

# Encouragement of terrorism

## **Encouragement of terrorism**

Terrorism Act 2006 (section 1)

## **Dissemination of terrorist publications**

Terrorism Act 2006 (section 2)

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**Triable either way**

**Maximum: 7 years' custody**

**Offence range: High level community order – 6 years' custody**

<p><b>This guideline applies only to offenders aged 18 and older</b></p>
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**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:

<b>A</b>	<ul style="list-style-type: none"> <li>Offender in position of trust, authority or influence and abuses their position to encourage others</li> <li>Intended to encourage others to engage in any form of terrorist activity</li> <li>Intended to provide assistance to others to engage in terrorist activity</li> </ul>
<b>B</b>	<ul style="list-style-type: none"> <li>Reckless as to whether others would be encouraged or assisted to engage in terrorist activity <b>and</b> published statement/disseminated publication widely to a large or targeted audience (if via social media this can include both open or closed groups)</li> </ul>
<b>C</b>	<ul style="list-style-type: none"> <li>Other cases where characteristics for categories A or B are not present</li> </ul>

**Harm**

The court should consider the factors set out below to determine the level of harm.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>Evidence that others have acted on or been assisted by the encouragement to carry out activities endangering life</li> <li>Statement or publication provides instruction for specific terrorist activity endangering life</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>Evidence that others have acted on or been assisted by the encouragement to carry out activities not endangering life</li> <li>Statement or publication provides non-specific content encouraging support for terrorist activity endangering life</li> <li>Statement or publication provides instruction for specific terrorist activity not endangering life</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>Statement or publication provides non-specific content encouraging support for terrorist activity not endangering life</li> <li>Other cases where characteristics for categories 1 or 2 are not present</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
Category 1	<b>Starting point</b> 5 years' custody	<b>Starting point</b> 4 years' custody	<b>Starting point</b> 3 years' custody
	<b>Category range</b> 4 – 6 years' custody	<b>Category range</b> 3 – 5 years' custody	<b>Category range</b> 2 – 4 years' custody
Category 2	<b>Starting point</b> 4 years' custody	<b>Starting point</b> 3 years' custody	<b>Starting point</b> 2 years' custody
	<b>Category range</b> 3 – 5 years' custody	<b>Category range</b> 2 – 4 years' custody	<b>Category range</b> 1 – 3 years' custody
Category 3	<b>Starting point</b> 3 years' custody	<b>Starting point</b> 2 years' custody	<b>Starting point</b> 1 year's custody
	<b>Category range</b> 2 – 4 years' custody	<b>Category range</b> 1 – 3 years' 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:**

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: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

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

Specifically targeted audience (if not considered at step 1)

Vulnerable/impressionable audience (if not considered at step 1)

Communication with known extremists

Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection

Significant volume of terrorist publications published or disseminated

Used multiple social media platforms to reach a wider audience

Offender attempted to disguise their identity to prevent detection

Failure to respond to warnings

Failure to comply with current court orders

Offence committed on licence or Post Sentence Supervision

Offence committed whilst in prison

### Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Good character and/or exemplary conduct

Offender involved through coercion, intimidation or exploitation

Clear evidence of a change of mind set prior to arrest

Offender's responsibility substantially reduced by mental disorder or learning disability

Age and/or lack of maturity where it affects the responsibility of the offender

Sole or primary carer for dependent relatives

**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 *Offences Taken into Consideration and Totality* guideline.

**STEP SIX****Ancillary orders**

In all cases the court should consider whether to make ancillary orders. See Additional guidance on page 57.

**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.

# Proscribed organisations

## **Membership**

Terrorism Act 2000 (section 11)

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**Triable either way**

**Maximum: 10 years' custody**

**Offence range: High 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:

<b>A</b>	• Prominent member of organisation
<b>B</b>	• Active (but not prominent) member of organisation
<b>C</b>	• All other cases

**Harm**

There is no variation in the level of harm caused. Membership of any organisation which is concerned in terrorism either through the commission, participation, preparation, promotion or encouragement of terrorism is inherently harmful.

