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GOVERNMENT NOTICES

No. 120



A Sentencing Guideline of
The Eastern Caribbean Supreme Court

Totality

Published on 31st December, 2024

This Sentencing Guideline is made pursuant to the Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules, 2019¹, and gives guidance on how the sentencing judge should approach totality.

Applicability of Guideline

In sentencing for offences, the Chief Justice has issued guidelines and the court must apply the relevant guidelines and sentence accordingly, unless to do so would not be in the interests of justice. It is only permissible to depart from the guidelines in exceptional circumstances, where such departure can be justified. Clear reasons for not applying the guidelines must be given when passing sentence.

¹ Made pursuant to Rule 7(1) for the Territory of the Virgin Islands, Montserrat, Antigua and Barbuda, Saint Kitts and Nevis, Commonwealth of Dominica, Saint Lucia, Saint Vincent and the Grenadines and Grenada; and made pursuant to Rule 8(1) for Anguilla.

The principle of totality applies when sentencing an offender for multiple offences or when sentencing an offender who is already serving an existing sentence.

General Principles

When sentencing for more than one offence, the overriding principle of totality requires that the overall sentence should:

- reflect all the offending behaviour with reference to consequence² and seriousness³, together with the aggravating and mitigating factors relating to the offences and those personal to the offender; and
- be just and proportionate; and

- not exceed what is necessary to reflect the overall offending behaviour.

A sentencing court must take care when applying the totality principle. Public confidence in the administration of justice requires the court to explain clearly why it has taken a particular approach to multiple sentences. The court must give reasons, explaining the construction of the sentence in a way that can be readily understood by the defendant, justifying any departure from the guidelines.

General Approach

1. Consider the sentence for each individual offence, referring to the relevant sentencing guidelines.
2. Determine whether the case calls for concurrent or consecutive sentences. When sentencing three or more offences a combination of concurrent and consecutive sentences may be appropriate.
3. Test the overall sentence against the requirement that the total sentence is just and proportionate to the offending as a whole.
4. Consider and explain how the sentence is structured in a way that will be best understood by all concerned.

² consequence is considered by assessing the harm caused by the offence

³ Seriousness may include reference to the culpability of the offender

Concurrent and Consecutive Sentences

Sentences can be structured as concurrent (to be served at the same time) or consecutive (to be served one after the other).

In cases where an offender is convicted for more than one offence tried at the same time: (i) where more than one offence is committed in the course of the same transaction or arises out of the same incident or facts, the general rule is that the sentences are to run concurrently with each other (e.g. assaulting a number of persons during a fight); and (ii) where the offences are of a similar nature and were committed over a short period of time against the same victim, sentences should normally be made to run concurrently (e.g. theft by an employee from an employer).

Where the offender is already serving a sentence for another offence, the court may pass a sentence of imprisonment for the subsequent offence to commence at the expiration of the previous sentence of imprisonment.

Where the offences were committed on separate occasions, particularly involving the use of a firearm, or were committed while the offender was on bail for other offences for which he was eventually convicted, consecutive sentences are in principle appropriate.

In **concurrent sentencing**, it will often be the case that the notional sentence on any single offence will not adequately reflect the overall offending. Ordinarily some upward adjustment is required and may have the effect of going outside the category range appropriate for a single offence.

In **consecutive sentencing**, it is usually impossible to arrive at a just and proportionate sentence simply by adding together notional single sentences. Ordinarily some downward adjustment is required.

Concurrent Sentences: Examples

Examples of concurrent sentences include:

- a single incident of dangerous driving resulting in injuries to multiple victims where there are separate charges relating to each victim. The sentences should generally be passed concurrently, but each sentence should be aggravated to take into account the harm caused.
- repetitive fraud or theft, where charged as a series of small frauds/thefts, would be properly considered in relation to the total amount of money obtained and the period of time over which the offending took place. The sentences should generally be passed concurrently, each one reflecting the overall seriousness.

