

# **DRAFT GUIDELINES – ASSAULT OFFENCES**

## COMMON ASSAULT

### 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 level of culpability is determined by weighing up all the factors of the case. **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.**

<b>Culpability</b> demonstrated by one or more of the following:	
<b>A - High culpability:</b>	
<ul style="list-style-type: none"> <li>• Intention to cause fear of serious harm, including disease transmission</li> <li>• Targeting of vulnerable victim, where victim vulnerable by personal characteristics or circumstances</li> <li>• Prolonged assault</li> <li>• Use of substantial force</li> <li>• Strangulation</li> <li>• Threatened or actual use of weapon or weapon equivalent*</li> <li>• Leading role in group activity</li> </ul>	
<b>B – Lesser culpability</b>	
<ul style="list-style-type: none"> <li>• Lesser role in group activity</li> <li>• Mental disorder or learning disability, where linked to the commission of the offence</li> <li>• All other cases not captured by category A factors</li> </ul>	
*Examples of a weapon equivalent can include but are not limited to: a shod foot, use of acid, use of animal in commission of offence.	

<b>Harm</b>	
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.	
<b>Category 1</b>	More than minor physical or psychological harm/distress
<b>Category 2</b>	Minor physical or psychological harm/distress
<b>Category 3</b>	No/very low level of physical harm and/or distress

## STEP TWO

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.

HARM	CULPABILITY	
	A	B
Harm 1	<p><b>Starting point</b> High level Community Order</p> <p><b>Category Range</b> Low level Community Order - 26 weeks' custody</p>	<p><b>Starting point</b> Medium level Community Order</p> <p><b>Category Range</b> Low level Community Order - 16 weeks' custody</p>
Harm 2	<p><b>Starting point</b> Medium level Community Order</p> <p><b>Category Range</b> Low level Community Order - 16 weeks' custody</p>	<p><b>Starting point</b> Band B fine</p> <p><b>Category Range</b> Band A Fine - low level Community Order</p>
Harm 3	<p><b>Starting point</b> Band B fine</p> <p><b>Category Range</b> Band A Fine - Low level Community Order</p>	<p><b>Starting point</b> Band A Fine</p> <p><b>Category Range</b> Discharge – Band C Fine</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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

### **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: disability, sexual orientation or transgender identity

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

Spitting or coughing

Offence committed against those working in the public sector or providing a service to the public or against person coming to the assistance of emergency worker

Offence committed in prison

Offence committed in domestic context

Presence of children

Gratuitous degradation of victim

Abuse of power and/or position of trust

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

### Factors reducing seriousness or reflecting personal mitigation

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Significant degree of provocation

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

Determination and/or demonstration of steps taken to address addiction or offending behaviour

Serious medical conditions requiring urgent, intensive or long-term treatment

### RACIALLY OR RELIGIOUSLY AGGRAVATED OFFENCES ONLY

Having determined the category of the basic offence to identify the sentence of a non-aggravated offence, the court should now consider the level of racial or religious aggravation involved and apply an appropriate uplift to the sentence in accordance with the guidance below. The following is a list of factors which the court should consider to determine the level of aggravation. Where there are characteristics present which fall under different levels of aggravation, the court should balance these to reach a fair assessment of the level of aggravation present in the offence.

**Maximum sentence for the aggravated offence on indictment is 2 years' custody (maximum when tried summarily is 6 months' custody)**

**Care should be taken to avoid double counting factors already taken into account in assessing the level of harm at step one**

HIGH LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"><li>Racial or religious aggravation was the predominant motivation for the offence.</li><li>Offender was a member of, or was associated with, a group promoting hostility based on race or religion.</li></ul>	Increase the length of custodial sentence if already considered for the basic offence <b>or</b> consider a custodial sentence, if not already considered for the basic offence.

<ul style="list-style-type: none"> <li>▪ Aggravated nature of the offence caused severe distress to the victim or the victim's family (<b>over and above the distress already considered at step one</b>).</li> <li>▪ Aggravated nature of the offence caused serious fear and distress throughout local community or more widely.</li> </ul>	
<p><b>MEDIUM LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION</b></p>	<p><b>SENTENCE UPLIFT</b></p>
<ul style="list-style-type: none"> <li>▪ Racial or religious aggravation formed a significant proportion of the offence as a whole.</li> <li>▪ Aggravated nature of the offence caused some distress to the victim or the victim's family (<b>over and above the distress already considered at step one</b>).</li> <li>▪ Aggravated nature of the offence caused some fear and distress throughout local community or more widely.</li> </ul>	<p>Consider a significantly more onerous penalty of the same type <u>or consider</u> a more severe type of sentence than for the basic offence.</p>
<p><b>LOW LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION</b></p>	<p><b>SENTENCE UPLIFT</b></p>
<ul style="list-style-type: none"> <li>▪ Aggravated element formed a minimal part of the offence as a whole.</li> <li>▪ Aggravated nature of the offence caused minimal or no distress to the victim or the victim's family (<b>over and above the distress already considered at step one</b>).</li> </ul>	<p>Consider a more onerous penalty of the same type identified for the basic offence.</p>

