

Causing or inciting prostitution for gain

Sexual Offences Act 2003 (section 52)

Controlling prostitution for gain

Sexual Offences Act 2003 (section 53)

Triable either way
Maximum: 7 years' custody

Offence range: Community order – 6 years' custody

From 3 December 2012 or such date as sections 122 to 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 come into force:

- **for convictions on or after such date (irrespective of the date of commission of the offence), these are specified offences for the purposes of section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.**

STEP ONE

Determining the offence category

The court should determine which category of harm the offence falls into by reference **only** to the table below. The court should then determine whether any level A culpability factors are present in order to ascertain the starting point.

| Harm | |
|-------------------|---|
| Category 1 | <ul style="list-style-type: none"> Abduction/detention of prostitute(s) Violence used against prostitute(s) Sustained and systematic psychological abuse of prostitute(s) Prostitute(s) coerced or forced to participate in unsafe/particularly degrading sexual activity Prostitute(s) forced or coerced into seeing many 'customers' Prostitute(s) tricked/deceived into prostitution |
| Category 2 | Factor(s) in category 1 not present |

| Culpability |
|---|
| A |
| Causing/inciting or controlling prostitution on significant commercial basis |
| Expectation of substantial financial gain |
| Abuse of position of trust/responsibility |
| Exploitation of prostitute(s) known to be trafficked |
| Significant involvement in limiting the freedom of prostitutes |
| B |
| Close involvement with prostitute(s) e.g. control of finances, choice of clients, working conditions, etc (where offender's involvement is not as a result of coercion) |
| C |
| Performs limited function under direction |
| Close involvement but engaged by pressure/intimidation/exploitation |

STEP TWO**Starting point and category range**

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. Having determined the starting point, step two allows further adjustment for aggravating or mitigating features, set out below.

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 below.

| | A | B | C |
|-------------------|--|---|--|
| Category 1 | Starting point 4 years' custody | Starting point 2 years 6 months' custody | Starting point 1 year's custody |
| | Category range 3 – 6 years' custody | Category range 2 – 4 years' custody | Category range 26 weeks' – 2 years' custody |
| Category 2 | Starting point 2 years 6 months' custody | Starting point 1 year's custody | Starting point Medium level community order |
| | Category range 2 – 5 years' custody | Category range High level community order – 2 year's custody | Category range Low level community order – High level community order |

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 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.

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

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

| Aggravating factors | Mitigating factors |
|---|---|
| <i>Statutory aggravating factors</i> | No previous convictions or no relevant/recent convictions |
| 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 | Remorse |
| Offence committed whilst on bail | Previous good character and/or exemplary conduct |
| <i>Other aggravating factors</i> | Age and/or lack of maturity where it affects the responsibility of the offender |
| Failure to comply with current court orders | Mental disorder or learning disability, where linked to the commission of the offence |
| Offence committed whilst on licence | |
| Deliberate isolation of prostitute(s) | |
| Threats made to expose prostitute(s) to the authorities (immigration or police) | |
| Threats of harm to the prostitute’s family/friends | |
| Prostitute(s) passport(s)/identity documents removed | |
| Prostitute(s) prevented from seeking medical treatment | |
| Use of drugs/alcohol or other substance to secure prostitute’s compliance | |
| Food withheld | |
| Earnings of prostitute(s) withheld/kept by offender or evidence of excessive wage reduction or debt bondage, inflated travel or living expenses or unreasonable interest rates | |
| Any steps taken to prevent the prostitute(s) reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution | |
| Attempts to dispose of or conceal evidence | |

STEP THREE**Consider any factors which indicate a reduction, such as 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 award 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 offending behaviour.

STEP SEVEN**Compensation and ancillary orders**

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

Compensation order

The court must consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:***Confiscation order***

A confiscation order may be made in circumstances where the offender has obtained a financial benefit as a result of, or in connection with, his criminal conduct. These are lifestyle offences for the purposes of the applicable legislation.

Sexual offences prevention order (SOPO)

A SOPO may be made by the court, in respect of a qualifying offender, if it is satisfied such an order is necessary to protect the public or any particular member of the public from serious sexual harm. The terms of the SOPO must be proportionate to the objective of protecting the public and consistent with the sentence and other ancillary orders, conditions and requirements to which the offender is subject.

Serious Crime Prevention Order (SCPO)

A SCPO may be made by the court if it is satisfied such an order would protect the public by preventing, restricting or disrupting the involvement of the offender in serious crime.

