

Drugs – class A – fail to attend/remain for initial assessment (Revised 2017)

Drugs Act 2005, s.12

Effective from: 24 April 2017

Triable only summarily:

Maximum: Level 4 fine and/or 3 months

Offence range: Band A fine – High level community order

Step 1 – Determining the offence category

The Court should determine the offence category using the table below.

Category 1 Higher culpability **and** greater harm

Category 2 Higher culpability **and** lesser harm **or** lower culpability **and** greater harm

Category 3 Lower culpability **and** lesser harm

The court should determine the offender's culpability and the harm caused with reference **only** to the factors below. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category.

CULPABILITY demonstrated by one or more of the following:

Factor indicating higher culpability

- Deliberate failure to attend/remain

Factor indicating lower culpability

- All other cases

HARM demonstrated by one or more of the following:

Factor indicating greater harm

- Aggressive, abusive or disruptive behaviour

Factor indicating lesser harm

- All other cases

Step 2 – 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 in the table below. The starting point applies to all offenders irrespective of plea or previous convictions.

Offence Category	Starting Point	Range
Category 1	Medium level community order	Low level community order – High level community order
Category 2	Band C fine	Band B fine – Low level community order
Category 3	Band B fine	Band A fine – Band C fine

The court should then consider further adjustment for any aggravating or mitigating factors. The following 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 sentence arrived at so far.

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:

- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Offender's actions result in a waste of resources

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- 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 addiction or offending behaviour
- Attempts made to re-arrange appointments

Step 3 – 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 4 – 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 5 – 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 6 – Consider ancillary orders

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

Step 7 – Reasons

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