Magistrates may find that, although the appropriate sentence for the basic offence would be within their powers, the appropriate increase for the aggravated offence would result in a sentence in excess of their powers. If so, they must commit for sentence to the Crown Court.

**The sentencer should state in open court that the offence was aggravated by reason of race or religion, and should also state what the sentence would have been without that element of aggravation.**

#### **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**

##### **Dangerousness**

Racially/religiously aggravated common assault is a specified offence within the meaning of Chapter 5 of Part 12 of the Criminal Justice Act 2003. The court should consider whether having regard to the criteria contained in that Chapter it would be appropriate to impose an extended sentence (section 226A).

#### **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 *Totality* guideline.

#### **STEP SEVEN**

##### **Compensation and ancillary orders**

In all cases the court should consider whether to make compensation and/or other 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 (tagged curfew)**

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

## ASSAULT ON EMERGENCY WORKER

### 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 level of culpability is determined by weighing up all the factors of the case. **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.**

<b>Culpability</b> demonstrated by one or more of the following:	
<b>A - High culpability:</b>	
<ul style="list-style-type: none"> <li>• Intention to cause fear of serious harm, including disease transmission</li> <li>• Prolonged assault</li> <li>• Use of substantial force</li> <li>• Threatened or actual use of weapon or weapon equivalent*</li> <li>• Strangulation</li> <li>• Leading role in group activity</li> </ul>	
<b>B – Lesser culpability</b>	
<ul style="list-style-type: none"> <li>• Lesser role in group activity</li> <li>• Mental disorder or learning disability, where linked to the commission of the offence</li> <li>• All other cases not captured by category 1 factors</li> </ul>	
*Examples of a weapon equivalent can include but are not limited to: a shod foot, use of acid, use of animal in commission of offence.	

<b>Harm</b>	
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.	
<b>Category 1</b>	More than minor physical or psychological harm/distress
<b>Category 2</b>	Minor physical or psychological harm/distress
<b>Category 3</b>	No/very low level of physical harm and/or distress



## STEP TWO

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.

HARM	CULPABILITY	
	A	B
Harm 1	<p><b>Starting point</b> 8 months</p> <p><b>Category Range</b> 26 weeks' – 1 years' custody</p>	<p><b>Starting point</b> 16 weeks</p> <p><b>Category Range</b> High level Community Order - 26 weeks' custody</p>
Harm 2	<p><b>Starting point</b> 16 weeks</p> <p><b>Category Range</b> High level Community Order - 26 weeks' custody</p>	<p><b>Starting point</b> HL CO</p> <p><b>Category Range</b> Low Level Community Order – 16 weeks</p>
Harm 3	<p><b>Starting point</b> HL CO</p> <p><b>Category Range</b> Low Level Community Order – 16 weeks</p>	<p><b>Starting point</b> ML CO</p> <p><b>Category Range</b> Band B Fine – HL CO</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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

### **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: race, religion, disability, sexual orientation or transgender identity

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

Spitting or coughing

Victim isolated and/or had no opportunity to escape situation

Presence of children

Gratuitous degradation of victim

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

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

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

Determination and/or demonstration of steps taken to address addiction or offending behaviour

Serious medical conditions requiring urgent, intensive or long-term treatment

### **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**

#### **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 *Totality* guideline.

### **STEP SIX**

#### **Compensation and ancillary orders**

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

### **STEP SEVEN**

#### **Reasons**

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

### **STEP EIGHT**

#### **Consideration for time spent on bail (tagged curfew)**

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

## ASSAULT WITH INTENT TO RESIST ARREST

### 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 level of culpability is determined by weighing up all the factors of the case. **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.**

<b>Culpability</b> demonstrated by one or more of the following:	
<b>A - High culpability:</b>	
<ul style="list-style-type: none"> <li>• Intention to cause fear of serious harm, including disease transmission</li> <li>• Prolonged assault</li> <li>• Use of substantial force</li> <li>• Threatened or actual use of weapon or weapon equivalent*</li> <li>• Strangulation</li> <li>• Leading role in group activity</li> </ul>	
<b>B – Lesser culpability</b>	
<ul style="list-style-type: none"> <li>• Lesser role in group activity</li> <li>• Mental disorder or learning disability, where linked to the commission of the offence</li> <li>• All other cases not captured by category 1 factors</li> </ul>	
*Examples of a weapon equivalent can include but are not limited to: a shod foot, use of acid, use of animal in commission of offence.	

