

Manslaughter Definitive Guideline

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Applicability of guideline

The Sentencing Council issues this definitive guideline in accordance with section 120 of the Coroners and Justice Act 2009.

It applies to all offenders aged 18 and older, who are sentenced on or after 1 November 2018, regardless of the date of the offence.

Section 125(1) of the Coroners and Justice Act 2009 provides that when sentencing offences committed after 6 April 2010:

“Every court –

- (a) must, in sentencing an offender, follow any sentencing guidelines which are relevant to the offender’s case, and
- (b) must, in exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant to the exercise of the function,

unless the court is satisfied that it would be contrary to the interests of justice to do so.”

This guideline applies only to individual offenders aged 18 and older.

When sentencing those under 18 refer to the general principles in the Sentencing Council definitive guideline: *Sentencing Children and Young People, Overarching Principles*.

When sentencing organisations for the offence of corporate manslaughter refer to the Sentencing Council *Corporate Manslaughter* definitive guideline.

Structure, ranges and starting points

For the purposes of section 125(3)–(4) of the Coroners and Justice Act 2009, the guideline specifies offence ranges – the range of sentences appropriate for each type of offence. Within each offence, the Council has specified a number of categories which reflect varying degrees of seriousness. The offence range is split into category ranges – sentences appropriate for each level of seriousness. The Council has also identified a starting point within each category.

Starting points define the position within a category range from which to start calculating the provisional sentence. The court should consider further features of the offence or the offender that warrant adjustment of the sentence within the range, including the aggravating and mitigating factors set out at step two. Starting points and ranges apply to all offenders, whether they have pleaded guilty or been convicted after trial.

Credit for a guilty plea is taken into consideration only at step four (step seven for manslaughter by reason of diminished responsibility) in the decision making process, after the appropriate sentence has been identified.

Unlawful act manslaughter

Common law

Triable only on indictment
Maximum: Life imprisonment

Offence range: 1 – 24 years' custody

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

This is an offence listed in Part 1 of Schedule 15B for the purposes of section 224A (life sentence for a second listed offence) and section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

The type of manslaughter (and thereby the appropriate guideline) should have been identified prior to sentence. If there is any dispute or uncertainty about the type of manslaughter that applies the judge should give clear reasons for the basis of sentence.

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

- The characteristics set out below are indications of the level of culpability that may attach to the offender's conduct; the court should balance these characteristics to reach a fair assessment of the offender's overall culpability in the context of the circumstances of the offence.
- The court should avoid an overly mechanistic application of these factors.

A - Very high Culpability	Very high culpability may be indicated by: <ul style="list-style-type: none"> • the extreme character of one or more culpability B factors and /or • a combination of culpability B factors
B - Factors indicating high culpability	Death was caused in the course of an unlawful act which involved an intention by the offender to cause harm falling just short of GBH
	Death was caused in the course of an unlawful act which carried a high risk of death or GBH which was or ought to have been obvious to the offender
	Death was caused in the course of committing or escaping from a serious offence in which the offender played more than a minor role
	Concealment, destruction, defilement or dismemberment of the body (where not separately charged)
C - Factors indicating medium culpability	Cases falling between high and lower including but not limited to <ul style="list-style-type: none"> • where death was caused in the course of an unlawful act which involved an intention by the offender to cause harm (or recklessness as to whether harm would be caused) that falls between high and lower culpability • where death was caused in the course of committing or escaping from a less serious offence but in which the offender played more than a minor role
D - Factors indicating lower culpability	Death was caused in the course of an unlawful act <ul style="list-style-type: none"> • which was in defence of self or other(s) (where not amounting to a defence) OR • where there was no intention by the offender to cause any harm and no obvious risk of anything more than minor harm OR • in which the offender played a minor role
	The offender's responsibility was substantially reduced by mental disorder, learning disability or lack of maturity

Harm

For all cases of manslaughter the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

STEP TWO**Starting point and category range**

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

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

Culpability			
A	B	C	D
Starting point 18 years' custody	Starting point 12 years' custody	Starting point 6 years' custody	Starting point 2 years' custody
Category range 11 – 24 years' custody	Category range 8 – 16 years' custody	Category range 3 – 9 years' custody	Category range 1 – 4 years' custody

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

On the next page is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account in assessing culpability

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
(See step five for a consideration of dangerousness)

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

Other aggravating factors:

