some importance. The HDC scheme is entirely at the discretion of the Secretary of State. There is no way of knowing in advance what decisions may be made about HDC release and it is very much a matter of judgement in each individual case. It is wrong in principle for sentencers to be required to adjust the sentence imposed to so uncertain a future prospect.

(3) The wide possible range of regimes for early release and licence strongly reinforces the undesirability, never mind the impracticality, of courts being required to reflect the differences in their sentences.

(4) There is no justification for the proposition that it is to be assumed that the judge will always, in passing sentence, wish to take steps to ensure that the defendant is eligible for HDC at the earliest possible moment.

Dangerous offenders

In respect of sentences imposed under the dangerous offender provisions, as amended by the Criminal Justice and Immigration Act 2008, please refer to the updated 'Dangerous Offenders Guide for Sentencers and Practitioners' published by the Sentencing Guidelines Council on 8 July 2008.

Imprisonment for public protection

Attorney General's Reference (No. 55 of 2008); R v C and other appeals
[2008] EWCA Crim 2790 (date of judgment: 26 November 2008)

Legislation: s.225, Criminal Justice Act 2003 as amended by the Criminal Justice and Immigration Act 2008.

The court gave further consideration to the imposition of a sentence of imprisonment for public protection.

Imprisonment for public protection

An order of imprisonment for public protection may be fully justified despite the fact that, in the broadest sense, the offender did not intend or desire the outcome of his actions.

When deciding whether a sentence of imprisonment for public protection should be passed, the court is entitled to and should have in mind all the alternative and cumulative methods of providing the necessary public protection against the risk posed by the offender. The primary question is the nature and extent of the risk posed and the most appropriate method of addressing that risk and providing public protection.

If an extended sentence, with, if required, the additional support of other orders, can achieve appropriate public protection against the risk posed by an individual offender, an extended sentence rather than imprisonment for public protection should be ordered.

Sections 225(3A) and 225(3B)

Section 225(3A) - Where the offender's previous convictions include one of the offences specified in Schedule 15A, the sentence of imprisonment for public protection becomes available irrespective of the seriousness of the latest offence, provided the court is satisfied that the other requirements are met.

Section 225(3B) - Where the offender has been convicted of a number of offences, the combined totality of offending should be reflected in the assessment of the notional term for the purposes of section 225(3B). The requirement in section 225(3B) may be met despite the absence of any individual offence for which a 4 year term would be appropriate. In calculating the minimum term for the purposes of section 225(3B) any deduction in respect of time spend on remand should be excluded.

Offence committed whilst on release on licence

Legislation: ss. 153, 255A – 256, 265 Criminal Justice Act 2003;
s.116 Powers of Criminal Courts (Sentencing) Act 2000 (repealed for offences committed on or after 4 April 2005)

R v Costello [2010] EWCA Crim 371 (date of judgment: 2 March 2010)

The Court considered the approach to determining the length of a custodial sentence when imposing sentence for an offence committed on licence where the offender had been administratively recalled to prison following breach of that licence.

The judgment reviewed the relevant statutory provisions and a number of recent decisions in which different approaches had been adopted.

Where an offender, who has been administratively recalled to prison for committing a further offence after being released on licence:

a) if the earlier offence was committed before 4 April 2005, s. 116 of the 2000 Act continues to apply and a court may direct both the period of the licence to be served and that the sentence for the later offence should commence on the expiration of that term;
b) if the earlier offence was committed on or after 4 April 2005, that power does not exist and it is not permissible for the court to inflate the sentence for the later offence beyond that commensurate with its seriousness in an effort to ensure that the offender receives an additional period in custody for the later offence.

(B) HOMICIDE AND RELATED OFFENCES

Attempted Murder

Please refer to the definitive guideline 'Attempted Murder' published by the Sentencing Guidelines Council on 16 July 2009 and effective from 27 July 2009.

Corporate Manslaughter

Please refer to the definitive guideline 'Corporate Manslaughter and Health and Safety Offences Causing Death' published by the Sentencing Guidelines Council on 9 February 2010 and effective from 15 February 2010.

