

**EXTRACT FROM *R v AVIS* [1998] 1 CR. APP. R. 420**

The appropriate level of sentence for a firearms offence, as for any other offence, will depend on all the facts and circumstances relevant to the offence and the offender, and it would be wrong for this Court to seek to prescribe unduly restrictive sentencing guidelines. It will, however, usually be appropriate for the sentencing court to ask itself a series of questions:

- 1) What sort of weapon is involved? Genuine firearms are more dangerous than imitation firearms. Loaded firearms are more dangerous than unloaded firearms. Unloaded firearms for which ammunition is available are more dangerous than firearms for which no ammunition is available. Possession of a firearm which has no lawful use (such as a sawn-off shotgun) will be viewed even more seriously than possession of a firearm which is capable of lawful use.
- 2) What (if any) use has been made of the firearm? It is necessary for the court, as with any other offence, to take account of all circumstances surrounding any use made of the firearm: the more prolonged and premeditated and violent the use, the more serious the offence is likely to be.
- 3) With what intention (if any) did the defendant possess or use the firearm? Generally speaking, the most serious offences under the Act are those which require proof of a specific criminal intent (to endanger life, to cause fear of violence, to resist arrest, to commit an indictable offence). The more serious the act intended, the more serious the offence.
- 4) What is the defendant's record? The seriousness of any firearm offence is inevitably increased if the offender has an established record of committing firearms offences or crimes of violence.

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