**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 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>Starting point</b> 7 years' custody	<b>Starting point</b> 5 years' custody	<b>Starting point</b> 2 years' custody
	<b>Category range</b> 5 – 9 years' custody	<b>Category range</b> 3 – 7 years' custody	<b>Category range</b> High level community order – 4 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:**

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: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

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

Length of time over which offending was committed

Failure to respond to warnings

Failure to comply with current court orders

Offence committed on licence or Post Sentence Supervision

Offence committed whilst in prison

#### Factors reducing seriousness or reflecting personal mitigation

Unaware that organisation was proscribed

No previous convictions **or** no relevant/recent convictions

Good character and/or exemplary conduct

Offender involved through coercion, intimidation or exploitation

Clear evidence of a change of mind set prior to arrest

Offender's responsibility substantially reduced by mental disorder or learning disability

Age and/or lack of maturity where it affects the responsibility of the offender

Sole or primary carer for dependent relatives



**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 *Offences Taken into Consideration and Totality* guideline.

**STEP SIX****Ancillary orders**

In all cases the court should consider whether to make ancillary orders. See Additional guidance on page 57.

**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.

# Proscribed organisations

## **Support**

Terrorism Act 2000 (section 12)

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**Triable either way**

**Maximum: 10 years' custody**

**Offence range: High 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:

<b>A</b>	<ul style="list-style-type: none"> <li>Offender in position of trust, authority or influence and abuses their position</li> <li>Persistent efforts to gain widespread or significant support for organisation</li> <li>Encourages activities intended to cause endangerment to life</li> </ul>
<b>B</b>	<ul style="list-style-type: none"> <li>Arranged or played a significant part in the arrangement of a meeting/event aimed at gaining significant support for organisation</li> <li>Intended to gain widespread or significant support for organisation</li> <li>Encourages activities intended to cause widespread or serious damage to property, or economic interests or substantial impact upon civic infrastructure</li> </ul>
<b>C</b>	<ul style="list-style-type: none"> <li>Lesser cases where characteristics for categories A or B are not present</li> </ul>

**Harm**

The court should consider the factors set out below to determine the level of harm.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>Evidence that others have acted on or been assisted by the encouragement to carry out activities endangering life</li> <li>Significant support for the organisation gained or likely to be gained</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>Evidence that others have acted on or been assisted by the encouragement to carry out activities not endangering life</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>All other cases</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
Category 1	<b>Starting point</b> 7 years' custody	<b>Starting point</b> 5 years' custody	<b>Starting point</b> 3 years' custody
	<b>Category range</b> 6 – 9 years' custody	<b>Category range</b> 4 – 6 years' custody	<b>Category range</b> 2 – 4 years' custody
Category 2	<b>Starting point</b> 6 years' custody	<b>Starting point</b> 4 years' custody	<b>Starting point</b> 2 years' custody
	<b>Category range</b> 5 – 7 years' custody	<b>Category range</b> 3 – 5 years' custody	<b>Category range</b> 1 – 3 years' custody
Category 3	<b>Starting point</b> 5 years' custody	<b>Starting point</b> 3 years' custody	<b>Starting point</b> 1 year's custody
	<b>Category range</b> 4 – 6 years' custody	<b>Category range</b> 2 – 4 years' 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:**

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: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

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

Vulnerable/impressionable audience

Failure to respond to warnings

Failure to comply with current court orders

Offence committed on licence or Post Sentence Supervision

Offence committed whilst in prison

### Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Good character and/or exemplary conduct

Offender involved through coercion, intimidation or exploitation

Clear evidence of a change of mind set prior to arrest

Offender's responsibility substantially reduced by mental disorder or learning disability

Age and/or lack of maturity where it affects the responsibility of the offender

Sole or primary carer for dependent relatives

**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 *Offences Taken into Consideration and Totality* guideline.

**STEP SIX****Ancillary orders**

In all cases the court should consider whether to make ancillary orders. See Additional guidance on page 57.

**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.

# Funding terrorism

## **Fundraising**

Terrorism Act 2000 (section 15)

## **Use and possession**

Terrorism Act 2000 (section 16)

## **Funding arrangements**

Terrorism Act 2000 (section 17)

## **Money laundering**

Terrorism Act 2000 (section 18)

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Triable either way

Maximum: 14 years' custody

Offence range: High level community order – 13 years' custody

<p>This guideline applies only to offenders aged 18 and older</p>
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**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:

<b>A</b>	<ul style="list-style-type: none"> <li>• A significant role where offending is part of a group activity</li> <li>• Involvement of others through pressure or influence</li> <li>• Abuse of position of power, trust or responsibility</li> <li>• Sophisticated nature of offence/significant planning</li> <li>• Activities took place over a sustained period of time</li> </ul>
<b>B</b>	<ul style="list-style-type: none"> <li>• Cases whose characteristics fall between A and C</li> </ul>
<b>C</b>	<ul style="list-style-type: none"> <li>• Performed limited function under direction</li> <li>• Very little or no planning</li> </ul>