<b>Harm</b>	
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.	
<b>Category 1</b>	More than minor physical or psychological harm/distress
<b>Category 2</b>	Minor physical or psychological harm/distress
<b>Category 3</b>	No/very low level of physical harm and/or distress

## STEP TWO

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.

HARM	CULPABILITY	
	A	B
Harm 1	<p><b>Starting point</b> 36 weeks' custody</p> <p><b>Category Range</b> 26 weeks' custody – 15 months</p>	<p><b>Starting point</b> 26 weeks' custody</p> <p><b>Category Range</b> High level Community Order - 9 months' custody</p>
Harm 2	<p><b>Starting point</b> 26 weeks' custody</p> <p><b>Category Range</b> High level Community Order - 36 weeks' custody</p>	<p><b>Starting point</b> High Level Community Order</p> <p><b>Category Range</b> Low Level Community Order – 26 weeks' custody</p>
Harm 3	<p><b>Starting point</b> High Level Community Order</p> <p><b>Category Range</b> Low Level Community Order – 26 weeks' custody</p>	<p><b>Starting point</b> Medium Level Community Order</p> <p><b>Category Range</b> Band B Fine – High Level Community Order</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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

## **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: race, religion, disability, sexual orientation or transgender identity

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

Spitting or coughing

Victim isolated and/or had no opportunity to escape situation

Presence of children

Gratuitous degradation of victim

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

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

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

Determination and/or demonstration of steps taken to address addiction or offending behaviour

Serious medical conditions requiring urgent, intensive or long-term treatment

**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****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 *Totality* guideline.

**STEP SIX****Compensation and ancillary orders**

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

**STEP SEVEN****Reasons**

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

**STEP EIGHT****Consideration for time spent on bail (tagged curfew)**

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

**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 level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics giving appropriate weight to relevant factors to reach a fair assessment of the offender’s culpability.**

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

**A - High culpability**

- Significant degree of planning or premeditation
- Victim obviously vulnerable due to age, personal characteristics or circumstances
- Use of a highly dangerous weapon or weapon equivalent\*
- Strangulation
- Leading role in group activity
- Prolonged assault

**B – Medium culpability**

- Use of a weapon or weapon equivalent which does not fall within category A
- Lesser role in group activity
- Cases falling between category A or 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**

- No weapon used
- Excessive self defence
- Mental disorder or learning disability, where linked to the commission of the offence

\* A highly dangerous weapon includes weapons such as knives and firearms. Weapon equivalents can include corrosive substances (such as acid), whose dangerous nature must be substantially above and beyond the legislative definition of an offensive weapon which is; *‘any article made or adapted for use for causing injury, or is intended by the person having it with him for such use’*. The court must determine whether the weapon or weapon equivalent is highly dangerous on the facts and circumstances of the case.



**Harm**

To assess the level of harm caused by the offence, the court must consider;

- The range of injuries (including physical and psychological injury) that can occur in cases of assault occasioning actual bodily harm
- Where in **that range** of injuries the injury caused falls

<b>Category 1</b>	High level of physical or psychological harm
<b>Category 2</b>	Medium level of physical or psychological harm
<b>Category 3</b>	Low level of physical or psychological harm

## STEP TWO

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.