Protection for children and vulnerable adults

If the offence has been committed against a child (being under 18 years of age), the court must consider whether a disqualification order prohibiting the offender from working with children should be made. In addition, the court should consider whether the offender may be automatically barred from regulated activity relating to children or vulnerable adults and inform him accordingly.

Restraining orders

Following a conviction *or an acquittal*, a court may make a restraining order for the purpose of protecting the victim or another person from harassment or a fear of violence.

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 remand time**

Sentencers should take into consideration any remand time served in relation to the final sentence at this final step. The court should consider whether to give credit for time spent on remand in custody or on bail in accordance with sections 240 and 240A of the Criminal Justice Act 2003.

Keeping a brothel used for prostitution

Sexual Offences Act 1956 (section 33A)

Triable either way
Maximum: 7 years' custody

Offence range: Community order – 6 years' custody

STEP ONE**Determining the offence category**

The court should determine which category of culpability the offence falls into by reference **only** to the table below. The court should then determine whether any level A harm factors are present in order to ascertain the starting point.

| Harm | | Culpability | |
|-------------------|---|-------------|---|
| Category 1 | <ul style="list-style-type: none"> • Brothel uses prostitute(s) under 18 • Abduction/detention of those working in brothel • Violence used against prostitute(s) working in brothel • Sustained and systematic psychological abuse of prostitute(s) working in brothel • Prostitute(s) working in brothel coerced or forced to participate in unsafe/particularly degrading sexual activity • Evidence prostitute(s) working in brothel forced or coerced into prostitution • Prostitute(s) working in brothel forced or coerced into seeing many 'customers' • Prostitute(s) working in brothel tricked/deceived into prostitution • Established evidence of community impact | A | <ul style="list-style-type: none"> Keeping brothel on significant commercial basis Involvement in keeping a number of brothels Expectation of substantial financial gain Abuse of position of trust/responsibility Exploitation of prostitute(s) known to be trafficked Significant involvement in limiting freedom of those working in brothel |
| Category 2 | Factor(s) in category 1 not present | B | <ul style="list-style-type: none"> Keeping/managing premises Close involvement with prostitute(s) e.g. control of finances, choice of client, working conditions, etc (where offender's involvement is not as a result of coercion) |
| | | C | <ul style="list-style-type: none"> Performs limited function under direction Close involvement but engaged by pressure/intimidation/exploitation |

STEP TWO**Starting point and category range**

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. Having determined the starting point, step two allows further adjustment for aggravating or mitigating features, set out below.

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 below.

| | A | B | C |
|-------------------|---|---|--|
| Category 1 | Starting point 5 years' custody | Starting point 3 years' custody | Starting point 1 year's custody |
| | Category range 3 – 6 years' custody | Category range 2 – 5 years' custody | Category range High level community order – 18 months' custody |
| Category 2 | Starting point 3 years' custody | Starting point 1 year's custody | Starting point Medium level community order |
| | Category range 2 – 5 years' custody | Category range 26 weeks' – 2 years' custody | Category range Low level community order – High level community order |

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 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.

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

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

Aggravating factors

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

Other aggravating factors

Failure to comply with current court orders

Offence committed whilst on licence

Threats made to expose prostitute(s) to the authorities (immigration or police)

Threats of harm to prostitute's family/friends

Prostitute(s) passed around by offender and moved to other brothels

Prostitute(s) passport(s)/identity documents removed

Prostitute(s) prevented from seeking medical treatment

Use of drugs/alcohol or other substance to secure prostitute's compliance

Food withheld

Earnings of prostitute(s) withheld/kept by offender or evidence of excessive wage reduction or debt bondage, inflated travel or living expenses or unreasonable interest rates

Any steps taken to prevent the prostitute(s) reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution

Attempts to dispose of or conceal evidence

Mitigating factors

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

Remorse

Previous good character and/or exemplary conduct

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

Mental disorder or learning disability, where linked to the commission of the offence

Prostitute(s) working in brothel engaged in prostitution without being pressured or corrupted by offender and exploitation minimal

STEP THREE**Consider any factors which indicate a reduction, such as 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 offending behaviour.

STEP SIX**Compensation and ancillary orders**

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

Compensation order

The court must consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:***Confiscation order***

A confiscation order may be made in circumstances where the offender has obtained a financial benefit as a result of, or in connection with, his criminal conduct.