**Harm**

The court should consider the factors set out below to determine the level of harm.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Money or property made, or was likely to make, a significant contribution to furthering terrorism</li> <li>• Use or provision of money or property to fund or assist activities endangering life</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Use or provision of money or property to fund or assist activities which involve a risk of widespread or serious damage to property, or economic interests or substantial impact upon civic infrastructure</li> <li>• All other cases whose characteristics fall between 1 and 3</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• Money or property made, or was likely to make, a minor contribution to furthering terrorism</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
Category 1	<b>Starting point</b> 12 years' custody	<b>Starting point</b> 9 years' custody	<b>Starting point</b> 7 years' custody
	<b>Category range</b> 10 – 13 years' custody	<b>Category range</b> 8 – 10 years' custody	<b>Category range</b> 6 – 8 years' custody
Category 2	<b>Starting point</b> 9 years' custody	<b>Starting point</b> 7 years' custody	<b>Starting point</b> 4 years' custody
	<b>Category range</b> 8 – 10 years' custody	<b>Category range</b> 6 – 8 years' custody	<b>Category range</b> 2 – 5 years' custody
Category 3	<b>Starting point</b> 7 years' custody	<b>Starting point</b> 4 years' custody	<b>Starting point</b> 2 years' custody
	<b>Category range</b> 6 – 8 years' custody	<b>Category range</b> 2 – 5 years' custody	<b>Category range</b> High level community order – 3 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:**

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: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

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

Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection

Indoctrinated or encouraged others

Use or provision of false or fraudulent identification

Misrepresenting nature of organisation

Failure to respond to warnings

Failure to comply with current court orders

Offence committed on licence or Post Sentence Supervision

### Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Good character and/or exemplary conduct

Offender involved through coercion, intimidation or exploitation

Offender's responsibility substantially reduced by mental disorder or learning disability

Age and/or lack of maturity where it affects the responsibility of the offender

Sole or primary carer for dependent relatives

**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 *Offences Taken into Consideration and Totality* guideline.

**STEP SIX****Ancillary orders**

In all cases the court should consider whether to make ancillary orders. See Additional guidance on page 57.

**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.

# Failure to disclose information about acts of terrorism

Terrorism Act 2000 (section 38B)

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**Triable either way**

**Maximum: 5 years' custody**

**Offence range: High level community order – 4 years 6 months' 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.

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

<b>A</b>	<ul style="list-style-type: none"> <li>Information was very significant (including, but not limited to, information which could have prevented an act of terrorism)</li> </ul>
<b>B</b>	<ul style="list-style-type: none"> <li>Cases whose characteristics fall between A and C</li> </ul>
<b>C</b>	<ul style="list-style-type: none"> <li>Information was of low significance</li> </ul>

**Harm**

The court should consider the factors set out below to determine the level of harm.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>Information related to terrorist activity endangering life</li> <li>Information related to terrorist activity intended to cause widespread or serious damage to property, or economic interest or substantial impact upon civic infrastructure</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>All other cases</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
Category 1	<b>Starting point</b> 4 years' custody	<b>Starting point</b> 3 years' custody	<b>Starting point</b> 2 years' custody
	<b>Category range</b> 3 – 4 years 6 months' custody	<b>Category range</b> 2 – 4 years' custody	<b>Category range</b> 6 months – 3 years' custody
Category 2	<b>Starting point</b> 3 years' custody	<b>Starting point</b> 2 years' custody	<b>Starting point</b> 1 year 6 months' custody
	<b>Category range</b> 2 – 4 years' custody	<b>Category range</b> 6 months – 3 years' 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:**

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: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

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

Many lives endangered

Length of time over which offending was committed

Failure to respond to warnings

Failure to comply with current court orders

Offence committed on licence or Post Sentence Supervision

Offence committed whilst in prison

### Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Good character and/or exemplary conduct

Offender involved through coercion, intimidation or exploitation

Offender discloses information but not as soon as was reasonably practicable

Offender's responsibility substantially reduced by mental disorder or learning disability

Age and/or lack of maturity where it affects the responsibility of the offender

Sole or primary carer for dependent relatives

**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 *Offences Taken into Consideration and Totality* guideline.

**STEP SIX****Ancillary orders**

In all cases the court should consider whether to make ancillary orders. See Additional guidance on page 57.

**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.



# Possession for terrorist purposes

## Terrorism Act 2000 (section 57)

This is a serious specified offence for the purposes of sections 224 and 225(2) (life sentence for serious offences) of the Criminal Justice Act 2003.