HARM	CULPABILITY		
	A	B	C
<b>Harm 1</b>	<p><b>Starting point</b></p> <p>2 years 6 months' custody</p> <p><b>Category Range</b> 1 year 6 months' – 4 years' custody</p>	<p><b>Starting point</b></p> <p>1 year 6 months' custody</p> <p><b>Category Range</b> 36 weeks' – 2 years 6 months' custody</p>	<p><b>Starting point</b></p> <p>36 weeks' custody</p> <p><b>Category Range</b> High Level Community Order - 1 year 6 months' custody</p>
<b>Harm 2</b>	<p><b>Starting point</b></p> <p>1 year 6 months' custody</p> <p><b>Category Range</b> 36 weeks' – 2 years 6 months' custody</p>	<p><b>Starting point</b></p> <p>36 weeks' custody</p> <p><b>Category Range</b> High Level Community Order - 1 year 6 months' custody</p>	<p><b>Starting point</b></p> <p>High Level Community Order</p> <p><b>Category Range</b> Low Level Community Order – 36 weeks' custody</p>
<b>Harm 3</b>	<p><b>Starting point</b></p> <p>36 weeks' custody</p> <p><b>Category Range</b> High Level Community Order - 1 year 6 months' custody</p>	<p><b>Starting point</b></p> <p>High Level Community Order</p> <p><b>Category Range</b> Low Level Community Order – 36 weeks' custody</p>	<p><b>Starting point</b></p> <p>Medium Level Community Order</p> <p><b>Category Range</b> Band B Fine – 26 weeks' 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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

## **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: disability, sexual orientation or transgender identity

Offence was committed against an emergency worker acting in the exercise of functions as such a worker.

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

Spitting or coughing

Offence committed against those working in the public sector or providing a service to the public or against person coming to the assistance of emergency worker

Offence committed in prison

Offence committed in domestic context

History of violence or abuse towards victim by offender

Presence of children

Gratuitous degradation of victim

Abuse of power and/or position of trust

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

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

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Significant degree of provocation

History of significant violence or abuse towards the offender by the victim

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

Determination and/or demonstration of steps taken to address addiction or offending behaviour

Serious medical conditions requiring urgent, intensive or long-term treatment

**RACIALLY OR RELIGIOUSLY AGGRAVATED OFFENCES ONLY**

Having determined the category of the basic offence to identify the sentence of a non-aggravated offence, the court should now consider the level of racial or religious aggravation involved and apply an appropriate uplift to the sentence in accordance with the guidance below. The following is a list of factors which the court should consider to determine the level of aggravation. Where there are characteristics present which fall under different levels of aggravation, the court should balance these to reach a fair assessment of the level of aggravation present in the offence.

**Maximum sentence for the aggravated offence on indictment is 7 years’ custody (maximum when tried summarily is 6 months’ custody)**

**Care should be taken to avoid double counting factors already taken into account in assessing the level of harm at step one**

HIGH LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"> <li>▪ Racial or religious aggravation was the predominant motivation for the offence.</li> <li>▪ Offender was a member of, or was associated with, a group promoting hostility based on race or religion.</li> <li>▪ Aggravated nature of the offence caused severe distress to the victim or the victim’s family (<b>over and above the distress already considered at step one</b>).</li> <li>▪ Aggravated nature of the offence caused serious fear and distress throughout local community or more widely.</li> </ul>	<p>Increase the length of custodial sentence if already considered for the basic offence <b>or</b> consider a custodial sentence, if not already considered for the basic offence.</p>
MEDIUM LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"> <li>▪ Racial or religious aggravation formed a significant proportion of the offence as a whole.</li> <li>▪ Aggravated nature of the offence caused some distress to the</li> </ul>	<p>Consider a significantly more onerous penalty of the same type <u>or consider</u> a more severe type of sentence than for the basic offence.</p>

<p>victim or the victim's family (<b>over and above the distress already considered at step one</b>).</p> <ul style="list-style-type: none"> <li>▪ Aggravated nature of the offence caused some fear and distress throughout local community or more widely.</li> </ul>	
<p><b>LOW LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION</b></p>	<p><b>SENTENCE UPLIFT</b></p>
<ul style="list-style-type: none"> <li>▪ Aggravated element formed a minimal part of the offence as a whole.</li> <li>▪ Aggravated nature of the offence caused minimal or no distress to the victim or the victim's family (<b>over and above the distress already considered at step one</b>).</li> </ul>	<p>Consider a more onerous penalty of the same type identified for the basic offence.</p>

Magistrates may find that, although the appropriate sentence for the basic offence would be within their powers, the appropriate increase for the aggravated offence would result in a sentence in excess of their powers. If so, they must commit for sentence to the Crown Court.

**The sentencer should state in open court that the offence was aggravated by reason of race or religion, and should also state what the sentence would have been without that element of aggravation.**

**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****Dangerousness**

The court should consider whether having regard to the criteria contained in Chapter 5 of Part 12 of the Criminal Justice Act 2003 it would be appropriate to impose an extended sentence (section 226A).