Serious Crime Prevention Order (SCPO)

A SCPO may be made by the court if it is satisfied such an order would protect the public by preventing, restricting or disrupting the involvement of the offender in serious crime.

Restraining orders

Following a conviction *or an acquittal*, a court may make a restraining order for the purpose of protecting the victim or another person from harassment or a fear of violence.

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 remand time**

Sentencers should take into consideration any remand time served in relation to the final sentence at this final step. The court should consider whether to give credit for time spent on remand in custody or on bail in accordance with sections 240 and 240A of the Criminal Justice Act 2003.

Causing or inciting child prostitution or pornography

Sexual Offences Act 2003 (section 48)

Controlling a child prostitute or child involved in pornography

Sexual Offences Act 2003 (section 49)

Arranging or facilitating child prostitution or pornography

Sexual Offences Act 2003 (section 50)

Triable either way
Maximum: 14 years' custody

| | | |
|----------------|----------------------|------------------------------------|
| Offence range: | Victim aged under 13 | 1 – 13 years' custody |
| | Victim aged 13 – 15 | 26 weeks' – 11 years' custody |
| | Victim aged 16 – 17 | Community order – 7 years' custody |

From 3 December 2012 or such date as sections 122 to 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 come into force:

- for offences committed on or after such date, these are offences listed in Part 1 of Schedule 15B for the purposes of section 224A (life sentence for second listed offence) of the Criminal Justice Act 2003; and
- for convictions on or after such date (irrespective of the date of commission of the offence), these are specified offences for the purposes of section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

STEP ONE

Determining the offence category

The court should determine which category of culpability the offence falls into by reference **only** to the table below. The court should then determine whether any level A harm factors are present in order to ascertain the starting point.

For cases that involve wide scale commercial and/or international activity sentences above the category range may be appropriate.

CHILD PROSTITUTION OR PORNOGRAPHY

| Harm | |
|-------------------|--|
| Category 1 | <ul style="list-style-type: none"> Abduction/detention of victim Prostitution or pornography involves penetrative sexual activity Violence used against victim Victim coerced or forced to participate in unsafe/particularly degrading sexual activity Victim passed around by the offender to other adults and/or moved to other brothels Victim forced/coerced into prostitution or pornography Victim tricked/deceived into prostitution or pornography |
| Category 2 | Factor(s) in category 1 not present |

| Culpability |
|---|
| A |
| Role in directing or organising child prostitution or pornography with an expectation of substantial financial or other gain |
| Abuse of position of trust/responsibility/power |
| Exploitation of victims known to be trafficked |
| Significant involvement in limiting the freedom of the victim |
| B |
| Close involvement with inciting, controlling, arranging or facilitating child prostitution or pornography (where offender’s involvement is not as a result of coercion) |
| C |
| Performs limited function under direction |
| Close involvement but engaged by pressure/intimidation/exploitation |

STEP TWO**Starting point and category range**

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions. Having determined the starting point, step two allows further adjustment for aggravating or mitigating features, set out below.

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 below.

Where there is a sufficient prospect of rehabilitation, a community order with a sex offender treatment programme requirement under section 202 of the Criminal Justice Act 2003 can be a proper alternative to a short or moderate length custodial sentence.

| | | A | B | C |
|-------------------|--------------|--|--|---|
| Category 1 | U13 | Starting point 10 years' custody | Starting point 8 years' custody | Starting point 5 years' custody |
| | | Category range 8 – 13 years' custody | Category range 6 – 11 years' custody | Category range 2 – 6 years' custody |
| | 13–15 | Starting point 8 years' custody | Starting point 5 years' custody | Starting point 2 years 6 months' custody |
| | | Category range 6 – 11 years' custody | Category range 4 – 8 years' custody | Category range 1 – 4 years' custody |
| | 16–17 | Starting point 4 years' custody | Starting point 2 years' custody | Starting point 1 year's custody |
| | | Category range 3 – 7 years' custody | Category range 1 – 4 years' custody | Category range 26 weeks' – 2 years' custody |
| Category 2 | U13 | Starting point 8 years' custody | Starting point 6 years' custody | Starting point 2 years' custody |
| | | Category range 6 – 11 years' custody | Category range 4 – 9 years' custody | Category range 1 – 4 years' custody |
| | 13–15 | Starting point 6 years' custody | Starting point 3 years' custody | Starting point 1 year's custody |
| | | Category range 4 – 9 years' custody | Category range 2 – 5 years' custody | Category range 26 weeks' – 2 years' custody |
| | 16–17 | Starting point 3 years' custody | Starting point 1 year's custody | Starting point 26 weeks' custody |
| | | Category range 2 – 5 years' custody | Category range 26 weeks' – 2 years' custody | Category range High level community order – 1 year's custody |

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point. **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.