This is an offence listed in Part 1 of Schedule 15B for the purposes of sections 224A (life sentence for second listed offence) of the Criminal Justice Act 2003.

This is a specified offence for the purposes of section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

This is an offence listed in Schedule 18A for the purposes of section 236A (special custodial sentence for certain offenders of particular concern) of the Criminal Justice Act 2003.

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**Triable either way**

**Maximum: 15 years' custody**

**Offence range: 1 – 14 years' custody**

<b>This guideline applies only to offenders aged 18 and older</b>
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**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:

<b>A</b>	<ul style="list-style-type: none"> <li>• Possession of article(s) indicates that offender's preparations for terrorist activity are complete or almost complete</li> <li>• Offender is a significant participant in the commission, preparation or instigation of an act of terrorism</li> </ul>
<b>B</b>	<ul style="list-style-type: none"> <li>• Cases falling between A and C</li> </ul>
<b>C</b>	<ul style="list-style-type: none"> <li>• Possession of article(s) indicates that offender has engaged in limited preparation toward terrorist activity</li> <li>• Offender is of limited assistance or encouragement to others who are preparing for terrorist activity</li> </ul>

**Harm**

Harm is assessed based on the type of harm risked and the likelihood of that harm being caused.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Article(s) had potential to facilitate an offence endangering life <b>and harm is very likely to be caused</b></li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• Article(s) had potential to facilitate an offence endangering life <b>but harm is not very likely to be caused</b></li> <li>• Article(s) had potential to facilitate an offence causing widespread or serious damage to property, or economic interest or substantial impact upon civic infrastructure</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• All other cases</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
Category 1	<b>Starting point</b> 12 years' custody	<b>Starting point</b> 7 years' custody	<b>Starting point</b> 4 years' custody
	<b>Category range</b> 9 – 14 years' custody	<b>Category range</b> 6 – 9 years' custody	<b>Category range</b> 3 – 6 years' custody
Category 2	<b>Starting point</b> 8 years' custody	<b>Starting point</b> 6 years' custody	<b>Starting point</b> 3 years' custody
	<b>Category range</b> 7 – 9 years' custody	<b>Category range</b> 4 – 7 years' custody	<b>Category range</b> 2 – 4 years' custody
Category 3	<b>Starting point</b> 6 years' custody	<b>Starting point</b> 4 years' custody	<b>Starting point</b> 2 years' custody
	<b>Category range</b> 4 – 7 years' custody	<b>Category range</b> 2 – 5 years' custody	<b>Category range</b> 1 – 3 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:**

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: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

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

Article has the potential to endanger many lives

Length of time over which offending was committed

Communication with other extremists

Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection

Offender attempted to disguise their identity to prevent detection

Indoctrinated or encouraged others

Failure to respond to warnings

Failure to comply with current court orders

Offence committed on licence or Post Sentence Supervision

Offence committed whilst in prison

#### Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Good character and/or exemplary conduct

Offender involved through coercion, intimidation or exploitation

Clear evidence of a change of mind set prior to arrest

Offender's responsibility substantially reduced by mental disorder or learning disability

Age and/or lack of maturity where it affects the responsibility of the offender

Sole or primary carer for dependent relatives

**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 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 EIGHT****Ancillary orders**

In all cases the court should consider whether to make ancillary orders. See Additional guidance on page 57.

## **STEP NINE**

### **Reasons**

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

## **STEP TEN**

### **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.

# Collection of terrorist information

Terrorism Act 2000 (section 58)

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**Triable either way**

**Maximum: 10 years' custody**

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

<p><b>This guideline applies only to offenders aged 18 and older</b></p>
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**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:

<b>A</b>	<ul style="list-style-type: none"> <li>Offender collected, made a record of, or was in possession of information for use in a specific terrorist act</li> </ul>
<b>B</b>	<ul style="list-style-type: none"> <li>Offender collected, made a record of, or was in possession of information likely to be useful to a person committing or preparing an act of terrorism and the offender had terrorist connections or motivations</li> <li>Offender repeatedly accessed extremist material (where not falling within A)</li> </ul>
<b>C</b>	<ul style="list-style-type: none"> <li>Offender collected, made a record of, or was in possession of information likely to be useful to a person committing or preparing an act of terrorism but had no terrorist connections or motivations</li> </ul>

**Harm**

Harm is assessed based on the type of harm risked and the likelihood of that harm being caused.