Consecutive Sentences: Examples

Examples of consecutive sentences include:

a. offences arise out of unrelated facts or incidents -

Examples include:

- where the offender commits a theft on one occasion and a common assault against a different victim on a separate occasion.
- an attempt to pervert the course of justice in respect of another offence also charged.
- offences committed within a prison context should be ordered to run consecutively to any sentence currently being served.

b. offences committed in the same incident are distinct, involving an aggravating element that requires separate recognition -

Examples include:

- an assault on a police officer committed to try to evade arrest for another offence also charged.
- where an offender is convicted of drug dealing and possession of a firearm offence. The firearm offence is not the essence or an intrinsic part of the drugs offence and requires separate recognition.
- where the offender is convicted of threats to kill in the context of an indecent assault on the same occasion, the threats to kill could be distinguished as a separate element.

c. offences are of the same or similar kind but the overall criminality will not sufficiently be reflected by concurrent sentences -

Examples include:

- where offences are committed against different people, such as repeated thefts involving attacks on several different shop assistants.
- d. one or more offence(s) qualifies for a statutory minimum sentence and concurrent sentences would improperly undermine that minimum -

Examples include:

- other offences sentenced alongside possession of a prohibited weapon (which attracts a five year minimum term) - any reduction on grounds of totality should not reduce the effect of

properly deterrent and commensurate sentences. The court should not reduce an otherwise appropriate consecutive sentence for another offence so as to remove the impact of the mandatory minimum sentence for the firearms offence.

Approach to Fines in Combination with other Sentences

A fine should not generally be imposed in combination with a custodial sentence because of the effect of imprisonment on the means of the offender. However, exceptionally, it may be appropriate to impose a fine in addition to a custodial sentence where:

- the sentence is suspended, or
- a confiscation order is not contemplated and there is no obvious victim to whom compensation can be awarded; and the offender has, or will have, resources from which a fine can be paid.

Approach to Multiple Fines

This applies where an offender is convicted of more than one offence where a fine is appropriate.

The court should determine the fine for each individual offence based on the seriousness of the offence and taking into account the circumstances of the case including the financial circumstances of the offender so far as they are known, or appear, to the court.

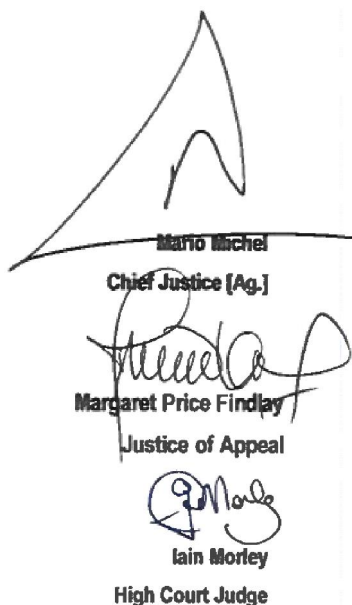
The court should add up the fines for each offence and consider if they are just and proportionate. If the aggregate total is not just and proportionate the court should consider how to reach a just and proportionate fine.

Totality in a sentence is never an application of adding or subtracting, but ultimately is an exercise in adjusting sentences for different offences to reflect the overall criminality.

EFFECTIVE DATE

This Sentencing Guideline will come into effect on 6th January, 2025.

Date this 18th day of December, 2024.



Mario Michel
Chief Justice (Ag.)

Margaret Price Findlay
Justice of Appeal

Iain Morley
High Court Judge

31st December, 2024.

No. 121

This guideline should be read in conjunction with Practice Directions 8 A-D, numbers 1 to 4 of 2019 (7 A-D Anguilla)



A Sentencing Guideline of
The Eastern Caribbean Supreme Court

Homicide Offences

Published on 31st December, 2024

This Sentencing Guideline is made pursuant to the Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules, 2019¹.

The previous Sentencing Guideline for Homicide Offences which came into effect on 8th November 2021 and 26th November 2021 is revoked and replaced by this Sentencing Guideline.

This compendium sentencing guideline will deal with offences of homicide, being:

- Murder, as the text of Practice Direction 3 of 2021, as reissued below (page 4);
- Manslaughter by reason of provocation (page 12);
- Manslaughter by reason of an unlawful act (page 19)
- Causing death by dangerous driving (page 26)

¹ Made pursuant to Rule 7(1) for the Territory of the Virgin Islands, Montserrat, Antigua and Barbuda, Saint Kitts and Nevis, Commonwealth of Dominica, Saint Lucia, Saint Vincent and the Grenadines and Grenada; and made pursuant to Rule 8(1) for Anguilla.