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

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

| Aggravating factors | Mitigating factors |
|---|---|
| <i>Statutory aggravating factors</i> | No previous convictions or no relevant/recent convictions |
| 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 | Remorse |
| Offence committed whilst on bail | Previous good character and/or exemplary conduct |
| <i>Other aggravating factors</i> | Age and/or lack of maturity where it affects the responsibility of the offender |
| Failure to comply with current court orders | Mental disorder or learning disability, where linked to the commission of the offence |
| Offence committed whilst on licence | |
| Deliberate isolation of victim | |
| Vulnerability of victim | |
| Threats made to expose victim to authorities, relatives or friends | |
| Threats of harm to prostitute’s family/friends | |
| Victim’s passport(s)/identity documents removed | |
| Victim prevented from seeking medical treatment | |
| Victim prevented from attending school | |
| Use of drugs/alcohol/other substance to secure victims compliance | |
| Food withheld | |
| Earnings of victim withheld/kept by offender or evidence of excessive wage reduction or debt bondage, inflated travel or living expenses, etc | |
| Victim manipulated into dependence on offender (e.g. physical, emotional, financial) | |
| Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution | |
| Attempts to dispose of or conceal evidence | |

STEP THREE**Consider any factors which indicate a reduction, such as 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 award a life sentence (section 224A) 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 offending behaviour.

STEP SEVEN**Compensation and ancillary orders**

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

Compensation order

The court must consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:***Confiscation order***

A confiscation order may be made in circumstances where the offender has obtained a financial benefit as a result of, or in connection with, his criminal conduct. These are lifestyle offences for the purposes of the applicable legislation.

Sexual offences prevention order (SOPO)

A SOPO may be made by the court, in respect of a qualifying offender, if it is satisfied such an order is necessary to protect the public or any particular member of the public from serious sexual harm. The terms of the SOPO must be proportionate to the objective of protecting the public and consistent with the sentence and other ancillary orders, conditions and requirements to which the offender is subject.

Serious Crime Prevention Order (SCPO)

A SCPO may be made by the court if it is satisfied such an order would protect the public by preventing, restricting or disrupting the involvement of the offender in serious crime.

Protection for children and vulnerable adults

The court must consider whether a disqualification order prohibiting the offender from working with children should be made. In addition, the court should consider whether the offender may be automatically barred from regulated activity relating to children or vulnerable adults and inform him accordingly.

Restraining orders

Following a conviction *or an acquittal*, a court may make a restraining order for the purpose of protecting the victim or another person from harassment or a fear of violence.

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 remand time**

Sentencers should take into consideration any remand time served in relation to the final sentence at this final step. The court should consider whether to give credit for time spent on remand in custody or on bail in accordance with sections 240 and 240A of the Criminal Justice Act 2003.

Paying for the sexual services of a child

Sexual Offences Act 2003 (section 47)

Triable only on indictment (if involving penetration against victim under 16);
– otherwise, triable either way

| | | |
|----------|-----------------------------------|-------------------|
| Maximum: | Victim under 13 (penetrative) | Life imprisonment |
| | Victim under 13 (non-penetrative) | 14 years' custody |
| | Victim aged 13–15 | 14 years' custody |
| | Victim aged 16–17 | 7 years' custody |

Offence range: Victim aged 16–17 Community order – 5 years' custody

This guideline should only be used where the victim is aged 16 or 17 years old. If the victim is under 13 please refer to the guidelines for rape of a child under 13, assault by penetration of a child under 13, sexual assault of a child under 13 or causing or inciting a child under 13 to engage in sexual activity, depending on the activity involved in the offence.

If the victim is aged 13–15 please refer to the sexual activity with a child guideline.

From 3 December 2012 or such date as sections 122 to 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 come into force:

- Where the offender is 16 or over – for convictions on or after such date (irrespective of the date of commission of the offence), 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.

STEP ONE
Determining the offence category

The court should determine which category of harm the offence falls into by reference **only** to the table below. The court should then determine whether any level A culpability factors are present in order to ascertain the starting point.

