

Annex – changes that are not subject to consultation

In addition to the changes consulted on, the Council has made minor changes to guidelines or the explanatory materials which, while not requiring consultation, it was felt should be drawn to the attention of those responding to this consultation.

All minor changes made to guidelines (and associated materials) are logged and that log is published on the Council's website at:

<https://www.sentencingcouncil.org.uk/updates/magistrates-court/item/revisions-and-corrections-to-sentencing-council-digital-guidelines/>

While the Council is not consulting on these changes (which have already been made) we do welcome feedback on these or any other aspects of the Council's output. This can be done at any time via the feedback section at the bottom of every guideline or by emailing info@sentencingcouncil.gov.uk

Bladed articles etc guidelines:

Previous title	Amended title
Bladed articles and offensive weapons – possession	Bladed articles and offensive weapons – having in a public place
Bladed articles and offensive weapons (possession and threats) – children and young people	Bladed articles and offensive weapons (having in public/education premises and threats) – children and young people
Possession of an article with blade/point in a public place	Having an article with blade/point in a public place
Possession of an article with blade/point on school premises	Having an article with blade/point on education premises
Possession of an offensive weapon in a public place	Having an offensive weapon in a public place
Possession of an offensive weapon on school premises	Having an offensive weapon on education premises
Threatening with an article with blade/point or offensive weapon on school premises	Threatening with an article with blade/point or offensive weapon on education premises

Seat belt offences

Update [Offences concerning use of vehicle](#) to read:

Offence	Maximum	Points	Starting point
Seat belt offences (Road Traffic Act 1988 ss.14 and 15)	L2	–	A

Failure to surrender to bail guideline

Replace the wording under the sentence table and add at top of guideline:

Maximum sentence in magistrates' court – 3 months' imprisonment

Maximum sentence in Crown Court – 6 months' imprisonment

Note: the change in the maximum from 12 months to 6 months' custody in the Crown Court is as a result of an amendment with effect from 7 February 2023 to section 6(7) of the Bail Act 1976 by regulation 2 and the Schedule to the [Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023](#). The Council understands that this change was inadvertent and will be reversed. The guideline will be updated again when that happens.

Previous convictions dropdown

Deletions struck through and additions in red:

1. Previous convictions are considered at step two in the Council's offence specific guidelines.
2. The primary significance of previous convictions (including convictions in other jurisdictions) is the extent to which they indicate trends in offending behaviour and possibly the offender's response to earlier sentences.
3. Previous convictions are normally ~~relevant~~ **of relevance** to the current offence when they are of a similar type.
4. Previous convictions of a type different from the current offence **may** be ~~relevant~~ **of relevance** where they are an indication of persistent offending or escalation and/or a failure to comply with previous court orders.
5. Numerous and frequent previous convictions might indicate an underlying problem (for example, an addiction) that could be addressed more effectively in the community and will not necessarily indicate that a custodial sentence is necessary.
6. If the offender received a non-custodial disposal for the previous offence, a court should not necessarily move to a custodial sentence for the fresh offence.
7. In cases involving significant persistent offending, the community and custody thresholds may be crossed even though the current offence normally warrants a lesser sentence. If a custodial sentence is imposed it should be proportionate and kept to the necessary minimum.
8. The aggravating effect of relevant previous convictions reduces with the passage of time; **older convictions are less relevant** ~~of less relevance~~ to the offender's culpability for the current offence and less likely to be predictive of future offending.
9. Where the previous offence is particularly old it will normally have little relevance for the current sentencing exercise.
10. The court should consider the time gap since the previous conviction and the reason for it. Where there has been a significant gap between previous and current convictions or a reduction in the frequency of offending this may indicate that the offender has made attempts to desist from offending in which case the aggravating effect of the previous offending will diminish.
11. Where the current offence is significantly less serious than the previous conviction (suggesting a decline in the gravity of offending), the previous conviction may carry less weight.

12. When considering the totality of previous offending a court should take a rounded view of the previous crimes and not simply aggregate the individual offences.
13. Where information is available on the context of previous offending this may assist the court in assessing the relevance of that prior offending to the current offence

Update victim personal statements guidance

Following the introduction of the new [Criminal Practice Directions](#) (CPD) which came into force in on 29 May the guidance on victim personal statements in the explanatory materials to the magistrates' courts sentencing guidelines has been updated. Some of the text has been moved and additional text shown in red:

A victim personal statement (VPS) gives victims a formal opportunity to say how a crime has affected them. Where the victim has chosen to make such a statement, a court should consider and take it into account prior to passing sentence. The court must pass what it judges to be the appropriate sentence having regard to the circumstances of the offence and the offender, taking into account, so far as the court considers it appropriate, the consequences to the victim.

The [Criminal Practice Directions](#) (external website) emphasises that:

- evidence of the effects of an offence on the victim must be in the form of a witness statement under section 9 of the Criminal Justice Act 1967 or an expert's report;
- the statement must be served on the defence prior to sentence;
- except where inferences can properly be drawn from the nature of or circumstances surrounding the offence, the court must not make assumptions unsupported by evidence about the effects of an offence on the victim;
- At the discretion of the court the VPS may also be read aloud in whole or in part or it may be summarised. If it is to be read aloud the court should also determine who should do so. In making these decisions the court should take into account the victim's preferences, and follow them unless there is a good reason not to do so (for example, inadmissible or potentially harmful content). Court hearings should not be adjourned solely to allow the victim to attend court to read the VPS;
- **The decision about whether or not to make a VPS is entirely a matter for the victim; no pressure should be brought to bear, and no conclusion should be drawn if no statement is made;**
- the opinions of the victim or the victim's close relatives as to what the sentence should be are not relevant.

See also the guidance on [compensation](#) particularly with reference to the victim's views as to any compensation order that may be imposed.

Domestic abuse

In the following guidelines references to 'domestic violence' have been changed to 'domestic abuse':

- Assault by penetration
- Care workers: sexual activity with a person with a mental disorder/ Care workers: causing or inciting sexual activity
- Causing a person to engage in sexual activity without consent
- Inducement, threat or deception to procure sexual activity with a person with a mental disorder/ Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception
- Rape
- Sexual activity with a person with a mental disorder impeding choice/ Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity
- Sexual assault

In the following guidelines, where domestic abuse was referenced in the header but not in the body of the guideline an aggravating factor of 'Offence committed in a domestic context' has been added:

- Disclosing private sexual images
- Harassment/ Stalking/ Racially or religiously aggravated harassment/stalking
- Threats to kill
- Witness intimidation

Common assault guideline

In response to feedback from magistrates the title and header of the [Common assault guideline](#) has been changed so that it references 'Assault by beating' and 'battery'. Additions shown in red:

Common assault/ **Battery**/ Racially or religiously aggravated offence/ Offence committed against emergency worker

Criminal Justice Act 1988, s.39, Crime and Disorder Act 1998, s.29, Assaults on Emergency Workers (Offences) Act 2018, s.1

Effective from: 1 July 2021

Common assault and battery (sometimes described as assault by beating), Criminal Justice Act 1988 (section 39)

Racially or religiously aggravated common assault, Crime and Disorder Act 1998 (section 29)

Assaults on emergency workers, Assaults on Emergency Workers (Offences) Act 2018 (section 1)