Murder

With a knife

R v M [2009] EWCA Crim 2544 (date of judgment: 13 November 2009)

The court considered how the principles set out in the case of R v Povey, McGeary, Pownall and Bleazard [2008] EWCA Crim 1262 applied where the offence was murder.

The court stated that anyone who goes into a public place armed with a knife or any other weapon and uses it to kill or cause injury must accept condign punishment.

The use of a knife and the precise circumstances in which it was used aggravate the seriousness of an individual offence; the list of aggravating features in paragraph 10 of Schedule 21 is not exhaustive. It is always an aggravating feature of any case involving injury and death that the injury or death has resulted from the use of a knife or any other weapon.

Note: in relation to offences of murder committed on or after 2 March 2010, where the offender was aged 18 or over when the offence was committed and where the offence would otherwise attract a 15 year starting point, that starting point will be 25 years where the offender took a knife or other weapon to the scene intending to commit **any** offence or to have it available for use as a weapon and used it in committing the murder: SI 2010/197

Manslaughter

By reason of diminished responsibility

R v Wood [2009] EWCA Crim 651 (date of judgment: 2 April 2009)

- The court could see no logical reason why, subject to the specific element of reduced culpability inherent in the defence, the assessment of the seriousness of the offence of diminished responsibility manslaughter should ignore the guidance in Schedule 21 of the Criminal Justice Act 2003 regarding starting points for the minimum terms for murder.
- A vast disproportion between sentences for murder and sentences for offences of manslaughter which come close to murder would be detrimental to the administration of justice.
- Crimes which result in death should be treated more seriously and dealt with more severely than before. Cases of diminished responsibility manslaughter decided before the Criminal Justice Act 2003 should be treated with utmost caution.

'Single punch manslaughter'

Attorney General's Reference (Nos.60, 62 and 63 of 2009); R v Appleby; R v Cowles; R v Bryan [2009] EWCA Crim 2693 (date of judgment: 18 December 2009)

- R v Furby [2005] EWCA Crim 3147 continues to provide valuable assistance regarding the approach the court should take where a single punch leads to death in circumstances where, although unlawful, the delivery of the punch is understandable and a merciful approach is appropriate. It is a true "one punch manslaughter" case where acting under provocation, in his own home, a defendant offered a single punch which, but for death, would have amounted to no more than common assault or, at the very worst, assault occasioning actual bodily harm and the death was not only unintended but effectively a true accident arising from an unfortunate and unusual combination of circumstances.
- An additional feature of manslaughter cases, seen as a serious aggravating factor, is the public impact of violence on the streets, whether in city centres or in residential areas. Specific attention should be paid to the problem of gratuitous violence in city centres and on the streets. See R v Miah [2005] EWCA Crim 1798.
- Without diminishing the attention paid to the actions of the defendant, the intention at the time and the true level of culpability, specific attention must also be paid to the consequences of the crime.
- Section 143(1) of the Criminal Justice Act 2003 now expressly requires that both the offender's culpability and the consequences of the crime, actual or potential, intended or foreseen, be expressly assessed in the

sentencing decision. For manslaughter, culpability may be relatively low but the harm caused is always at the highest level.

Guidelines

- R v Furby [2005] EWCA Crim 3147 provides an illuminating example of facts which demonstrate that a sentence at the lower end of the scale may be appropriate.
- The court approved the conclusion drawn in R v Wood [2009] EWCA Crim 651 that "Parliament's intention it seems is clear: crimes which result in death should be treated more seriously and dealt with more severely than before".
- Crimes which result in death should be treated more seriously. The sentences for unlawful act manslaughter should not equate with the sentencing levels in Schedule 21 of the Criminal Justice Act 2003 regarding murder, but should ensure that the increased focus on the fact that the victim has died as a consequence of an unlawful act is given greater weight, in accordance with legislative intention.

