

**Sentencing Council meeting:**  
**Paper number:**  
**Lead Council member:**  
**Lead official:**

**22 June 2018**  
**SC(18)JUN09 – Child Cruelty**  
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## **1 ISSUE**

1.1 This is the final consideration of the child cruelty guidelines prior to publication which is currently scheduled for early September. The Council is asked to review all the changes to the three guidelines which we have made post-consultation, including those made since the last meeting in May, and sign off the guidelines for publication.

## **2 RECOMMENDATION**

2.1 That the Council considers the changes to the three guidelines and signs them off for publication.

2.2 That the Council agrees the intended impact of each guideline on sentence levels and which will inform the resource assessment.

## **3 CONSIDERATION**

### *Cruelty to a Child – risk of sentence inflation*

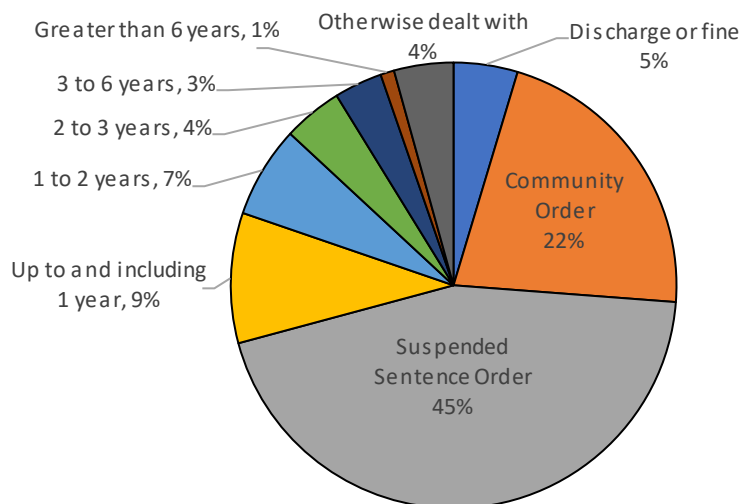
3.1 Since the last meeting, we have reviewed in more detail the 2017 sentencing data (which has only just become available) and compared it, with the data for previous years, against the sentence levels and culpability factors as currently drafted in the guidelines. For Child Cruelty, this has raised concerns and analysis may suggest that the combination of sentence levels and culpability/harm factors presents a significant risk of sentence inflation.

3.2 The current SGC guideline for this offence has four categories of seriousness, and some of the factors which we have in Culpability A are likely to occur in cases in the second category in the current guideline which has the following factors:

- |   |
|---|
| <ul style="list-style-type: none"><li>(i) Series of assaults (the more serious the individual assaults and the longer the period over which they are perpetrated, the more serious the offence).</li><li>(ii) Protracted neglect or ill-treatment (the longer the period of ill-treatment or neglect and the longer the period of which it takes place, the more serious the offence).</li><li>(iii) Failure to protect a child from either of the above.</li></ul> |
|---|

3.3 However, this second category has a starting point and ranges more similar to our B1 and A2 categories. The levels in the current guideline’s most serious category equates with our A1 category (starting point 6 years, range 4 to 8 years), and distribution of sentences (see chart below) shows that most current cases are sentenced below this, with the current guideline’s most serious category being used as a sort of “exceptional circumstances” category. This also fits with the transcripts we are seeing – there are very few cases where the culpability and harm are as high as indicated by an A1 sentence; this is likely to be because the most serious instances of culpability and harm are charged as assault offences, or as the Causing or Allowing offence. We should also remember that around 40% of these offences are sentenced in the magistrates’ courts, so the transcripts themselves will give us only a partial picture of the nature of these offences.

3.4 The distribution of post-guilty plea sentence types and lengths in 2017 is illustrated by this chart:



3.5 The sentence levels as currently drafted allow, in theory, for disposal types and sentence lengths within these sorts of ranges, by, for example, including Community Orders within 6 of the 9 ranges. However, the combination of sentence levels and culpability and harm factors do not push sentencers to keeping sentences at the current levels.

3.6 If we retain this starting point for A1, and do not change the culpability and harm factors, there is a significant risk that cases with a small number of the A1 factors present, which would now be placed in the second category of the current guideline and receive a sentence within the range of B1 or A2, will be placed in the new category A1 and thus receive considerably higher sentences.

3.7 As an example, in one transcript a child was subjected to multiple incidents of ill-treatment over a period of two years. These included hitting (involving significant force), name calling, and harsh and threatening treatment which might amount to gratuitous degradation. As well as some physical harm, the victim exhibited some initial symptoms of post-traumatic stress and depression, which improved after contact with the abuser ceased. The sentence given in this case was two years' custody (pre-guilty plea).

