

STEP ONE

Determining the offence category

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

Category 1	Greater harm (injury or fear of injury must normally be present) and higher culpability
Category 2	Greater harm (injury or fear of injury must normally be present) and lower culpability; or lesser harm and higher culpability
Category 3	Lesser harm and lower culpability

The court should determine the offender’s culpability and the harm caused, or intended, by reference **only** to the factors below (as demonstrated by the presence of one or more). These factors comprise the principal factual elements of the offence and should determine the category.

Factors indicating greater harm	
Injury or fear of injury which is serious in the context of the offence (must normally be present)	Threatened or actual use of weapon or weapon equivalent (for example, shod foot, headbutting, use of acid, use of animal)
Victim is particularly vulnerable because of personal circumstances	Intention to commit more serious harm than actually resulted from the offence
Sustained or repeated assault on the same victim	Deliberately causes more harm than is necessary for commission of offence
Factors indicating lesser harm	
Injury which is less serious in the context of the offence	Deliberate targeting of vulnerable victim
Factors indicating higher culpability	
<i>Statutory aggravating factors:</i>	Leading role in group or gang
Offence motivated by, or demonstrating, hostility to the victim based on his or her sexual orientation (or presumed sexual orientation)	Offence motivated by, or demonstrating, hostility based on the victim’s age, sex, gender identity (or presumed gender identity)
Offence motivated by, or demonstrating, hostility to the victim based on the victim’s disability (or presumed disability)	Factors indicating lower culpability
<i>Other aggravating factors:</i>	Subordinate role in group or gang
A significant degree of premeditation	A greater degree of provocation than normally expected
	Lack of premeditation
	Mental disorder or learning disability, where linked to commission of the offence
	Excessive self defence

STEP TWO

Starting point and category range

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. A case of particular gravity, reflected by multiple features of culpability in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out below.

Offence Category	Starting Point (Applicable to all offenders)	Category Range (Applicable to all offenders)
Category 1	High level community order	Low level community order – 26 weeks’ custody
Category 2	Medium level community order	Band A fine – High level community order
Category 3	Band A fine	Discharge – Band C fine

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.

When sentencing **category 1** offences, the court should also consider the custody threshold as follows:

- has the custody threshold been passed?
- if so, is it unavoidable that a custodial sentence be imposed?
- if so, can that sentence be suspended?

When sentencing **category 2** offences, the court should also consider the community order threshold as follows:

- has the community order threshold been passed?

Factors increasing seriousness	
<i>Statutory aggravating factors:</i>	
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	Exploiting contact arrangements with a child to commit an offence
Offence committed whilst on bail	Established evidence of community impact
<i>Other aggravating factors include:</i>	Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution
Location of the offence	Offences taken into consideration (TICs)
Timing of the offence	
Ongoing effect upon the victim	
Offence committed against those working in the public sector or providing a service to the public	
Presence of others including relatives, especially children or partner of the victim	
Gratuitous degradation of victim	
In domestic violence cases, victim forced to leave their home	
Failure to comply with current court orders	
Offence committed whilst on licence	
An attempt to conceal or dispose of evidence	
Failure to respond to warnings or concerns expressed by others about the offender's behaviour	
Commission of offence whilst under the influence of alcohol or drugs	
Abuse of power and/or position of trust	
	Factors reducing seriousness or reflecting personal mitigation
	No previous convictions or no relevant/recent convictions
	Single blow
	Remorse
	Good character and/or exemplary conduct
	Determination and/or demonstration of steps taken to address addiction or offending behaviour
	Serious medical conditions requiring urgent, intensive or long-term treatment
	Isolated incident
	Age and/or lack of maturity where it affects the responsibility of the offender
	Lapse of time since the offence where this is not the fault of the offender
	Mental disorder or learning disability, where not linked to the commission of the offence
	Sole or primary carer for dependent relatives

Section 29 offences only: The court should determine the appropriate sentence for the offence without taking account of the element of aggravation and then make an addition to the sentence, considering the level of aggravation involved. It may be appropriate to move outside the identified category range, taking into account the increased statutory maximum.