(G) PUBLIC ORDER OFFENCES

Firearms Offences

Legislation: s.51(A), Firearms Act 1968, as inserted by s.287 of the Criminal Justice Act 2003, introduced a 5 year minimum sentence for certain offences under section 5 of the Firearms Act 1968.

s.91(A), Powers of Criminal Courts (Sentencing) Act 2000, as inserted by s.289 of the Criminal Justice Act 2003, introduced a 3 years minimum term for offenders aged between 16 and 18.

R v Wilkinson and others; Attorney General's Reference (No 43 of 2009); R v Bennett [2009] EWCA Crim 1925 (date of judgment: 6 October 2009)

(considering R v Avis and others [1998] 1 Cr App R (S) 178 and offering further guidance)

The gravity of gun crime could not be exaggerated as guns kill, maim, terrorise and intimidate.

Whenever a gun is made available for use or is used, the paramount consideration when sentencing is public protection. Deterrent and punitive sentences are needed and should be imposed.

Possession of a firearm, without more and without any aggravating factors beyond possession, is a grave crime and should be dealt with accordingly.

The court considered that the guidelines set out in R v Avis and others [1998] 1 Cr App R (S) 178 needed further amplification in light of legislation subsequently passed and also because they did not consider large scale importation and/or manufacture or the sale and distribution of guns.

Legislation

In R v Avis and others [1998] 1 Cr App R (S) 178 the only indeterminate sentence available to the court was a discretionary life sentence. Following the commencement, on the 4 April 2005, of section 225 of the Criminal Justice Act 2003, as amended by the Criminal Justice and Immigration Act 2008, the court now has available two indeterminate sentences:

(i) Imprisonment for life
(ii) Imprisonment for public protection (IPP)

Guidelines

The importation or possession of firearms with intent to supply, whether manufactured by another or not, is no less criminally reprehensible than the importation or possession of drugs with intent to supply. The court felt it was

difficult to think of cases where an imminent risk to life will not be the inevitable consequence.

If intent is proved and it is clear that the firearms were subsequently used with homicidal intent by others to whom they were supplied or obtained, the sentence on the importer or supplier should always reflect this consequence. In relation to section 225 of the Criminal Justice Act 2003, although the importer/supplier may not have pulled the trigger or caused injury, this does not resolve the issue of future dangerousness on their part.

The court emphasised that, with criminals involved in high level gun crime, it cannot be assumed that future dangerousness will have dissipated at the end of a determinate sentence; accordingly, along with lengthy determinate sentences, indeterminate sentences, whether imprisonment for life or IPP, should arise for consideration.

(H) THEFT ACTS OFFENCES/FRAUD

Domestic Burglary

Legislation: s.9, Theft Act 1968.

Note: Section 111 of the Powers of Criminal Courts (Sentencing) Act 2000 provides for a presumptive minimum sentence of three years imprisonment for an adult convicted of domestic burglary for a third time, not including attempted burglary. This applies where the offender has been convicted of two other domestic burglaries committed on separate occasions after 30 November 1999.

R v Saw and others [2009] EWCA Crim 1 (date of judgment: 16 January 2009)

(re-examining R v McInerney and Keating [2003] 2 Cr App R (S) 39 and offering fresh guidance)

General

The court stated that domestic burglary is a very serious criminal offence; not only is it an offence against property but also, and more distressingly, an offence against the person.

Aggravating factors

The court stated that, while every case is different, there are some aggravating features commonly encountered in domestic burglary cases. These include:

- Force used or threatened against the victim;
- Injury to the victim (as a result of the use or threat of force);
- Trauma to the victim beyond the inevitable trauma associated with burglary;
- Pre-meditation or planning;
- Vandalism;
- Deliberate targeting of a vulnerable victim;
- Deliberate targeting out of spite or on racial grounds;
- Vulnerability of the victim, whether targeted or not;
- Presence of an occupier in the home, whether day or night;
- Goods of high economic or sentimental value taken or damaged;
- Offender is on bail or has recently received a non-custodial sentence;
- The offender has committed two or more burglaries;
- The offender's previous record.