3.8 This level of ill treatment is at the higher end of that seen in the Cruelty to a Child transcripts, and the sentence is very comparable with others.

3.9 At the Council meeting in March when we discussed sentence levels, members were keen to retain the six-year starting point in category A1, in order to ensure that the most serious cases were covered, and to lower the range only slightly. Rather than proposing changes to sentence levels again, I am therefore proposing making changes to the culpability and harm factors to align more closely with current sentencing practice and mitigate the risk of sentence inflation. The proposed revisions are given at Annex D. The main change is to make culpability A the category which is more explicitly reserved for the exceptionally serious offences, using wording which you have agreed for the manslaughter guidelines. Culpability B now contains some of the previous culpability A factors, with wording changed slightly in some cases to make it clear that these are the less serious versions of the factors. Culpability C remains unchanged.

***Question One: Does the Council agree to the proposed changes to Culpability A and B set out at Annex D, pD2?***

3.10 I am also proposing to change the harm factors slightly, to make it more clear that Category 1 harm is likely to occur in only a small number of the most serious cases, and to bring the wording into line with that used in the Causing or Allowing serious injury offence. The Child Cruelty offence covers a very wide range of types of harm, including cases where there is no harm caused at all, and the very small number of cases in which the physical or psychological harm is as serious as in Causing or Allowing cases. In the majority of cases, the harm is at the lower end of the scale, as is clearly shown by the distribution of disposal types and sentence lengths. The risk with the previous drafting was that sentencers (who might see perhaps two of these cases per year, if that) would not consider what is serious in the context of this offence and would place, for example, low level injuries consistent with ABH, into Category 1 even though this is only in the third category of the current guideline with a starting point of 36 weeks. I am therefore proposing to bring into Category 1 harm some of the wording in the Causing or Allowing offence, to give further guidance as to just how serious the harm needs to be to justify such a sentence. I do not propose to include the Causing or Allowing

factors “Significantly reduced life expectancy” or “A progressive, permanent or irreversible condition” since these are very unlikely to be found in this offence and, if they were, would be grounds for going outside the guideline.

**Question Two: Does the Council agree to the proposed changes to wording for Category One harm as set out in Annex D, pD3**

3.11 Finally, to mitigate this risk of sentence inflation further I am proposing to include above the sentence levels the text which is currently used in the manslaughter guidelines to indicate that movement in either direction from the starting point can be considered before turning to aggravating and mitigating factors. The additional text would replace the current wording on moving upwards for cases of particular gravity and would read as follows:

Where a case does not fall squarely within a category, adjustment from the starting point may be required before adjustment for aggravating or mitigating features.  
~~A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.~~

**Question Three: Does the Council agree to the proposed changes to wording in the text above the sentence levels, as set out in Annex D pD3?**

*Use of factors across guidelines*

3.12 Separate from the revisions proposed above, I have reviewed the culpability, harm, aggravating and mitigating factors in all three guidelines for consistency and a comparison table is given in Annex E. I have corrected minor inconsistencies in drafting (shown as struck through/underlined in the table) but do not propose to go through these individually. I am, however, also proposing some more substantial changes on which I seek Council’s views but I do not in general reconsider below areas where we have already agreed to the presence of a factor in one guideline but, for good reason, not in another.

*Use of a weapon – Cruelty to a Child offence*

3.13 “Use of a weapon” currently appears in the Cruelty to a Child offence as a Culpability A factor. Whilst this is consistent with the Causing or Allowing offence, transcripts show that where weapons are used in Cruelty to a Child cases, there are rarely (only in one in over 100 transcripts) considered as factor increasing culpability in this way. Unlike in Causing or Allowing cases, which sometimes involve sadistic and repeated use of a weapon, in Cruelty to a Child cases the weapon is usually a belt or shoe, used once or in a small number of instances, in cases of overchastisement by otherwise caring parents. Use of a weapon, unlike some other factors, is easy to identify and I am concerned that it may be seized upon and

used to place too many cases into Category A. I therefore propose to remove it from step one and instead include it as an aggravating factor at step two.