**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 *Totality* guideline.

**STEP SEVEN****Compensation and ancillary orders**

In all cases the court should consider whether to make compensation and/or other 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 (tagged curfew)**

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

**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 level of culpability is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics giving appropriate weight to relevant factors to reach a fair assessment of the offender’s culpability.**

<b>Culpability</b> demonstrated by one or more of the following:
<p><b>A - High culpability</b></p> <ul style="list-style-type: none"> <li>• Significant degree of planning or premeditation</li> <li>• Victim obviously vulnerable due to age, personal characteristics or circumstances</li> <li>• Use of a highly dangerous weapon or weapon equivalent*</li> <li>• Strangulation</li> <li>• Leading role in group activity</li> <li>• Prolonged assault</li> </ul>
<p><b>B – Medium culpability</b></p> <ul style="list-style-type: none"> <li>• Use of a weapon or weapon equivalent which does not fall within category A</li> <li>• Lesser role in group activity</li> <li>• Cases falling between category A or 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> </li> </ul>
<p><b>C – Lesser culpability</b></p> <ul style="list-style-type: none"> <li>• No weapon used</li> <li>• Excessive self defence</li> <li>• Mental disorder or learning disability, where linked to the commission of the offence</li> </ul>
<p>* A highly dangerous weapon includes weapons such as knives and firearms. Weapon equivalents can include corrosive substances (such as acid), whose dangerous nature must be substantially above and beyond the legislative definition of an offensive weapon which is; <i>‘any article made or adapted for use for causing injury, or is intended by the person having it with him for such use’</i>. The court must determine whether the weapon or weapon equivalent is highly dangerous on the facts and circumstances of the case.</p>



<b>Harm</b>	
All cases will involve 'really serious harm', which can be physical or psychological, or wounding. The court should assess the level of harm caused with reference to the impact on the victim	
<b>Category 1</b>	<p>Particularly grave and/or life-threatening injury caused</p> <p>Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment</p> <p>Offence results in a permanent, irreversible injury or condition which has a substantial and long term effect on the victim's ability to carry out normal day to day activities or on their ability to work</p>
<b>Category 2</b>	<p>Grave but non life-threatening injury caused</p> <p>Offence results in a permanent, irreversible injury or condition but no substantial and long term effect on victim's ability to carry out normal day to day activities or on their ability to work</p>
<b>Category 3</b>	<p>All other cases of really serious harm</p> <p>All other cases of wounding</p>

## STEP TWO

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.

HARM	CULPABILITY		
	A	B	C
<b>Harm 1</b>	<p><b>Starting point</b> 4 years' custody</p> <p><b>Category Range</b> 3 years– 4 years 6 months' custody</p>	<p><b>Starting point</b> 3 years' custody</p> <p><b>Category Range</b> 2 -4 years' custody</p>	<p><b>Starting point</b> 2 years' custody</p> <p><b>Category Range</b> 1-3 years' custody</p>
<b>Harm 2</b>	<p><b>Starting point</b> 3 years' custody</p> <p><b>Category Range</b> 2 -4 years' custody</p>	<p><b>Starting point</b> 2 years' custody</p> <p><b>Category Range</b> 1-3 years' custody</p>	<p><b>Starting point</b> 1 years' custody</p> <p><b>Category Range</b> High Level Community Order - 2 years' custody</p>
<b>Harm 3</b>	<p><b>Starting point</b> 2 years' custody</p> <p><b>Category Range</b> 1-3 years' custody</p>	<p><b>Starting point</b> 1 years' custody</p> <p><b>Category Range</b> High Level Community Order - 2 years' custody</p>	<p><b>Starting point</b> 26 weeks' custody</p> <p><b>Category Range</b> Medium Level Community Order – 1 years' 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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

## **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: disability, sexual orientation or transgender identity

Offence was committed against an emergency worker acting in the exercise of functions as such a worker.

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

Spitting

Offence committed against those working in the public sector or providing a service to the public

Offence committed in prison

Offence committed in domestic context

History of violence or abuse towards victim by offender

Presence of children

Gratuitous degradation of victim

Abuse of power and/or position of trust

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

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

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Significant degree of provocation

History of significant violence or abuse towards the offender by the victim

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

Determination and/or demonstration of steps taken to address addiction or offending behaviour

Serious medical conditions requiring urgent, intensive or long-term treatment

**RACIALLY OR RELIGIOUSLY AGGRAVATED OFFENCES ONLY**

Having determined the category of the basic offence to identify the sentence of a non-aggravated offence, the court should now consider the level of racial or religious aggravation involved and apply an appropriate uplift to the sentence in accordance with the guidance below. The following is a list of factors which the court should consider to determine the level of aggravation. Where there are characteristics present which fall under different levels of aggravation, the court should balance these to reach a fair assessment of the level of aggravation present in the offence.