Applicability of Guideline

In sentencing for these offences, the Chief Justice has issued as guidance a Practice Direction or guidelines and the court must apply the relevant guidance and sentence accordingly, unless to do so would not be in the interests of justice. It is only permissible to depart from the guidelines in exceptional circumstances, where such departure can be justified. Clear reasons for not applying the guideline must be given when passing sentence.

It is expected that every court will follow the steps below, with each relevant step being identified to the offender in public before the sentence is passed. Starting points and ranges apply to all adult offenders² whether they have pleaded guilty or been convicted after a trial. Credit for a guilty plea is taken into consideration only at Step 3.

² For persons below the age of 18, see the **Practice Direction 8D on Sentencing Guidelines, No. 4 of 2019**.

Step 1

Consider the seriousness of the offence. Find the starting point by consulting the Practice Direction or guideline with grid below. Then adjust the figure within the range for the aggravating and mitigating factors of the offence.

Step 2

Adjust the figure within the range for the aggravating and mitigating factors affecting the offender.

Step 3

Adjust the figure on assessing discount for any plea of guilty, if applicable.

Step 4

Adjust the figure on assessing totality if sentencing for more than one offence. If appropriate, dangerousness should also be considered.

Step 5

Credit must be given for time spent on remand for the relevant offence, to be calculated with precision³.

Step 6

Finally, consider ancillary orders, confiscation, compensation, etc, if applicable.

Pass the Sentence

The court must give reasons, explaining the construction of the sentence in a way that can be readily understood by the defendant, in particular justifying any departure from the guideline.

³ See the requirements for assessing time on remand in **Gomes v The State 2015** UKPC 8, see para 12; **Shonovia Thomas v The Queen** Appeal No.6 of 2010; and **Romeo Da Costa Hall v The Queen 2011** CCJ 6. The judge will declare the precise time spent on remand which is to be credited to the sentence passed and it is for the prison to calculate the earliest date of release taking into account the time on remand - see para 6 of **Practice Direction 8A of 2019**.

MURDER- Section 1

There follows below the updated text of the Practice Direction on murder which took effect from 26th November, 2021, which had updated the Practice Direction on murder which came into effect on 1st September, 2020 and was reissued on the 12th April, 2021 and 8th November, 2021. While the Practice Direction does not offer a grid, its structure generally mirrors the six steps approach of other guidelines. However, care must be taken to read the language of the Practice Direction and to follow it where it may deviate from the six steps approach, if arising.

EASTERN CARIBBEAN SUPREME COURT
(SENTENCING GUIDELINES) RULES 2019

PRACTICE DIRECTION

NO. 3 OF 2021

SENTENCING FOR THE OFFENCE OF MURDER

RE-ISSUE

6 JANUARY 2025

SENTENCING FOR THE OFFENCE OF MURDER

This Practice Direction is made pursuant to rule 7(1) of the Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules 2019 and supplements rule 8(1) for all the Member States and Territories, except the Territory of Anguilla, where this Practice Direction is made pursuant to rule 6(1) of the Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules 2019 and supplements rule 7(1) in respect of Anguilla.

The previous Practice Directions for the offence of Murder, and separately on Anguilla, which came into effect on the 1st September 2020, and reissued on 12th April 2021, 8th November 2021, and 26th November 2021, are all revoked and replaced by this single Practice Direction.

Introduction

This Practice Direction⁴ directs that in order to promote consistency in sentencing, sentencing to a custodial term for the offence of murder shall hereafter follow the approach below to be applied in the territories falling under the jurisdiction of the Eastern Caribbean Supreme Court.

Title

This practice direction may be cited as the "Practice Direction on Sentencing for the Offence of Murder for the Eastern Caribbean Supreme Court".

Interpretation**1. In this Schedule-**

"Adult" means a person aged 18 or over.

"An act of terrorism" for the purpose of this guidance means a death arising from:

- (i) an act of a person on behalf of, or in connection with, any organization which carries out activities directed towards the overthrowing or influencing by force or violence the lawful government of a state; or
- (ii) an act intended to raise in the public a fear of future and further indiscriminate violence against bystanders in a public place.

"Criminal gang" means a group of three or more persons who share a criminal purpose.