**Question Four: Is the Council content to move “Use of a weapon” from step one to step two in the Cruelty to a Child guideline?**

*High culpability – FGM Offence*

3.14 The factor at line 9 in the culpability table (Annex E pE1) is only used at step one in the FGM offence, as it is particularly relevant to this offence. However, the factor is used at step two (aggravating factor table, pE4, line 11) for the other offences as it is in many guidelines. There are some differences in the wording as follows:

**FGM guideline (at step one) -**

Failure to respond to interventions or warnings e.g. from medical professionals/social services etc

**Cruelty to a Child/Causing or Allowing guidelines (at step two) –**

Failure to respond to interventions or warnings about behaviour

3.15 When we discussed aggravating factors for the Cruelty to a Child/Causing or Allowing offences in March, we considered suggestions made by consultation respondents that we should give more examples of types of interventions, such as those made by medical professionals. We agreed not to include these examples, since it would narrow the applicability of the factor. I therefore propose to remove the examples from the FGM factor at step one, so it would now read:

Failure to respond to interventions or warnings

I do not propose to include the words “about behaviour” used in the Cruelty to a Child and Causing or Allowing guidelines, since the relevant warnings in this offence would relate specifically to the carrying out of FGM, rather than the more general “behaviour”.

**Question Five: Does the Council agree to removing the examples from this culpability factor as proposed?**

*Mitigating factors*

3.16 The mitigating factor at line 8 in the table on pE5 is only present for the FGM offence because it is included at step one for the other two offences. However, the wording here at step two includes the link to responsibility/culpability which is normally only given when this is used as a step one culpability factor. I therefore propose to remove this wording, so the factor would now read:

Age and/or lack of maturity

**Question Six: Is the Council content to remove the wording linking this factor to responsibility?**

3.17 The mitigating factor at line 9 in the table on pE5 covers mental disorder and learning disability (where not taken into account at step one). For the Cruelty to a Child and Causing or Allowing guidelines, I propose to include lack of maturity in this factor, since in these guidelines this is a factor at step one. The factor would therefore now read:

Mental disorder, ~~or~~ learning disability, or lack of maturity (where not taken into account at step one)

**Question Seven: Does the Council agree to add in reference to lack of maturity to this mitigating factor?**

3.18 At the last meeting you agreed the revised wording on good character set out at line 12 in the table on pE6. The related wording used in the draft overarching seriousness guideline is slightly different, as it includes reference to the good character being used to conceal the offence. Although the wording in the seriousness guideline may change post-consultation, I propose to add in this reference to be consistent as far as we can be at the moment.

**Question Eight: Is the Council content to add in this wording on concealing the offending, bearing in mind the potential for changes to the seriousness guideline post-consultation?**

*Step five – parental responsibilities*

3.19 After discussion at the last meeting, I circulated revised text for step five on parental responsibilities. Thank you to everyone for responding to my email. No further changes were suggested so I have included that text in the draft guidelines in Annexes A to D.

#### **4. IMPACT AND RISKS**

4.1 As discussed above, we believe that, in the Cruelty to a Child offence, the current culpability and harm factors present a significant risk of sentence inflation. An initial analysis suggests that the impact of this would, at the upper end of the estimated impact, be equivalent to 60 prison places. This is based on initial analysis which would feed into the resource assessment and, subject to normal quality assurance, this figure would be published in the resource assessment if the Council decides not to make any changes to these factors. Further to decisions taken today, we will produce the final resource assessment which will be circulated to Council members before publication in September.

**Annex A: revised draft guideline**

**Child Cruelty – Assault and ill treatment, abandonment, neglect and failure to protect.**

**Cruelty to a child**

Children and Young Persons Act 1933 (S1(1))

Triable either way

Maximum: 10 years' custody

Offence range: Low level community order – 9 years' custody

This guideline applies only to offenders aged 18 and older

**STEP ONE**  
**Determining the offence category**

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

**Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

**Culpability demonstrated by one or more of the following:**

**A - High culpability:**

- Prolonged and/or multiple incidents of serious cruelty, including serious neglect
- Gratuitous degradation of victim and/or sadistic behaviour
- Use of very significant force
- ~~Use of a weapon~~
- ~~Blatant and deliberate~~ Deliberate disregard for the welfare of the victim
- Failure to take any steps to protect the victim from offences in which the above factors are present
- Offender with professional responsibility for the victim (where linked to the commission of the offence)

**B - Medium culpability:**

- Use of significant force
- Prolonged and/or multiple incidents of cruelty, including neglect
- Limited steps taken to protect victim in cases with Category A factors present
- Other cases falling between A and C because:
- Factors in both high and lesser categories are present which balance each other out and/or
- The offender's culpability falls between the factors as described in high and lesser culpability

**C - Lesser culpability:**

- Offender's responsibility substantially reduced by mental disorder or learning disability or lack of maturity
- Offender is vVictim of domestic abuse, including coercion and/or intimidation (when linked to the commission of the offence)
- Steps taken to protect victim but fell just short of what could reasonably be expected
- Momentary or brief lapse in judgement including in cases of neglect.
- Use of some force or failure to protect the victim from an incident involving some force
- Low level of neglect



**Harm**

The court should consider the factors set out below to determine the level of harm that has been caused or was intended to be caused to the victim.