**Maximum sentence for the aggravated offence on indictment is 7 years’ custody (maximum when tried summarily is 6 months’ custody)**

**Care should be taken to avoid double counting factors already taken into account in assessing the level of harm at step one**

HIGH LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"> <li>▪ Racial or religious aggravation was the predominant motivation for the offence.</li> <li>▪ Offender was a member of, or was associated with, a group promoting hostility based on race or religion.</li> <li>▪ Aggravated nature of the offence caused severe distress to the victim or the victim’s family (<b>over and above the distress already considered at step one</b>).</li> <li>▪ Aggravated nature of the offence caused serious fear and distress throughout local community or more widely.</li> </ul>	<p>Increase the length of custodial sentence if already considered for the basic offence <b>or</b> consider a custodial sentence, if not already considered for the basic offence.</p>
MEDIUM LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION	SENTENCE UPLIFT
<ul style="list-style-type: none"> <li>▪ Racial or religious aggravation formed a significant proportion of the offence as a whole.</li> <li>▪ Aggravated nature of the offence caused some distress to the</li> </ul>	<p>Consider a significantly more onerous penalty of the same type <u>or consider</u> a more severe type of sentence than for the basic offence.</p>

<p>victim or the victim's family (<b>over and above the distress already considered at step one</b>).</p> <ul style="list-style-type: none"> <li>▪ Aggravated nature of the offence caused some fear and distress throughout local community or more widely.</li> </ul>	
<p><b>LOW LEVEL OF RACIAL OR RELIGIOUS AGGRAVATION</b></p>	<p><b>SENTENCE UPLIFT</b></p>
<ul style="list-style-type: none"> <li>▪ Aggravated element formed a minimal part of the offence as a whole.</li> <li>▪ Aggravated nature of the offence caused minimal or no distress to the victim or the victim's family (<b>over and above the distress already considered at step one</b>).</li> </ul>	<p>Consider a more onerous penalty of the same type identified for the basic offence.</p>

Magistrates may find that, although the appropriate sentence for the basic offence would be within their powers, the appropriate increase for the aggravated offence would result in a sentence in excess of their powers. If so, they must commit for sentence to the Crown Court.

**The sentencer should state in open court that the offence was aggravated by reason of race or religion, and should also state what the sentence would have been without that element of aggravation.**

**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****Dangerousness**

The court should consider whether having regard to the criteria contained in Chapter 5 of Part 12 of the Criminal Justice Act 2003 it would be appropriate to impose an extended sentence (section 226A).

**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 *Totality* guideline.

**STEP SEVEN****Compensation and ancillary orders**

In all cases the court should consider whether to make compensation and/or other 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 (tagged curfew)**

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

## GBH S18

### 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 level of culpability is determined by weighing up all the factors of the case. Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics giving appropriate weight to relevant factors to reach a fair assessment of the offender's culpability.

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

##### A - High culpability

- Significant degree of planning or premeditation
- Victim obviously vulnerable due to age, personal characteristics or circumstances
- Use of a highly dangerous weapon or weapon equivalent\*
- Strangulation
- Leading role in group activity
- Prolonged assault
- Revenge

##### B – Medium culpability

- Use of a weapon or weapon equivalent which does not fall within category A
- Lesser role in group activity
- Cases falling between category high and low culpability 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

- No weapon used
- Excessive self defence
- Offender acted in response to prolonged or extreme violence or abuse by victim
- Mental disorder or learning disability, where linked to the commission of the offence

\* A highly dangerous weapon includes weapons such as knives and firearms. Weapon equivalents can include corrosive substances (such as acid), whose dangerous nature must be substantially above and beyond the legislative definition of an offensive weapon which is; *'any article made or adapted for use for causing injury, or is intended by the person having it with him for such use'*. The court must determine whether the weapon or weapon equivalent is highly dangerous on the facts and circumstances of the case. Non-highly dangerous weapon equivalents may include but are not limited to a shod foot, headbutting, use of animal in commission of offence.



<b>Harm</b>	
All cases will involve 'really serious harm', which can be physical or psychological, or wounding. The court should assess the level of harm caused with reference to the impact on the victim	
<b>Category 1</b>	<p>Particularly grave or life-threatening injury caused</p> <p>Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment</p> <p>Offence results in a permanent, irreversible injury or psychological condition which has a substantial and long term effect on the victim's ability to carry out normal day to day activities or on their ability to work</p>
<b>Category 2</b>	<p>Grave injury</p> <p>Offence results in a permanent, irreversible injury or condition not falling within category 1</p>
<b>Category 3</b>	<p>All other cases of really serious harm</p> <p>All other cases of wounding</p>

## STEP TWO

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.