⁴ This practice direction, consisting largely of edits, and excising reference to offenders under 18, replaces the earlier version published on 1st September 2020 and Re-Issued on 12th April, 2021, and further 8th November 2021 and 26th November 2021, so that this single practice direction shall apply to all Member States and Territories within the jurisdiction of the Eastern Caribbean Supreme Court.

"Determinate sentence" means a sentence fixed as to the amount of time to be spent imprisoned.

"Child" means a person under the age of 18;

"Whole life sentence" means a sentence of imprisonment for the duration of the offender's natural life.

Sentence of an Adult for Murder**2. A conviction of an adult for the offence of murder may result in one of the following sentences:**

- a. Sentence of death, where lawful;
- b. A whole life sentence;
- c. A determinate sentence; or
- d. Detention at the court's pleasure where an offender has been found to be insane or suffering relevant mental illness.

Sentence of Death**3. Sentence of death, where lawful for murder, may only be considered in cases:**

- a. Where the offender was an adult when he committed the offence;
- b. Where there has been a conviction after trial;
- c. Which are 'the rarest of the rare';
- d. Which are 'the worst of the worst';
- e. Where there is no reasonable prospect of reform of the offender;
- f. Where the offender has been appropriately evaluated by a psychiatrist;
- g. Where the character of the offender and any other relevant circumstances are taken into account so far as possible as mitigation in his favour;
- h. Which are compared with other murder cases and not with ordinary civilized behavior; and
- i. Where the object of punishment cannot be achieved by any means other than sentence of death.

Whole Life Sentence

4. (1) If:

- a. the court considers that the seriousness of the offence (or the combination of the offence and one or more offences associated with it) is exceptionally high; and
- b. the offender was an adult when he committed the offence; the appropriate starting point is a whole life sentence.

(2) In cases where a whole life sentence is appropriate, a guilty plea discount is not available⁵.

5. Cases where the seriousness of the offence could be considered exceptionally high include:

- a. the murder of two or more persons;
- b. the murder is associated with a series of serious criminal acts;
- c. a substantial degree of premeditation or planning;
- d. the abduction of the victim;
- e. a murder involving sexual or sadistic conduct;
- f. a murder involving prolonged suffering or torture;
- g. a murder where the purpose is to interfere with the course of justice;
- h. the murder of a police officer, emergency service worker, prison officer, judicial officer, prosecutor, health worker, teacher, community worker or any other public official exercising public or community functions or as a political activist, or the offence arose because of the victim's occupation or voluntary work;
- i. the murder of a child;
- j. a murder relating to membership of a criminal gang;
- k. a murder which is an act of terrorism;
- l. a murder motivated by hatred for or prejudice against a group of people to which the offender believed the victim belonged (eg. people of a particular religion, race, or ethnic origin, language, or sexual orientation or age or having a particular disability);

⁵ See **Renaldo Alleyene v The Queen [2019]** CCJ 06 (AJ) - noting paras 30 and 31; see **Dave Benjamin v The King 2023**

[GDAHCRAP2018/0002] (Grenada), oral judgment on 03.07.23, ECSC court of appeal digest.

- m. a murder involving the actual or threatened use of explosives or chemical or biological agents;
- n. a deliberate killing for payment or gain (eg. a contract killing, or for inheritance, or insurance payout);
- o. where the offender is assessed as likely to commit further offences of serious violence and is therefore a substantial danger to the community;
- p. a murder by an offender previously convicted of murder; or
- q. a murder by an offender who has a record for multiple previous convictions for serious offences of violence.

Determinate Sentence

6. (1) In cases not falling in paragraph 3 or 4; or
 - (2) Where a case falls within paragraph 4,
 - a. but the court considers that the offence (or the combination of the offence and one or more offences associated with it), does not warrant a whole life sentence, and
 - b. the offender was an adult when he committed the offence;
the appropriate starting point is a determinate sentence of 40 years, within a range of 30-50 years.
7. Cases that could fall within paragraph 6 include:
 - a. if appropriate, where the offender has pleaded guilty and would otherwise face a whole life term⁶;
 - b. a murder involving the use of a firearm;
 - c. a murder arising unplanned in the course of a felony (eg in a robbery or burglary);
 - d. a murder involving a lesser degree of sexual or sadistic conduct than referred to above; or
 - e. a murder in the context of a significant history of domestic violence.

⁶ In such a circumstance, there would usually be no further discount on account of the guilty plea - though please refer to *Alleyene* supra.