**Psychological, developmental or emotional harm**

A finding that the psychological, developmental or emotional harm is **serious** may be based on a clinical diagnosis but the court may make such a finding based on other evidence from or on behalf of the victim that serious psychological, developmental or emotional harm exists. It is important to be clear that the absence of such a finding does **not** imply that the psychological/developmental harm suffered by the victim is minor or trivial.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Serious psychological, developmental, and/or emotional harm</li> <li>• Serious physical harm (including illnesses contracted due to neglect)</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Cases falling between category 1 and 3</li> <li>• A high likelihood of category 1 harm being caused</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• Little or no psychological, developmental, and/or emotional harm</li> <li>• Little or no physical harm</li> </ul>

**STEP TWO****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 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 or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.

Harm	Culpability		
	A	B	C
<b>Category 1</b>	<p><b>Starting point</b> 6 years' custody</p> <p><b>Category range</b> 4 – 8 years' custody</p>	<p><b>Starting point</b> 3 years' custody</p> <p><b>Category range</b> 2 – 6 years' custody</p>	<p><b>Starting point</b> 1 year's custody</p> <p><b>Category range</b> High level community order – 2 years 6 months' custody</p>
<b>Category 2</b>	<p><b>Starting point</b> 3 years' custody</p> <p><b>Category range</b> 2 – 6 years' custody</p>	<p><b>Starting point</b> 1 year's custody</p> <p><b>Category range</b> High level community order – 2 years 6 months' custody</p>	<p><b>Starting point</b> High level community order</p> <p><b>Category range</b> Medium level community order – 1 year's custody</p>
<b>Category 3</b>	<p><b>Starting point</b> 1 year's custody</p> <p><b>Category range</b> High level community order – 2 years 6 months' custody</p>	<p><b>Starting point</b> High level community order</p> <p><b>Category range</b> Medium level community order – 1 year's custody</p>	<p><b>Starting point</b> Medium level community order</p> <p><b>Category range</b> Low level community order – 6 months' custody</p>

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 sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

**Factors increasing seriousness****Statutory aggravating factors:**

1. 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
2. Offence committed whilst on bail

**Other aggravating factors:**

1. Failure to seek medical help (where not taken into account at step one)
2. Commission of offence whilst under the influence of alcohol or drugs
3. Deliberate concealment and/or covering up of the offence
4. Blame wrongly placed on others
5. Failure to respond to interventions or warnings about behaviour
6. Threats to prevent reporting of the offence
7. Failure to comply with current court orders
8. Offence committed on licence or post sentence supervision
9. Offences taken into consideration
10. Offence committed in the presence of another child

**Factors reducing seriousness or reflecting personal mitigation**

1. No previous convictions **or** no relevant/recent convictions
2. Remorse
3. 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
4. Sole or primary carer for dependent relatives (**see step five for further guidance on parental responsibilities**)
5. Good character and/or exemplary conduct (where previous good character/exemplary conduct has been used to facilitate or conceal the offence, this should not normally constitute mitigation and such conduct may constitute aggravation)
6. Serious medical condition requiring urgent, intensive or long-term treatment
7. Mental disorder, ~~or~~ learning disability or lack of maturity (where not taken into account at step one)
8. Co-operation with the investigation

**STEP THREE**

**Consider any factors which indicate a reduction for 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 FOUR**

**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 FIVE**

**Parental responsibilities for sole or primary carers**

In the majority of Child Cruelty cases the offender will have parental responsibility for the victim.

- When considering whether to impose custody the court should step back and review whether this sentence will be in the best interests of the victim (as well as other children in the offender's care). This must be balanced with the seriousness of the offence and all sentencing options remain open to the court but careful consideration should be given to the effect that a custodial sentence could have on the family life of the victim and whether this is proportionate to the seriousness of the offence. This may be of particular relevance in lower culpability cases or where the offender has otherwise been a loving and capable parent/carer.

- Where custody is unavoidable consideration of the impact on the offender's children may be relevant to the length of the sentence imposed. For more serious offences where a substantial period of custody is appropriate, this consideration will carry less weight.