**For category A1 offences the extreme nature of one or more high culpability factors or the extreme impact caused by a combination of high culpability factors may attract a sentence higher than the offence category range**

HARM	CULPABILITY		
	A	B	C
<b>Harm 1</b>	<p><b>Starting point</b> 12 years' custody</p> <p><b>Category Range</b> 10-16 years' custody</p>	<p><b>Starting point</b> 7 years' custody</p> <p><b>Category Range</b> 6-10 years' custody</p>	<p><b>Starting point</b> 5 years' custody</p> <p><b>Category Range</b> 4-7 years' custody</p>
<b>Harm 2</b>	<p><b>Starting point</b> 7 years' custody</p> <p><b>Category Range</b> 6-10 years' custody</p>	<p><b>Starting point</b> 5 years' custody</p> <p><b>Category Range</b> 4-7 years' custody</p>	<p><b>Starting point</b> 4 years' custody</p> <p><b>Category Range</b> 3 – 6 years' custody</p>
<b>Harm 3</b>	<p><b>Starting point</b> 5 years' custody</p> <p><b>Category Range</b> 4-7 years' custody</p>	<p><b>Starting point</b> 4 years' custody</p> <p><b>Category Range</b> 3-6 years' custody</p>	<p><b>Starting point</b> 3 years' custody</p> <p><b>Category Range</b> 2-4 years' 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 starting point. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

## **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: race, religion, disability, sexual orientation or transgender identity

Offence was committed against an emergency worker acting in the exercise of functions as such a worker.

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

Offence committed against those working in the public sector or providing a service to the public

Offence committed in prison

Offence committed in domestic context

History of violence or abuse towards victim by offender (where not taken into account at step one)

Presence of children

Gratuitous degradation of victim

Abuse of power and/or position of trust

Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

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

No previous convictions or no relevant/recent convictions

Remorse

Good character and/or exemplary conduct

Significant degree of provocation

History of significant violence or abuse towards the offender by the victim (where not taken into account at step one)

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence

Sole or primary carer for dependent relative(s)

Determination and/or demonstration of steps taken to address addiction or offending behaviour

Serious medical conditions requiring urgent, intensive or long-term treatment

**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****Dangerousness**

The court should consider whether having regard to the criteria contained in Chapter 5 of Part 12 of the Criminal Justice Act 2003 it would be appropriate to impose a life sentence (section 224A or section 225) or an extended sentence (section 226A). When sentencing offenders to a life sentence under these provisions, the notional determinate sentence should be used as the basis for the setting of a minimum term.

**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 *Totality* guideline.

**STEP SEVEN****Compensation and ancillary orders**

In all cases the court should consider whether to make compensation and/or other 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 (tagged curfew)**

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

## ATTEMPTED MURDER

### STEP ONE

#### Determining the offence category

The characteristics below are indications of the level of culpability that may attach to the offender's conduct. Where there are characteristics present which fall into both higher and lower categories, the court must carefully weigh those characteristics to reach a fair assessment of the category which best reflects the offender's overall culpability in all the circumstances of the case. The court may then adjust the starting point for that category to reflect the presence of characteristics from another category.

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

A – Very High culpability	<ul style="list-style-type: none"> <li>• Abduction of the victim with intent to murder</li> <li>• Attempted murder of a child</li> <li>• Offence motivated by or involves sexual or sadistic conduct</li> <li>• Offence involves the use of a firearm or explosive or fire</li> <li>• Offence committed for financial gain</li> <li>• Attempted murder of a police officer or prison officer in the course of their duty</li> <li>• Offence committed for the purpose of advancing a political, religious, racial or ideological cause</li> <li>• Offence intended to obstruct or interfere with the course of justice</li> <li>• Offence racially or religiously aggravated or aggravated by sexual orientation, disability or transgender identity</li> </ul>
B- High culpability	<ul style="list-style-type: none"> <li>• Offender took a knife or other weapon to the scene intending to commit any offence or have it available to use as a weapon, and used that knife or other weapon in committing the offence.</li> <li>• Planning or premeditation of murder</li> </ul>
C - Medium culpability	<ul style="list-style-type: none"> <li>• Use of weapon not in category A or B</li> <li>• Lack of premeditation/spontaneous attempt to kill</li> </ul>
D- Lesser culpability	<ul style="list-style-type: none"> <li>• Excessive self defence</li> <li>• Offender acted in response to prolonged or extreme violence or abuse by victim</li> <li>• Offender's responsibility substantially reduced by mental disorder or learning disability</li> </ul>