8. If:
 - a. the offender was an adult at the time of the offence;
 - b. the case does not fall within paragraph 4 or 6; and
 - c. the offence falls within paragraph 9 below;the offence is normally to be regarded as sufficiently serious for the appropriate starting point to be a determinate sentence of 30 years, within a range of 20-40 years.
9. Cases that would normally fall within paragraph 8 are where the offender took a bladed weapon or blunt instrument to the scene intending to:
 - a. commit any offence; or
 - b. have it available to use as a weapon; and
 - c. used that weapon in committing the murder.
10. If the offender was an adult when he committed the offence and the case does not fall within paragraph 4, 6 or 8, the appropriate starting point is a determinate sentence of 25 years, within a range of 15-35 years.

Aggravating and Mitigating Factors

11. Having chosen a starting point, the court should take into account any further aggravating or mitigating factors pertaining to the offence, and then as a second step to the offender, to the extent that it has not allowed for them in its choice of starting point, so that care must be taken not to double-count.
12. Aggravating factors pertaining to the offence (separate from those mentioned in paragraphs 5, 7, and 9) that may be relevant include:
 - a. a significant degree of planning or premeditation;
 - b. the victim or initial target was vulnerable because young or elderly or had a disability or because geographically isolated;

- c. mental or physical suffering inflicted on the victim before death;
 - d. abuse of a position of trust or authority over the victim;
 - e. where the offence involved a great risk of, or causes, death or serious injury to another person or persons;
 - f. where the offence was an organized criminal activity;
 - g. where the offence occurred at the home of the victim or any other person;
 - h. where the offence was committed to conceal another offence;
 - i. the use of duress or threats against another person to facilitate the commission of the offence;
 - j. where the victim was providing a public service or performing a public duty;
 - k. where the offence is committed in the presence of children;
 - l. where the offence is committed at or near a religious or educational institution;
 - m. where the offence is committed in view of the public;
 - n. where the offence is unprovoked; or
 - o. concealment, disposal, desecration, destruction or dismemberment of the body.
13. Mitigating factors pertaining to the offence that may be relevant include:
- a. an intention to cause serious bodily harm rather than to kill;
 - b. where the offender was acting under duress;
 - c. where the offender offered assistance to the authorities;
 - d. where the offender was provoked, though the degree of provocation was not sufficient to result in a conviction for manslaughter;
 - e. where the victim was the aggressor; or
 - f. a belief by the offender that the murder was an act of mercy.
14. Aggravating factors pertaining to the offender that may be relevant include:
- a. previous convictions for violence offences;
 - b. relevant convictions for other offences; or
 - c. the offence was committed whilst on bail.
15. Mitigating factors pertaining to the offender that may be relevant include:
- a. good character;
 - b. genuine remorse;
 - c. physical or mental disability or ill-health;
 - d. youth and/or lack of maturity where it explains offending; or
 - e. good prospects for rehabilitation.

Credit for Plea

16. Where the offender has pleaded guilty at the first practicable opportunity, he may receive a discount of up to one-third of any determinate sentence (excepting where appropriate per para 7a).

Time on Remand

17. Credit must be given for time spent on remand, to be calculated with precision⁷.

Parole

18. Where appropriate, the court should declare the minimum term to be served before consideration for parole.

⁷ See the requirements for assessing time on remand in **Gomes v The State 2015 UKPC 8**, see para 12; **Shonovia Thomas v The Queen** Appeal No.6 of 2010; and **Romeo Da Costa Hall v The Queen 2011 CCJ 6**. The judge will declare the precise time spent on remand which is to be credited to the sentence passed and it is for the prison to calculate the earliest date of release taking into account the time on remand - see para 6 of **Practice Direction 8A of 2019**.

MANSLAUGHTER BY REASON OF PROVOCATION - Section 2

Within the ECSC, in the nine member states and territories, the offence of manslaughter (by reason of provocation) is found in both common law and statute.

CONSTRUCTING THE SENTENCE**STEP 1**

Consider the level of culpability by finding the starting point by consulting the guideline and the grid below. Then adjust the figure within the range for the aggravating and mitigating factors of the offence.

A case of manslaughter by reason of provocation requires an assessment of the seriousness of the offence, including the culpability of the offender, and its consequences, by reference to the harm caused.