History of violence or abuse towards victim by offender

Involvement of other(s) through coercion, intimidation or exploitation

Significant mental or physical suffering caused to the deceased

Victim particularly vulnerable due to age or disability

Victim was providing a public service or performing a public duty at the time of the offence

Commission of offence whilst under the influence of alcohol or drugs

Persistence of violence

Offence involved use of a weapon

Other(s) put at risk of harm by the offending

Leading role in group

Death occurred in the context of an offence which was planned or premeditated

Offence committed in the presence of children

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

Blame wrongly placed on other(s)

Abuse of a position of trust

Offence committed on licence or post sentence supervision or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

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

Remorse

Attempts to assist the victim

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

Lack of premeditation

Good character and/or exemplary conduct

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

Mental disorder or learning disability

Age and/or lack of maturity

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**Totality principle**

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the *Offences Taken into Consideration and Totality* guideline.

STEP SEVEN**Compensation and ancillary orders**

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

STEP EIGHT**Reasons**

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

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

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

Gross negligence manslaughter

Common law

Triable only on indictment
Maximum: Life imprisonment

Offence range: 1 – 18 years' custody

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

This is an offence listed in Part 1 of Schedule 15B for the purposes of section 224A (life sentence for a second listed offence) and section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

The type of manslaughter (and thereby the appropriate guideline) should have been identified prior to sentence. If there is any dispute or uncertainty about the type of manslaughter that applies the judge should give clear reasons for the basis of sentence.

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

- The characteristics set out below are indications of the level of culpability that may attach to the offender's conduct; the court should balance these characteristics to reach a fair assessment of the offender's overall culpability in the context of the circumstances of the offence.
- The court should avoid an overly mechanistic application of these factors particularly in cases to which they do not readily apply.

A - Very high culpability	Very high culpability may be indicated by: <ul style="list-style-type: none"> • the extreme character of one or more culpability B factors and /or • a combination of culpability B factors
B - Factors indicating high culpability	The offender continued or repeated the negligent conduct in the face of the obvious suffering caused to the deceased by that conduct
	The negligent conduct was in the context of other serious criminality
	The offence was particularly serious because the offender showed a blatant disregard for a very high risk of death resulting from the negligent conduct
	The negligent conduct was motivated by financial gain (or avoidance of cost)
	The offender was in a leading role if acting with others in the offending
C - Factors indicating medium culpability	Concealment, destruction, defilement or dismemberment of the body (where not separately charged)
	Cases falling between high and lower because <ul style="list-style-type: none"> • factors are present in high and lower which balance each other out and/or • the offender's culpability falls between the factors as described in high and lower
D - Factors indicating lower culpability	The negligent conduct was a lapse in the offender's otherwise satisfactory standard of care
	The offender was in a lesser or subordinate role if acting with others in the offending
	The offender's responsibility was substantially reduced by mental disorder, learning disability or lack of maturity

Harm

For all cases of manslaughter the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

STEP TWO**Starting point and category range**

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

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

Culpability			
A	B	C	D
Starting point 12 years' custody	Starting point 8 years' custody	Starting point 4 years' custody	Starting point 2 years' custody
Category range 10 – 18 years' custody	Category range 6 – 12 years' custody	Category range 3 – 7 years' custody	Category range 1 – 4 years' custody

Where the offender's acts or omissions would also constitute another offence, the sentencer should have regard to any guideline relevant to the other offence to ensure that the sentence for manslaughter does not fall below what would be imposed under that guideline.

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

On the next page is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account in assessing culpability

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
(See step five for a consideration of dangerousness)

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

Other aggravating factors:

History of violence or abuse towards victim by offender

Involvement of others through coercion, intimidation or exploitation

Significant mental or physical suffering caused to the deceased

Offender ignored previous warnings

Commission of offence whilst under the influence of alcohol or drugs

Offence involved use of a weapon

Other(s) put at risk of harm by the offending

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

Investigation has been hindered and/or other(s) have suffered as a result of being falsely blamed by the offender

Offence committed on licence or post sentence supervision or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

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

Remorse

Attempts to assist the victim

Self-reporting and/or co-operation with the investigation

For reasons beyond the offender's control, the offender lacked the necessary expertise, equipment, support or training which contributed to the negligent conduct

For reasons beyond the offender's control, the offender was subject to stress or pressure (including from competing or complex demands) which related to and contributed to the negligent conduct

For reasons beyond the offender's control, the negligent conduct occurred in circumstances where there was reduced scope for exercising usual care and competence

The negligent conduct was compounded by the actions or omissions of others beyond the offender's control

Good character and/or exemplary conduct

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

Mental disorder or learning disability

Age and/or lack of maturity

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**Totality principle**

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the *Offences Taken into Consideration and Totality* guideline.