The Court stated that the importance attached to these factors is derived from:

(1) the increased impact on the occupier, or

(2) greater culpability on the defendant's part; or

(3) a combination of both.

The aggravating features may well overlap and distinguishing between high-level and medium-level factors, as in R v McInerney and Keating [2003] 2 Cr App R (S) 39, is unhelpful and often proves to be artificial. The appropriate sentence should not be arrived at by simply adding up the aggravating features in a mathematical approach, the sentencer must focus on realities and the impact in the case presented.

No list of features can be definitive and so the presence of a feature not included on the list should not be disregarded.

Sentencing

The sentence must reflect the offender's criminality in relation to the offence committed, making appropriate allowances for mitigation. The aggravating and mitigating factors should be expressly addressed when deciding to commit for sentencing at the Crown Court or when deciding the appropriate sentence.

Cases of low level burglary with minimal loss and damage and without raised culpability or impact may be dealt with by a community sentence. Any burglary with limited raised culpability and/or impact should ordinarily involve a custodial sentence in the range of 9-18 months, although longer sentences may be indicated if, in addition, the offender has a record of relevant offending or the offence had significant impact on the victim. Community sentences may be appropriate if they present the best prospect of preventing future offending.

Any burglary with serious raised culpability or serious impact would have a starting point of two years imprisonment upwards. For a single offence, the range would be 18 months to 4 years imprisonment. Extreme culpability or impact or if there is a record of relevant offending or it is professional would attract a longer sentence. Community orders would only arise in the most extreme and exceptional circumstances.

A third conviction for burglary would be subject to a minimum term of 3 years unless there are special reasons which make it unjust.

Theft and Burglary in a building other than a dwelling

Please refer to the definitive guideline 'Theft and burglary in a building other than a dwelling' published by the Sentencing Guidelines Council on 9 December 2008 and effective from 5 January 2009.

The following case summaries can be removed:

- R v Dhunay and others (1986) 8 Cr App R (S) 107
- R v Clark [1998] 2 Cr App R (S) 95
- R v Page and others [2004] EWCA Crim 3358

Fraud

Please refer to the definitive guideline 'Sentencing for Fraud – Statutory Offences' published by the Sentencing Guidelines Council on 13 October 2009 and effective from 26 October 2009.

The following case summaries can be removed:

- R v Stewart and others (1987) 9 Cr App R (S) 135
- R v Graham and Whatley [2004] EWCA Crim 2755
- R v Czyzewski and others [2004] 1 Cr App R (S) 49
- AG's Ref. Nos. 87 and 86 of 1999 (Webb and Simpson) [2001] 1 Cr App R (S) 505
- R v Stevens and others (1993) 14 Cr App R (S) 372

Insider dealing

Legislation: Part V, ss.52-64, Criminal Justice Act 1993

R v McQuoid [2009] EWCA Crim 1301 (date of judgment: 10 June 2009)

Those involved in insider dealing are criminals, no more and no less. The principles of confidentiality and trust, which are essential to the commercial world, are betrayed and public confidence in the integrity of the system is undermined by insider dealing.

When done deliberately, insider dealing is a species of fraud and prosecution in an open and public court will often be the most appropriate method of dealing with such a crime.

General guidance

The court identified these considerations as relevant:

(1) the nature of the defendant's employment or retainer, or involvement in the arrangements which allowed participation in insider dealing;

(2) the circumstances in which the offender came into possession of confidential information and the use made of it;

(3) whether the offender behaved recklessly or acted deliberately, and almost inevitably therefore, dishonestly;

(4) the level of planning and sophistication involved, as well as the period of trading and the number of individual trades;

(5) whether the offender acted alone or with others and their relative culpability;

(6) the amount of anticipated or intended financial benefit or (as sometimes happens) loss avoided, as well as the actual benefit (or loss avoided);

(7) although the absence of an identified victim is not normally a mitigating factor, the impact (if any), where proved, on any individual victim; and

(8) the impact of the offence on overall public confidence in the integrity of the market; because of its impact on public confidence it is likely that an offence committed jointly by more than one trusted person will be more damaging to public confidence than an offence committed by one person in isolation.