**STEP SIX**

**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 SEVEN**

**Ancillary orders**

In all cases the court should consider whether to make ancillary orders.

**STEP EIGHT**

**Reasons**

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

**STEP NINE**

**Consideration for time spent on bail**

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

## **Annex B: Revised draft guideline**

# **Causing or allowing a child to suffer serious physical harm**

### **Domestic Violence, Crime and Victims Act 2004 (section 5)**

Indictable only

Maximum: 10 years' custody

Offence range: High level community order – 9 years' custody

# **Causing or allowing a child to die**

### **Domestic Violence, Crime and Victims Act 2004 (section 5)**

Indictable only

Maximum: 14 years' custody

Offence range: 1 year's custody – 14 years' custody

This guideline applies only to offenders aged 18 and older and when the victim of the offence is aged 17 or under.

**STEP ONE**  
**Determining the offence category**

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

**Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

**Culpability** demonstrated by one or more of the following:

**A - High culpability:**

- Prolonged and/or multiple incidents of serious cruelty, including serious neglect
- Gratuitous degradation of victim and/or sadistic behaviour
- Use of very significant force
- Use of a weapon
- Deliberate disregard ~~to~~for the welfare of the victim
- Failure to take any steps to protect the victim from offences in which the above factors are present
- Offender with professional responsibility for the victim (where linked to the commission of the offence)

**B - Medium culpability:**

- Use of significant force
- Limited steps taken to protect victim in cases with Category A factors present
- Other cases falling between A and C because:
  - Factors in both high and lesser categories are present which balance each other out and/or
  - The offender's culpability falls between the factors as described in high and lesser culpability

**C - Lesser culpability:**

- Offender's responsibility substantially reduced by mental disorder or learning disability or lack of maturity
- Offender is victim of domestic abuse, including coercion and/or intimidation (when linked to the commission of the offence)
- Steps taken to protect victim but fell just short of what could reasonably be expected
- Momentary or brief lapse in judgement
- Use of some force or failure to protect the victim from an incident involving some force
- Low level of neglect

**Harm**

The court should consider the factors set out below to determine the level of harm that has been caused to the victim.

**Psychological, developmental or emotional harm**

A finding that the psychological, developmental or emotional harm is **serious** may be based on a clinical diagnosis but the court may make such a finding based on other evidence from or on behalf of the victim that serious psychological, developmental or emotional harm exists. It is important to be clear that the absence of such a finding does **not** imply that the psychological/developmental harm suffered by the victim is minor or trivial.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Death</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Serious physical harm which has a substantial and/or long term effect</li> <li>• Serious psychological, developmental or emotional harm</li> <li>• Significantly reduced life expectancy</li> <li>• A progressive, permanent or irreversible condition</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• Serious physical harm that does not fall into Category 2</li> </ul>

**STEP TWO****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 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 or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.

<b>Harm</b>	<b>Culpability</b>		
	<b>A</b>	<b>B</b>	<b>C</b>
<b>Category 1</b>	<b>Starting point</b> 9 years' custody  <b>Category range</b> 7 – 14 years' custody	<b>Starting point</b> 5 years' custody  <b>Category range</b> 3 – 8 years' custody	<b>Starting point</b> 2 years' custody  <b>Category range</b> 1 year– 4 years' custody

<b>Category 2</b>	<b>Starting point</b> 7 years' custody  <b>Category range</b> 5 – 9 years' custody	<b>Starting point</b> 3 years' custody  <b>Category range</b> 1 year 6 months' – 6 years' custody	<b>Starting point</b> 1 year 6 months' custody  <b>Category range</b> 6 months – 3 years' custody
<b>Category 3</b>	<b>Starting point</b> 3 years' custody  <b>Category range</b> 1 year 6 months' – 6 years' custody	<b>Starting point</b> 1 year 6 months' custody  <b>Category range</b> 6 months – 3 years' custody	<b>Starting point</b> 9 months' custody  <b>Category range</b> High level community order– 2 years' custody

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 sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

#### Factors increasing seriousness

##### **Statutory aggravating factors:**

1. 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
2. Offence committed whilst on bail

##### **Other aggravating factors:**

1. Failure to seek medical help (where not taken into account at step one)
2. Prolonged suffering prior to death
3. Commission of offence whilst under the influence of alcohol or drugs
4. Deliberate concealment and/or covering up of the offence
5. Blame wrongly placed on others
6. Failure to respond to interventions or warnings about behaviour
7. Threats to prevent reporting of the offence
8. Failure to comply with current court orders
9. Offence committed on licence or post sentence supervision
10. Offences taken into consideration
11. Offence committed in the presence of another child