STEP SEVEN**Compensation and ancillary orders**

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

In appropriate cases an offender may be disqualified from being a director of a company in accordance with section 2 of the Company Directors Disqualification Act 1986. The maximum period of disqualification is 15 years.

STEP EIGHT**Reasons**

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

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

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

Manslaughter by reason of loss of control

Common law and Coroners and Justice Act 2009 (sections 54 and 55)

Triable only on indictment
Maximum: Life imprisonment

Offence range: 3 – 20 years' custody

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

This is an offence listed in Part 1 of Schedule 15B for the purposes of section 224A (life sentence for a second listed offence) and section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

The type of manslaughter (and thereby the appropriate guideline) should have been identified prior to sentence. If there is any dispute or uncertainty about the type of manslaughter that applies the judge should give clear reasons for the basis of sentence.

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

- The characteristics set out below are indications of the level of culpability that may attach to the offender's conduct; the court should balance these characteristics to reach a fair assessment of the offender's overall culpability in the context of the circumstances of the offence.
- The court should avoid an overly mechanistic application of these factors.

A - High culpability	<ul style="list-style-type: none"> • Planning of criminal activity (including the carrying of a weapon) before the loss of control • Offence committed in the context of other serious criminal activity • Use of a firearm (whether or not taken to the scene) • Loss of self-control in circumstances which only just met the criteria for a qualifying trigger • Concealment, destruction, defilement or dismemberment of the body (where not separately charged)
B - Medium culpability	<p>Cases falling between high and lower because:</p> <ul style="list-style-type: none"> • factors are present in high and lower which balance each other out and/or • the offender's culpability falls between the factors as described in high and lower
C - Lower culpability	<ul style="list-style-type: none"> • Qualifying trigger represented a very high degree of provocation

Harm

For all cases of manslaughter the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

STEP TWO**Starting point and category range**

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

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

Culpability		
A	B	C
Starting point 14 years' custody	Starting point 8 years' custody	Starting point 5 years' custody
Category range 10 – 20 years' custody	Category range 5 – 12 years' custody	Category range 3 – 6 years' custody

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

On the next page is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account in assessing culpability or in the finding of a qualifying trigger

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
(See step five for a consideration of dangerousness)

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

Other aggravating factors:

History of violence or abuse towards victim by offender

Involvement of other(s) through coercion, intimidation or exploitation

Significant mental or physical suffering caused to the deceased

Victim was providing a public service or performing a public duty at the time of the offence

Commission of offence whilst under the influence of alcohol or drugs

Persistence of violence

Offence involved use of a weapon

Other(s) put at risk of harm by the offending

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

Offence committed on licence or post sentence supervision or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

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

Remorse

Intention to cause serious bodily harm rather than to kill

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

Violence initiated by the victim

Good character and/or exemplary conduct

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

Mental disorder or learning disability

Age and/or lack of maturity

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**Totality principle**

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the *Offences Taken into Consideration and Totality* guideline.

STEP SEVEN**Compensation and ancillary orders**

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

STEP EIGHT**Reasons**

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

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

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

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Manslaughter by reason of diminished responsibility

Common law and Homicide Act 1957 (section 2)

Triable only on indictment
Maximum: Life imprisonment

Offence range: 3 – 40 years' custody

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

This is an offence listed in Part 1 of Schedule 15B for the purposes of section 224A (life sentence for a second listed offence) and section 226A (extended sentence for certain violent or sexual offences) of the Criminal Justice Act 2003.

The type of manslaughter (and thereby the appropriate guideline) should have been identified prior to sentence. If there is any dispute or uncertainty about the type of manslaughter that applies the judge should give clear reasons for the basis of sentence.

STEP ONE**Assessing the degree of responsibility retained: high, medium or lower**

- A conviction for manslaughter by reason of diminished responsibility necessarily means that the offender's ability to understand the nature of the conduct, form a rational judgment and/or exercise self-control was substantially impaired.
- The court should determine what level of responsibility the offender **retained**:
 - High;
 - Medium; or
 - Lower
- The court should consider the extent to which the offender's responsibility was diminished by the mental disorder at the time of the offence with reference to the medical evidence and all the relevant information available to the court.
- The degree to which the offender's actions or omissions contributed to the seriousness of the mental disorder **at the time of the offence** may be a relevant consideration. For example:
 - where an offender exacerbates the mental disorder by voluntarily abusing drugs or alcohol or by voluntarily failing to seek or follow medical advice this may increase responsibility. In considering the extent to which the offender's behaviour was voluntary, the extent to which a mental disorder has an impact on the offender's ability to exercise self-control or to engage with medical services will be relevant.
- The degree to which the mental disorder was undiagnosed and/or untreated may be a relevant consideration. For example:
 - where an offender has sought help but not received appropriate treatment this may reduce responsibility.