	<ul style="list-style-type: none"> <li>• Genuine belief by the offender that the offence was an act of mercy</li> </ul>
--	---

<b>Harm</b>	
<b>Category 1</b>	<p>Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment</p> <p>Offence results in a permanent, irreversible injury or psychological condition which has a substantial and long term effect on the victim's ability to carry out normal day to day activities or on their ability to work</p>
<b>Category 2</b>	Serious physical or psychological harm not in category 1
<b>Category 3</b>	All other cases

## STEP TWO

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below before further adjustment for aggravating or mitigating features, set out below.

**For offences involving an extreme nature of one or more very high or high culpability factors a sentence higher than the offence category range or an extended or life sentence may be appropriate. Extended and life sentences are dealt with at Step 5 of the guideline.**

HARM	CULPABILITY			
	A	B	C	D
Harm 1	<b>Starting point</b> 35 years  <b>Category Range</b> 30 - 40	<b>Starting point</b> 30  <b>Category Range</b> 25-35	<b>Starting point</b> 25  <b>Category Range</b> 20-30	<b>Starting point</b> 14  <b>Category Range</b> 10-20
Harm 2	<b>Starting point</b> 30 years  <b>Category Range</b> 25-35	<b>Starting point</b> 25  <b>Category Range</b> 20-30	<b>Starting point</b> 20  <b>Category Range</b> 15-25	<b>Starting point</b> 8  <b>Category Range</b> 5-12
Harm 3	<b>Starting point</b> 25  <b>Category Range</b> 20-30	<b>Starting point</b> 20  <b>Category Range</b> 15-25	<b>Starting point</b> 10  <b>Category Range</b> 7-15	<b>Starting point</b> 5  <b>Category Range</b> 3-6

Note: The table is for a single offence against a single victim. Where another offence or offences arise out of the same incident or facts, concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Offences Taken into Consideration and Totality guideline*.



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.

### **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 of the victim: disability, sexual orientation or gender identity

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

Offence committed against those working in the public sector or providing a service to the public

Offence committed in prison

Offence committed in domestic context

History of violence or abuse towards victim by offender (where not taken into account at step one)

Abuse of position of trust

Gratuitous degradation of victim

Others put at risk of harm by the offence

Use of duress or threats against another person to facilitate the commission of the offence

Actions after the event (including but not limited to attempts to cover up/conceal evidence)

Steps taken to prevent the victim from seeking or receiving medical assistance

Commission of offence whilst under the influence of alcohol/drugs

Offence committed whilst on licence or subject to post sentence supervision

Failure to comply with current court orders

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

No previous convictions or no relevant/recent convictions

Significant degree of provocation (including due to prolonged and/or excessive stress linked to circumstances of offence)

History of significant violence or abuse towards the offender by the victim (where not taken into account at step one)

Attempt by offender to give assistance/summon help when the attempted murder failed

Remorse

Good character and/or exemplary conduct

Age and/or lack of maturity

Mental disorder or learning disability, where not linked to the commission of the offence (where not taken into account at step one)

Sole or primary carer for dependent relative(s)

Serious medical conditions requiring urgent, intensive or long-term treatment

### **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**

#### **Dangerousness**

The court should consider whether having regard to the criteria contained in Chapter 5 of Part 12 of the Criminal Justice Act 2003 it would be appropriate to impose a life sentence (section 224A or section 225) or an extended sentence (section 226A). When sentencing offenders to a life sentence under these provisions, the notional determinate sentence should be used as the basis for the setting of a minimum term.

### **STEP SIX**

#### **Special custodial sentence for certain offenders of particular concern (section 236A)**

Where the offence has a terrorist connection and satisfies the criteria in Schedule 18A of the Criminal Justice Act 2003 and the court does not impose a sentence of imprisonment for life or an extended sentence, but does impose a period of imprisonment, the term of the sentence must be equal to the aggregate of the appropriate custodial term and a further period of 1 year for which the offender is to be subject to a licence.

### **STEP SEVEN**

#### **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**

#### **Compensation and ancillary orders**

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

Where the offence involves a firearm, an imitation firearm or an offensive weapon the court may consider the criteria in section 19 of the Serious Crime Act 2007 for the imposition of a Serious Crime Prevention Order.

### **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.