### Factors reducing seriousness or reflecting personal mitigation

1. No previous convictions **or** no relevant/recent convictions
2. Remorse
3. 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
4. Sole or primary carer for dependent relatives (**see step five for further guidance on parental responsibilities**)
5. Good character and/or exemplary conduct (where previous good character/exemplary conduct has been used to facilitate or conceal the offence, this should not normally constitute mitigation and such conduct may constitute aggravation).
6. Serious medical condition requiring urgent, intensive or long-term treatment
7. Mental disorder, ~~or~~ learning disability or lack of maturity (where not taken into account at step one)
8. Co-operation with the investigation

#### STEP THREE

##### **Consider any factors which indicate a reduction for 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 FOUR

##### **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 FIVE

##### **Parental responsibilities for sole or primary carers**

In the majority of Child Cruelty cases the offender will have parental responsibility for the victim.

- When considering whether to impose custody the court should step back and review whether this sentence will be in the best interests of the victim (as well as other children in the offender's care). This must be balanced with the seriousness of the offence and all sentencing options remain open to the court but careful consideration should be given to the effect that a custodial sentence could have on the family life of the victim and whether this is proportionate to the seriousness of the offence. This may be of particular relevance in lower culpability cases or where the offender has otherwise been a loving and capable parent/carer.

- Where custody is unavoidable consideration of the impact on the offender's children may be relevant to the length of the sentence imposed. For more serious offences where a substantial period of custody is appropriate, this consideration will carry less weight.

**STEP SIX**

**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 SEVEN**

**Ancillary orders**

In all cases the court should consider whether to make ancillary orders.

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**Reasons**

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

**STEP NINE**

**Consideration for time spent on bail**

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

## **Child Cruelty – Failing to protect a girl from the risk of female genital mutilation**

**Failure to protect a girl from risk of genital mutilation**  
Female Genital Mutilation Act 2003 (S3A)

Indictable only

Maximum: 7 years' custody

Offence range: Community order – 6 years' custody

This guideline applies only to offenders aged 18 and older

### STEP ONE

#### Determining the offence category

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

**Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

**Culpability** demonstrated by one or more of the following:

#### A - High culpability:

- Child was subject to an FGM Protection Order
- Failure to respond to interventions or warnings including, but not limited to, those from medical professionals/social services
- Involving others through coercion, intimidation or exploitation
- Failure to take any steps to protect the victim from the FGM offence

#### B - Medium culpability:

- Limited steps taken to protect victim from the FGM offence
- Other cases falling between A and C because:
  - Factors in both high and lesser categories are present which balance each other out and/or
  - The offender's culpability falls between the factors as described in high and lesser culpability

#### C - Lesser culpability:

- Steps taken to protect victim ~~child~~ but fell just short of what could reasonably be expected
- Offender is victim of domestic abuse (where linked to commission of the offence)
- Subjected to coercion, intimidation or exploitation
- Offender's responsibility substantially reduced by mental disorder or learning disability

### Harm

The court should consider the factors set out below to determine the level of harm that has been caused to the victim.

#### Psychological harm

A finding that the psychological, harm is **serious** may be based on a clinical diagnosis but the court may make such a finding based on other evidence from or on behalf of the victim that serious psychological harm exists. It is important to be clear that the absence of such a finding does **not** imply that the harm suffered by the victim is minor or trivial.

## Annex C: Draft Guideline

<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Serious physical or psychological harm which has a substantial or long-term effect</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Harm which does not fall into Category 1</li> </ul>

### STEP TWO

#### 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 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 or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.

Harm	Culpability		
	A	B	C
<b>Category 1</b>	<b>Starting point</b> 5 years' custody  <b>Category range</b> 3 – 6 years' custody	<b>Starting point</b> 3 years' custody  <b>Category range</b> 2– 4 years' custody	<b>Starting point</b> 1 year's custody  <b>Category range</b> High level community order – 3 years' custody
<b>Category 2</b>	<b>Starting point</b> 3 years' custody  <b>Category range</b> 2– 4 years' custody	<b>Starting point</b> 1 year's custody  <b>Category range</b> High level community order – 3 years' custody	<b>Starting point</b> High level community order  <b>Category range</b> Low level community order – 1 year's custody

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 sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

#### Factors increasing seriousness

#### *Statutory aggravating factors:*

## Annex C: Draft Guideline

1. 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
2. Offence committed whilst on bail