This guideline should only be used where the victim is aged 16 or 17 years old.

| Harm | | Culpability |
|-------------------|--|--|
| Category 1 | <ul style="list-style-type: none"> Activity involving violence Victim subjected to unsafe/particularly degrading sexual activity | A |
| Category 2 | <ul style="list-style-type: none"> Penetrative sexual activity Masturbation by, or of, the victim | Abduction/detention of victim |
| Category 3 | Other sexual activity | Sexual images of victim recorded, retained, solicited or shared |
| | | Part of group or gang during commission of offence |
| | | Threats made to victim (including to expose victim to authorities, relatives or friends) |
| | | Offender aware that he is suffering from a sexually transmitted disease |
| | | Offender aware victim has been trafficked |
| | | B |
| | | Factor(s) in category A not present |

STEP TWO
Starting point and category range

Having determined the category, the court should use the corresponding starting points to reach a sentence within the category range below **for victims aged 16 or 17**. The starting point applies to all offenders irrespective of plea or previous convictions. Having determined the starting point, step two allows further adjustment for aggravating or mitigating features, set out below.

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.

Where there is a sufficient prospect of rehabilitation, a community order with a sex offender treatment programme requirement under section 202 of the Criminal Justice Act 2003 can be a proper alternative to a short or moderate length custodial sentence.

| | A | B |
|------------|---|--|
| Category 1 | Starting point 4 years' custody | Starting point 2 years' custody |
| | Category range 2 – 5 years' custody | Category range 1 – 4 years' custody |
| Category 2 | Starting point 3 years' custody | Starting point 1 year's custody |
| | Category range 1 – 4 years' custody | Category range 26 weeks' – 2 years' custody |
| Category 3 | Starting point 1 year's custody | Starting point 26 weeks' custody |
| | Category range 26 weeks' – 2 years' custody | Category range High level community order – 1 year's custody |

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point. **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.

When sentencing appropriate **category 3 offences**, the court should also consider the custody threshold as follows:

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

Aggravating factors

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

Other aggravating factors

Failure to comply with current court orders

Offence committed whilst on licence

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

Attempts to dispose of or conceal evidence

Mitigating factors

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

Remorse

Previous good character and/or exemplary conduct

Determination and/or demonstration of steps taken to address sexual behaviour

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

Mental disorder or learning disability, where linked to the commission of the offence

STEP THREE**Consider any factors which indicate a reduction, such as 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 award 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 offending behaviour.

STEP SEVEN**Compensation and ancillary orders**

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

Compensation order

The court must consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:***Sexual offences prevention order (SOPO)***

A SOPO may be made by the court, in respect of a qualifying offender, if it is satisfied such an order is necessary to protect the public or any particular member of the public from serious sexual harm. The terms of the SOPO must be proportionate to the objective of protecting the public and consistent with the sentence and other ancillary orders, conditions and requirements to which the offender is subject.

Protection for children and vulnerable adults

The court must consider whether a disqualification order prohibiting the offender from working with children should be made. In addition, the court should consider whether the offender may be automatically barred from regulated activity relating to children or vulnerable adults and inform him accordingly.

Restraining orders

Following a conviction *or an acquittal*, a court may make a restraining order for the purpose of protecting the victim or another person from harassment or a fear of violence.

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 remand time**

Sentencers should take into consideration any remand time served in relation to the final sentence at this final step. The court should consider whether to give credit for time spent on remand in custody or on bail in accordance with sections 240 and 240A of the Criminal Justice Act 2003.

Trafficking into the UK for sexual exploitation

Sexual Offences Act 2003 (section 57)

Trafficking within the UK for sexual exploitation

Sexual Offences Act 2003 (section 58)

Trafficking out of the UK for sexual exploitation

Sexual Offences Act 2003 (section 59)

Triable either way
Maximum: 14 years' custody

Offence range: Community order – 10 years' custody

From 3 December 2012 or such date as sections 122 to 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 come into force:

- for convictions on or after such date (irrespective of the date of commission of the offence), these are specified offences for the purposes of section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

STEP ONE**Determining the offence category**

The court should determine which category of culpability the offence falls into by reference **only** to the table below. The court should then determine whether any level A harm factors are present in order to ascertain the starting point.

