

## Annex E - Child Cruelty Comparison of Factors

### Culpability

	<b>Cruelty to a Child</b>	<b>Causing or Allowing</b>	<b>FGM Offence</b>
<b>1</b>	Prolonged and/or multiple incidents of serious cruelty, including serious neglect	Prolonged and/or multiple incidents of serious cruelty, including serious neglect	
<b>2</b>	Gratuitous degradation of victim and/or sadistic behaviour	Gratuitous degradation of victim and/or sadistic behaviour	
<b>3</b>	Use of very significant force	Use of very significant force	
<b>4</b>	<del>Use of a weapon</del>	Use of a weapon	
<b>5</b>	<del>Blatant and</del> Deliberate disregard to the welfare of the victim	Deliberate disregard to the welfare of the victim	
<b>6</b>	Failure to take any steps to protect the victim from offences in which the above factors are present	Failure to take any steps to protect the victim from offences in which the above factors are present	Failure to take any steps to protect the victim from the FGM offence
<b>7</b>	Offender with professional responsibility for the victim (where linked to the commission of the offence)	Offender with professional responsibility for the victim (where linked to the commission of the offence)	
<b>8</b>			Child was subject to an FGM Protection Order
<b>9</b>			Failure to respond to interventions or warnings e.g. from medical professionals/social services etc
<b>10</b>			Involving others through coercion, intimidation or exploitation
<b>11</b>	Use of significant force	Use of significant force	
<b>12</b>	Limited steps taken to protect victim in cases with Category A factors present	Limited steps taken to protect victim in cases with Category A factors present	Limited steps taken to protect victim from the FGM offence

<b>13</b>	Other cases falling between A and C because: <ul style="list-style-type: none"> <li>• Factors in both high and lesser categories are present which balance each other out; and/or</li> <li>• The offender's culpability falls between the factors as described in high and lesser culpability</li> </ul>	Other cases falling between A and C because: <ul style="list-style-type: none"> <li>• Factors in both high and lesser categories are present which balance each other out; and/or</li> <li>• The offender's culpability falls between the factors as described in high and lesser culpability</li> </ul>	Other cases falling between A and C because: <ul style="list-style-type: none"> <li>• Factors in both high and lesser categories are present which balance each other out and/or</li> <li>• The offender's culpability falls between the factors as described in high and lesser culpability</li> </ul>
<b>14</b>	Steps taken to protect victim but fell just short of what could reasonably be expected	Steps taken to protect victim but fell just short of what could reasonably be expected	Steps taken to protect <del>child</del> <u>victim</u> but fell just short of what could reasonably be expected
<b>15</b>	Momentary or brief lapse in judgement including in cases of neglect.	Momentary or brief lapse in judgement	
<b>16</b>	Use of some force or failure to protect the victim from an incident involving some force.	Use of some force or failure to protect the victim from an incident involving some force	
<b>17</b>	Low level of neglect	Low level of neglect	
<b>18</b>	<u>Offender is <del>v</del>ictim</u> of domestic abuse, including coercion and/or intimidation (when linked to the commission of the offence)	<u>Offender is <del>v</del>ictim</u> of domestic abuse, including coercion and/or intimidation (when linked to the commission of the offence)	Offender is <u>victim</u> of domestic abuse (where linked to commission of the offence)
<b>19</b>			Subjected to coercion, intimidation or exploitation ( <u>where linked to the commission of the offence</u> )
<b>20</b>	Offender's responsibility substantially reduced by mental disorder or learning disability or lack of maturity	Offender's responsibility substantially reduced by mental disorder or learning disability or lack of maturity	Offender's responsibility substantially reduced by mental disorder or learning disability

## Harm

	<b>Cruelty to a Child</b>	<b>Causing or Allowing</b>	<b>FGM Offence</b>
<b>1</b>		Death	
<b>2</b>	Serious psychological, developmental, and/or emotional harm	Serious physical harm which has a substantial and/or long term effect	Serious physical or psychological harm which has a substantial and/or long term effect
<b>3</b>	Serious physical harm (including illnesses contracted due to neglect)	Serious psychological, developmental or emotional harm	
<b>4</b>		Significantly reduced life expectancy	
<b>5</b>		A progressive, permanent or irreversible condition	
<b>6</b>	Cases falling between category 1 and 3		
<b>7</b>	A high likelihood of category 1 harm being caused		
<b>8</b>	Little or no psychological, developmental, and/or emotional harm		
<b>9</b>	Little or no physical harm		
<b>10</b>		Serious physical harm that does not fall into Category 2	Harm which does not fall into Category 1