The Court also identified the following as relevant:

- age;
- guilty plea;
- good character (although it should be borne in mind that the individual will have been trusted with the information because they are of good character - by misusing the information, the trust reposed as a result of the good character has been breached);
- the impact on the offender and the offender's family;
- the destruction of the offender's professional reputation.

The court suggested that sentencers should have regard to the decision in R v Clark [1998] 2 Cr.App.R.(S) 157 and the sentencing guidelines 'Theft and burglary in a building other than a dwelling' in relation to theft in breach of trust for assistance on the sentencing levels appropriate.

(I) OFFENCES AGAINST PUBLIC JUSTICE

Perverting the course of justice

R v Tunney [2006] EWCA Crim 2066 (date of judgment: 11 August 2006)

The sentence appropriate for an offence of perverting the course of justice essentially depends on three matters:

(1) the seriousness of the substantive offence to which the perverting of the course of justice related;
(2) the degree of persistence; and
(3) the effect of the attempt to pervert the course of justice on the course of justice itself.

(J) COUNTERFEITING AND MONEY LAUNDERING

False passports

Legislation: s.25(1)(a), Identity Card Act 2006
s. 1, Fraud Act 2006
ss. 3-6, Forgery and Counterfeiting Act 1981
s. 24A, Immigration Act 1971

R v Mabengo and others [2008] EWCA 1699 (date of judgment: 18 June 2008)

The court stated that the decision in R v Kolawole [2004] EWCA Crim 3047 is not limited to the use of a false passport to obtain entry into the country. The court also stated that they did not take the judgment in R v Mutede [2005] EWCA Crim 3208 as deciding any broad principle regarding passports and their use.

The court did not accept that the nature of the document itself was irrelevant and stated that the possession and use of deliberately created false passports is a very serious matter.

R v Ovieriakhi [2009] EWCA Crim 452 (date of judgment: 26 February 2009)

At one end of the scale is the use or possession of a false passport for the purpose of evading, or enabling others to evade, the controls on entry into the United Kingdom. At the other end of the scale is the use by a person who is lawfully in the United Kingdom of a document other than a passport for the purposes of obtaining employment or a bank account.

Wherever the case is on the spectrum, a custodial sentence is likely, save in exceptional circumstances, see R v Carneiro [2007] EWCA Crim 2170.

- Attention should be paid to the differences in maximum sentence between a case involving intent and one of mere possession: see R v Oliveira [2005] EWCA Crim 3187
- Where a false passport has been used for the purposes of securing entry into the United Kingdom, the guidance in R v Kolawole [2004] EWCA Crim 3047 applies.
- Where a false passport is used to obtain work or a bank account and does not enable the offender to obtain entry into the United Kingdom, it may be treated as less serious.
- The use of a passport to obtain work facilitates the offender remaining in the UK in breach of immigration controls. As such, a custodial sentence will usually be required although it may be less than a sentence for using a false passport to gain entry, especially if the offender is of good character and has sought employment in order to maintain him or her self or family.

- Despite what was said in R v Adebayo [2007] EWCA Crim 878 there is a valid distinction to be made between the use of a false passport to gain entry and its use to gain work.

(K) MISCELLANEOUS OFFENCES

Health and safety offences

Please refer to the definitive guideline 'Corporate Manslaughter and Health and Safety Offences Causing Death' published by the Sentencing Guidelines Council on 9 February 2010 and effective from 15 February 2010 in relation to those cases where the offence was a substantial cause of death.

In addition, please note that supplementary guidance has been provided in relation to sentencing health and safety offences in the Magistrates' Court Sentencing Guidelines (at pages 181 to 183b) following changes to the maximum penalty for certain offences that came into effect on 16 January 2009.