<b>Category 1</b>	<ul style="list-style-type: none"> <li>Material provides instruction for specific terrorist activity endangering life <b>and harm is very likely to be caused</b></li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>Material provides instruction for specific terrorist activity endangering life <b>but harm is not very likely to be caused</b></li> <li>Material provides instruction for specific terrorist activity intended to cause widespread or serious damage to property, or economic interest or substantial impact upon civic infrastructure</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>All other cases</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
Category 1	<b>Starting point</b> 7 years' custody	<b>Starting point</b> 5 years' custody	<b>Starting point</b> 2 years' custody
	<b>Category range</b> 5 – 9 years' custody	<b>Category range</b> 3 – 6 years' custody	<b>Category range</b> 1 – 4 years' custody
Category 2	<b>Starting point</b> 6 years' custody	<b>Starting point</b> 4 years' custody	<b>Starting point</b> 1 year 6 months' custody
	<b>Category range</b> 4 – 8 years' custody	<b>Category range</b> 3 – 5 years' custody	<b>Category range</b> 6 months – 3 years' custody
Category 3	<b>Starting point</b> 5 years' custody	<b>Starting point</b> 3 years' custody	<b>Starting point</b> 1 year's custody
	<b>Category range</b> 3 – 6 years' custody	<b>Category range</b> 2 – 5 years' 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:**

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: religion, race, disability, sexual orientation or transgender identity (*When considering this factor, sentencers should bear in mind the statutory definition of terrorism in section 1 of the Terrorism Act 2000, and should be careful to avoid double counting*)

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

Significant volume of terrorist publications

Length of time over which offending was committed

Deliberate use of encrypted communications or similar technologies to facilitate the commission of the offence and/or avoid or impede detection

Failure to respond to warnings

Failure to comply with current court orders

Offence committed on licence or Post Sentence Supervision

Offence committed whilst in prison

#### Factors reducing seriousness or reflecting personal mitigation

No previous convictions **or** no relevant/recent convictions

Good character and/or exemplary conduct

Offender involved through coercion, intimidation or exploitation

Clear evidence of a change of mind set prior to arrest

Offender's responsibility substantially reduced by mental disorder or learning disability

Age and/or lack of maturity where it affects the responsibility of the offender

Sole or primary carer for dependent relatives

**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 *Offences Taken into Consideration and Totality* guideline.

**STEP SIX****Ancillary orders**

In all cases the court should consider whether to make ancillary orders. See Additional guidance on page 57.

**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.

# Additional guidance

ANCILLARY ORDER	STATUTORY REFERENCE
<p><b>Confiscation</b></p> <p>A confiscation order may be made by the Crown Court in circumstances in which the offender has obtained a financial benefit as a result of, or in connection with, his criminal conduct.</p>	Section 6 and Schedule 2 of the Proceeds of Crime Act 2002
<p><b>Forfeiture</b></p> <p>When sentencing for a funding offence (sections 15 – 18 Terrorism Act 2000), the court may order the forfeiture of money or property which the offender had possession or control of at the time of the offence</p>	Section 23 to 23B Terrorism Act 2000
<p><b>AUTOMATIC ORDERS ON CONVICTION</b></p> <p>The following requirements or provisions are not part of the sentence imposed by the court but apply automatically by operation of law. The role of the court is to inform the offender of the applicable requirements and/or prohibition.</p>	
ANCILLARY ORDER	STATUTORY REFERENCE
<p><b>Notification requirements</b></p> <p>A relevant offender automatically becomes subject to notification requirements, obliging him to notify the police of specified information for a specified period. The court should inform the offender accordingly. The operation of the notification requirement is not a relevant consideration in determining the sentence for the offence.</p>	Sections 41 – 53 Counter-Terrorism Act 2008

### **Sentencing for offences not covered by this guideline but with a terrorist connection section 30 Counter Terrorism Act 2008**

Where a court is considering the seriousness of an offence specified in Schedule 2 Counter Terrorism Act 2008, and it appears that the offence has or may have a terrorist connection, the court must determine whether that is the case. To make this determination the court may hear evidence, and must take account of any representations made by the parties.

If the court determines that the offence has a terrorist connection it **must** treat that fact as a statutory aggravating factor and state in open court that the offence was so aggravated.

**Notification requirements apply to these offences.**

### **Offences not covered by schedule 2 Counter Terrorism Act 2008**

Where a court is considering the seriousness of an offence not specified in Schedule 2 Counter Terrorism Act 2008, and it appears that the offence has or may have a terrorist connection, the court should determine whether that is the case by hearing evidence where necessary.

If the court determines that the offence has a terrorist connection it **may** treat that fact as a non-statutory aggravating factor where it appears relevant and appropriate to do so.

**Notification requirements do not apply to these offences.**