| Harm | | Culpability |
|-------------------|--|--|
| Category 1 | <ul style="list-style-type: none"> Abduction/detention of victim Violence used against victim Sustained and systematic psychological abuse of victim Victim under 18 Victim coerced or forced to participate in unsafe/particularly degrading sexual activity Victim forced or coerced into prostitution Victim tricked/deceived as to purpose of visit | A Directing or organising trafficking on commercial scale and/or substantial influence on others in trafficking organisation/chain Expectation of substantial financial gain Abuse of position of trust/responsibility B Operational or management function within chain Involves others in operation whether by pressure/influence/intimidation or reward (and offender's involvement is not as a result of coercion) C Performs limited function under direction Engaged by pressure/intimidation/exploitation |
| Category 2 | Factor(s) in category 1 not present | |

STEP TWO**Starting point and category range**

Having determined the category of harm and culpability, 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. Having determined the starting point, step two allows further adjustment for aggravating or mitigating features, set out below.

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 below.

| | A | B | C |
|-------------------|---|--|--|
| Category 1 | Starting point 8 years' custody Category range 6 – 10 years' custody | Starting point 6 years' custody Category range 4 – 8 years' custody | Starting point 18 months' custody Category range 26 weeks' – 2 years' custody |
| Category 2 | Starting point 6 years' custody Category range 4 – 8 years' custody | Starting point 4 years' custody Category range 2 – 6 years' custody | Starting point 26 weeks' custody Category range High level community order – 18 months' custody |

The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point. **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.

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

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

| Aggravating factors | Mitigating factors |
|---|--|
| <i>Statutory aggravating factors</i> | No previous convictions or no relevant/recent convictions |
| 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 | Remorse |
| Offence committed whilst on bail | Previous good character and/or exemplary conduct |
| <i>Other aggravating factors</i> | Age and/or lack of maturity where it affects the responsibility of the offender |
| Failure to comply with current court orders | Mental disorder or learning disability, where linked to the commission of the offence |
| Offence committed whilst on licence | Victims willingly travelled to/out of/within the country and engaged in prostitution without being pressured or corrupted by offender and exploitation minimal |
| Deliberate isolation of victim(s) | |
| Victim(s) children left in home country due to trafficking | |
| Exploitation of victim(s) from particularly vulnerable backgrounds | |
| Threats made to expose victim(s) to the authorities (immigration or police) | |
| Threats of harm to the victim's family/friends | |
| Victim(s) previously trafficked/sold/passed around | |
| Victim(s) passport(s)/identity documents removed | |
| Victim(s) prevented from seeking medical treatment | |
| Use of drugs/alcohol or other substance to secure victim's compliance | |
| Food withheld | |
| Earnings of victim(s) withheld/kept by trafficker or evidence of excessive wage reduction, debt bondage, inflated travel or living expenses, unreasonable interest rates | |
| Any steps taken to prevent the victim(s) reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution | |
| Attempts to dispose of or conceal evidence | |

STEP THREE**Consider any factors which indicate a reduction, such as 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 award 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 offending behaviour.

STEP SEVEN**Compensation and ancillary orders**

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

Compensation order

The court must consider compensation orders in all cases where personal injury, loss or damage has resulted from the offence. The court must give reasons if it decides not to award compensation in such cases.

Other ancillary orders available include:***Confiscation order***

A confiscation order may be made in circumstances where the offender has obtained a financial benefit as a result of, or in connection with, his criminal conduct. These are lifestyle offences for the purposes of the applicable legislation.

Sexual offences prevention order (SOPO)

A SOPO may be made by the court, in respect of a qualifying offender, if it is satisfied such an order is necessary to protect the public or any particular member of the public from serious sexual harm. The terms of the SOPO must be proportionate to the objective of protecting the public and consistent with the sentence and other ancillary orders, conditions and requirements to which the offender is subject.

Serious Crime Prevention Order (SCPO)

A SCPO may be made by the court if it is satisfied such an order would protect the public by preventing, restricting or disrupting the involvement of the offender in serious crime.

Protection for children and vulnerable adults

If the offence has been committed against a child (being under 18 years of age), the court must consider whether a disqualification order prohibiting the offender from working with children should be made. In addition, the court should consider whether the offender may be automatically barred from regulated activity relating to children or vulnerable adults and inform him accordingly.

Restraining orders

Following a conviction *or an acquittal*, a court may make a restraining order for the purpose of protecting the victim or another person from harassment or a fear of violence.

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 remand time**

Sentencers should take into consideration any remand time served in relation to the final sentence at this final step. The court should consider whether to give credit for time spent on remand in custody or on bail in accordance with sections 240 and 240A of the Criminal Justice Act 2003.