Harm

For all cases of manslaughter the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

STEP TWO**Starting point and category range**

Having determined the level of responsibility retained 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.

Level of responsibility retained		
High	Medium	Lower
Starting point 24 years' custody	Starting point 15 years' custody	Starting point 7 year's custody
Category range 15 – 40 years' custody	Category range 10 – 25 years' custody	Category range 3 – 12 years' custody

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

On the next page is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

Care should be taken to avoid double counting factors already taken into account in assessing the level of responsibility retained

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
(See step three for a consideration of dangerousness)

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

Other aggravating factors:

History of violence or abuse towards victim by offender

Involvement of other(s) through coercion, intimidation or exploitation

Significant mental or physical suffering caused to the deceased

Victim particularly vulnerable due to age or disability

Victim was providing a public service or performing a public duty at the time of the offence

Commission of offence whilst under the influence of alcohol or drugs (the extent to which a mental disorder has an effect on offender's ability to make informed judgments or exercise self-control will be a relevant consideration in deciding how much weight to attach to this factor)

A significant degree of planning or premeditation

Offence involved use of a weapon

Other(s) put at risk of harm by the offending

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

Concealment, destruction, defilement or dismemberment of the body

Blame wrongly placed on other(s)

Offence committed on licence or post sentence supervision or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

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

Remorse

Intention to cause serious bodily harm rather than to kill

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

Lack of premeditation

The offender acted in self-defence or in fear of violence (where not amounting to a defence)

The offender made genuine and sustained attempts to seek help for the mental disorder

Belief by the offender that the killing was an act of mercy

Good character and/or exemplary conduct

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

Age and/or lack of maturity

Sole or primary carer for dependent relatives

STEP THREE**Consideration of dangerousness**

- The court should then go on to 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 to a life sentence the notional determinate term (identified at step two above) should be used as the basis for setting the minimum term.

STEP FOUR**Consideration of mental health disposals (Mental Health Act 1983)****Where:**

- (i) the evidence of medical practitioners suggests that the offender is currently suffering from a mental disorder,
- (ii) treatment is available, and
- (iii) the court considers that a hospital order (with or without a restriction) may be an appropriate way of dealing with the case,

the court should consider **all sentencing options** including a section 45A direction and consider the importance of a penal element in the sentence taking into account the level of responsibility assessed at step one.

Section 45A hospital and limitation direction

- a. Before a hospital order is made under section 37 (with or without a restriction order under section 41), consider whether the mental disorder can appropriately be dealt with by custody with a hospital and limitation direction under section 45A. In deciding whether a section 45A direction is appropriate the court should bear in mind that the limitation direction will cease to have effect at the automatic release date of a determinate sentence.
- b. If a penal element is appropriate and the mental disorder can appropriately be dealt with by a direction under section 45A, then the judge should make such a direction. (Not available for a person under the age of 21 at the time of conviction).

Section 37 hospital order and section 41 restriction order

- c. If a section 45A direction is not appropriate the court must then consider (assuming the conditions in section 37(2)(a) are satisfied) whether the matters referred to in section 37(2)(b) would make a hospital order (with or without a restriction order under section 41) the most suitable disposal. The court should explain why a penal element is not appropriate.

STEP FIVE**IN ALL CASES consider factors that may warrant an adjustment to the sentence**

Cases of manslaughter by reason of diminished responsibility vary considerably on the facts of the offence and on the circumstances of the offender.

- The court should review whether the sentence as a whole meets the objectives of punishment, rehabilitation and protection of the public in a fair and proportionate way.
- Relevant factors will include the psychiatric evidence and the regime on release.
- An adjustment may require a departure from the sentence range identified at step two above.

STEP SIX**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 SEVEN**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. Note: the limitations on reductions for murder do not apply to manslaughter.

STEP EIGHT**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 NINE**Compensation and ancillary orders**

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

STEP TEN**Reasons**

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

STEP ELEVEN**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.

NOTES