### ***Other aggravating factors:***

1. Failure to seek medical help when necessary
2. Deliberate concealment and/or covering up of the offence
3. Blame wrongly placed on others
4. Threats to prevent reporting of the offence
5. Failure to comply with current court orders (where not taken into account at step one)
6. Offence committed on licence or post sentence supervision
7. Offences taken into consideration

### **Factors reducing seriousness or reflecting personal mitigation**

1. No previous convictions **or** no relevant/recent convictions
2. 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 (**see step five for further guidance on parental responsibilities**)
6. Good character and/or exemplary conduct
7. Serious medical condition requiring urgent, intensive or long-term treatment
8. Age and/or lack of maturity ~~where it affects the responsibility of the offender~~
9. Mental disorder or learning disability (where not taken into account at step one)
10. Co-operation with the investigation

### **STEP THREE**

#### **Consider any factors which indicate a reduction for 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 FOUR**

#### **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 FIVE**

#### **Parental responsibilities for sole or primary carers**

In the majority of Child Cruelty cases the offender will have parental responsibility for the victim.

- When considering whether to impose custody the court should step back and review whether this sentence will be in the best interests of the victim (as well as other children in the offender's care). This must be balanced with the seriousness of the offence and all sentencing options remain open to the court but careful consideration should be given to the effect that a custodial sentence could have on the family life of the victim and whether this is proportionate to the seriousness of the offence. This may be of particular relevance in lower culpability cases or where the offender has otherwise been a loving and capable parent/carer.

- Where custody is unavoidable consideration of the impact on the offender's children may be relevant to the length of the sentence imposed. For more serious offences where a substantial period of custody is appropriate, this consideration will carry less weight.

### **STEP SIX**

#### **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 SEVEN**

#### **Ancillary orders**

In all cases the court should consider whether to make ancillary orders.

### **STEP EIGHT**

#### **Reasons**

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

### **STEP NINE**

#### **Consideration for time spent on bail**

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

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## **Annex D: revised draft guideline**

# **Child Cruelty – Assault and ill treatment, abandonment, neglect and failure to protect.**

### **Cruelty to a child**

Children and Young Persons Act 1933 (S1(1))

Triable either way

Maximum: 10 years' custody

Offence range: Low level community order – 8 years' custody

This guideline applies only to offenders aged 18 and older

**STEP ONE**  
**Determining the offence category**

The court should determine the offence category with reference **only** to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

The court should weigh all the factors set out below in determining the offender's culpability.

**Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

**Culpability demonstrated by one or more of the following:**

**A - High culpability:**

High culpability may be indicated by:

- The extreme character of one or more culpability B factors and/or
- A combination of culpability factors
- ~~Prolonged and/or multiple incidents of serious cruelty, including serious neglect~~
- ~~Gratuitous degradation of victim and/or sadistic behaviour~~
- ~~Use of very significant force~~
- ~~Deliberate disregard for the welfare of the victim~~
- ~~Failure to take any steps to protect the victim from offences in which the above factors are present~~
- ~~Offender with professional responsibility for the victim (where linked to the commission of the offence)~~

**B - Medium culpability:**

- Use of significant force
- Prolonged and/or multiple incidents of cruelty, including neglect
- Deliberate disregard for the welfare of the victim
- Gratuitous degradation of victim and/or sadistic behaviour
- Offender with professional responsibility for the victim (where linked to the commission of the offence)
- No/Limited steps taken to protect victim in cases with one or more of the above Category A factors present
- ~~Other cases falling between A and C because:~~
- ~~Factors in both high and lesser categories are present which balance each other out and/or~~
- ~~The offender's culpability falls between the factors as described in high and lesser culpability~~

**C - Lesser culpability:**

- Offender's responsibility substantially reduced by mental disorder or learning disability or lack of maturity
- Offender is vVictim of domestic abuse, including coercion and/or intimidation (when linked to the commission of the offence)
- Some sSteps taken to protect victim but fell just short of what could reasonably be expected

- Momentary or brief lapse in judgement including in cases of neglect.
- Use of some force or failure to protect the victim from an incident involving some force
- Low level of neglect

### Harm

The court should consider the factors set out below to determine the level of harm that has been caused or was intended to be caused to the victim.