## Aggravating Factors

	<b>Cruelty to a Child</b>	<b>Causing or Allowing</b>	<b>FGM Offence</b>
1	Previous convictions, having regard to a) the <b>nature</b> of the offence to which the conviction relates and its <b>relevance</b> to the current offence; and b) the <b>time</b> that has elapsed since the conviction	Previous convictions, having regard to a) the <b>nature</b> of the offence to which the conviction relates and its <b>relevance</b> to the current offence; and b) the <b>time</b> that has elapsed since the conviction	Previous convictions, having regard to a) the <b>nature</b> of the offence to which the conviction relates and its <b>relevance</b> to the current offence; and b) the <b>time</b> that has elapsed since the conviction
2	Offence committed whilst on bail	Offence committed whilst on bail	Offence committed whilst on bail
3	Failure to seek medical help (where not taken into account at step one)	Failure to seek medical help (where not taken into account at step one)	Failure to seek medical help when necessary
4	Deliberate concealment and/or covering up of the offence	Deliberate concealment and/or covering up of the offence	Deliberate concealment and/or covering up of the offence
5	Blame wrongly placed on others	Blame wrongly placed on others	Blame wrongly placed on others
6	Threats to prevent reporting of the offence	Threats to prevent reporting of the offence	Threats to prevent reporting of the offence
7	Failure to comply with current court orders	Failure to comply with current court orders	Failure to comply with current court orders (where not taken into account at step one)
8	Offence committed on licence or post sentence supervision	Offence committed on licence or post sentence supervision	Offence committed on licence or post sentence supervision
9	Offences taken into consideration	Offences taken into consideration	Offences taken into consideration
10	Commission of offence whilst under the influence of alcohol or drugs	Commission of offence whilst under the influence of alcohol or drugs	
11	Failure to respond to interventions or warnings about behaviour	Failure to respond to interventions or warnings about behaviour	
12	Offence committed in the presence of another child	Offence committed in the presence of another child	
13		Prolonged suffering prior to death	
14	Use of a weapon		

**Mitigating Factors**

	<b>Cruelty to a Child</b>	<b>Causing or Allowing</b>	<b>FGM Offence</b>
1	No previous convictions <b>or</b> no relevant/recent convictions	No previous convictions <b>or</b> no relevant/recent convictions	No previous convictions <b>or</b> no relevant/recent convictions
2	Remorse	Remorse	Remorse
3			Offender particularly isolated with limited access to support
4			Appropriate medical care sought for victim
5	Sole or primary carer for dependent relatives ( <b>see step five for further guidance on parental responsibilities</b> )	Sole or primary carer for dependent relatives ( <b>see step five for further guidance on parental responsibilities</b> )	Sole or primary carer for dependent relatives ( <b>see step five for further guidance on parental responsibilities</b> )
6			Commission of the offence was a lapse in the offender's otherwise satisfactory/good standard of care.
7	Serious medical condition requiring urgent, intensive or long-term treatment	Serious medical condition requiring urgent, intensive or long-term treatment	Serious medical condition requiring urgent, intensive or long-term treatment
8			Age and/or lack of maturity <del>where it affects the responsibility of the offender</del>
9	Mental disorder, <del>or</del> learning disability, <u>or lack of maturity</u> (where not taken into account at step one)	Mental disorder, <del>or</del> learning disability, <u>or lack of maturity</u> (where not taken into account at step one)	Mental disorder or learning disability (where not taken into account at step one)
10	Co-operation with the investigation	Co-operation with the investigation	Co-operation with the investigation
11	Determination and demonstration of steps having been taken to address addiction or offending behaviour, including co-operation with agencies working for the welfare of the victim	Determination and demonstration of steps having been taken to address addiction or offending behaviour, including co-operation with agencies working for the welfare of the victim	

12	Good character and/or exemplary conduct (where previous good character/exemplary conduct has been used to facilitate <u>or conceal</u> the offence, this should not normally constitute mitigation and such conduct may constitute aggravation)	Good character and/or exemplary conduct (where previous good character/exemplary conduct has been used to facilitate <u>or conceal</u> the offence, this should not normally constitute mitigation and such conduct may constitute aggravation)	
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