#### Psychological, developmental or emotional harm

A finding that the psychological, developmental or emotional harm is **serious** may be based on a clinical diagnosis but the court may make such a finding based on other evidence from or on behalf of the victim that serious psychological, developmental or emotional harm exists. It is important to be clear that the absence of such a finding does **not** imply that the psychological/developmental harm suffered by the victim is minor or trivial.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Serious physical harm <u>which has a substantial and/or long term effect</u> (including illnesses contracted due to neglect)</li> <li>• Serious psychological, developmental <u>and/or</u> emotional harm <u>which has a substantial and/or long term effect</u></li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Cases falling between category 1 and 3</li> <li>• A high likelihood of category 1 harm being caused</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• Little or no psychological, developmental, and/or emotional harm</li> <li>• Little or no physical harm</li> </ul>

### STEP TWO

#### 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 below. The starting point applies to all offenders irrespective of plea or previous convictions.

Where a case does not fall squarely within a category, adjustment from the starting point may be required before adjustment for aggravating or mitigating features.

~~A case of particular gravity, reflected by multiple features of culpability or harm in step one, could merit upward adjustment from the starting point before further adjustment for aggravating or mitigating features, set out on the next page.~~

Harm	Culpability		
	A	B	C
<b>Category 1</b>	<b>Starting point</b> 6 years' custody  <b>Category range</b> 4 – 8 years' custody	<b>Starting point</b> 3 years' custody  <b>Category range</b> 2 – 6 years' custody	<b>Starting point</b> 1 year's custody  <b>Category range</b> High level community order – 2 years 6 months' custody
<b>Category 2</b>	<b>Starting point</b> 3 years' custody  <b>Category range</b> 2 – 6 years' custody	<b>Starting point</b> 1 year's custody  <b>Category range</b> High level community order – 2 years 6 months' custody	<b>Starting point</b> High level community order  <b>Category range</b> Medium level community order – 1 year's custody
<b>Category 3</b>	<b>Starting point</b> 1 year's custody  <b>Category range</b> High level community order – 2 years 6 months' custody	<b>Starting point</b> High level community order  <b>Category range</b> Medium level community order – 1 year's custody	<b>Starting point</b> Medium level community order  <b>Category range</b> Low level community order – 6 months' custody

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 sentence arrived at so far. In particular, relevant recent convictions are likely to result in an upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

### Factors increasing seriousness

#### **Statutory aggravating factors:**

1. 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
2. Offence committed whilst on bail

#### **Other aggravating factors:**

1. Failure to seek medical help (where not taken into account at step one)
2. Commission of offence whilst under the influence of alcohol or drugs
3. Deliberate concealment and/or covering up of the offence
4. Use of a weapon
5. Blame wrongly placed on others
6. Failure to respond to interventions or warnings about behaviour

7. Threats to prevent reporting of the offence
8. Failure to comply with current court orders
9. Offence committed on licence or post sentence supervision
10. Offences taken into consideration
11. Offence committed in the presence of another child

### Factors reducing seriousness or reflecting personal mitigation

1. No previous convictions **or** no relevant/recent convictions
2. Remorse
3. 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
4. Sole or primary carer for dependent relatives (**see step five for further guidance on parental responsibilities**)
5. Good character and/or exemplary conduct (where previous good character/exemplary conduct has been used to facilitate or conceal the offence, this should not normally constitute mitigation and such conduct may constitute aggravation)
6. Serious medical condition requiring urgent, intensive or long-term treatment
7. Mental disorder, ~~or~~ learning disability or lack of maturity (where not taken into account at step one)
8. Co-operation with the investigation

#### STEP THREE

##### Consider any factors which indicate a reduction for 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 FOUR

##### 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 FIVE

##### Parental responsibilities for sole or primary carers

In the majority of Child Cruelty cases the offender will have parental responsibility for the victim.

- When considering whether to impose custody the court should step back and review whether this sentence will be in the best interests of the victim (as well as other children in the offender's care). This must be balanced with the seriousness of the offence and all sentencing options remain open to the court but careful consideration should be given to the effect that a custodial

sentence could have on the family life of the victim and whether this is proportionate to the seriousness of the offence. This may be of particular relevance in lower culpability cases or where the offender has otherwise been a loving and capable parent/carer.

- Where custody is unavoidable consideration of the impact on the offender's children may be relevant to the length of the sentence imposed. For more serious offences where a substantial period of custody is appropriate, this consideration will carry less weight.

#### **STEP SIX**

##### **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 SEVEN**

##### **Ancillary orders**

In all cases the court should consider whether to make ancillary orders.

#### **STEP EIGHT**

##### **Reasons**

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

#### **STEP NINE**

##### **Consideration for time spent on bail**

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

## 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>v</u> ictim 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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