To establish the starting point for the offence within the relevant range, there are four stages within Step 1.

FIRST STAGE

The first stage is to determine the offence category based on consequence.
The consequence of manslaughter is always the death of the victim.

SECOND STAGE

The second stage is to consider SERIOUSNESS by assessing the culpability of the offender.

A sentence for manslaughter by reason of provocation means it has been found or accepted there has been a loss of self-control by the defendant. The intensity, extent, and nature of loss of that control must be assessed in the context of the provocation that preceded it.

Culpability requires the court to determine the degree of provocation as shown by its nature and duration, and the extent and timing of the retaliation. The extent and timing of the retaliation can be:

- after a short period of provocation; or
- after provocative behavior built up over time (cumulative provocation).

Whether the provocation was suffered over a long or short period is important to the assessment of gravity and seriousness. The following factors should be considered:

- the impact of cumulative provocation; and
- consideration should not be limited to acts of provocation that occurred immediately before the victim was killed.

For example, in domestic violence cases, or extreme bullying or coercive control, cumulative provocation may eventually become intolerable, the latest incident seeming all the worse because of what went before.

The levels arising are as follows:

- Level A a low degree of provocation, meaning higher culpability;
- Level B a significant degree of provocation, meaning medium culpability, which can be low provocation cumulative over a long period;
- Level C a high degree of provocation, meaning lower culpability, which can be significant provocation which is cumulative over a long period.

SERIOUSNESS - Level A - High - Low Degree of Provocation

- Verbal abuse
- Conduct of the victim is not extreme
- Being armed with a weapon for use in advance
- Leading role in a joint/group attack

SERIOUSNESS - Level B - Medium - Significant Degree of Provocation

- Adultery or gross infidelity⁸
- Low provocation which is cumulative over a long period leading finally to loss of control
- Physical abuse of the offender by the victim falling short of extreme violence
- Psychological bullying of the offender by the victim
- Spontaneous use of a weapon that happens to be available
- Lesser role in a joint/group attack

SERIOUSNESS - Level C - Lower - High Degree of Provocation

- Significant provocation which is cumulative over a long period leading finally to loss of control
- Gross and extreme conduct on the part of the victim
- Victim presented a threat not only to the offender, but to anyone in their care
- Significant violence from the victim
- Short period between the provocation and the killing

⁸ 'Adultery or gross infidelity' here means loss of self-control where there is a committed relationship - usually evidenced by living together, over years, being married or common-law spouses, often with children - and there has been evidence, not mere suspicion, sexual intercourse has occurred with a third party.

THIRD STAGE

Having determined the level of responsibility, find the starting point by consulting the grid below, where the sentences are expressed in years, not as percentages of a maximum.⁹ In rare and exceptional cases the grid permits, as below, contemplation of a non-custodial sentence.

	Seriousness -	Seriousness -	Seriousness -
Consequence	Level A – High	Level B - Medium	Level C - Lower
Death of the victim	Starting point 30 years Range 20-40 years	Starting point 20 years Range 10-30 years	Starting point 10 years Range non-custodial-15 years

⁹ In the nine island nations of the ECSC, the maximum sentence for manslaughter by reason of provocation is life imprisonment, except in Antigua & Barbuda, where it is 35 years, though this figure still allows for the figures expressed in the gird, albeit with a shorter range at level A. Notwithstanding the starting points expressed in years, in appropriate though rare cases the maximum may apply.

FOURTH STAGE

Having determined the starting point, consider the following non-exhaustive list of aggravating and mitigating factors of the offence and adjust upwards or downwards if required, taking care not to double-count factors considered in stages 1 and 2.

AGGRAVATING FACTORS of the offence

- More than one person killed as a result of the offence
- Offence took place in the presence of a child or other vulnerable person
- Victim vulnerable due to age or disability
- Victim was providing a public service or performing a public duty at the time of the offence
- Persistence of the violence
- Others at risk of harm by the offending
- Voluntary use of drugs or alcohol, contributing to the loss of control
- Post-conduct behavior including the concealment or attempting to dispose of evidence anddismemberment of the body (but not limited to these)

MITIGATING FACTORS of the offence

- Intention to cause serious bodily harm rather than to kill
- Post-conduct behaviour including summoning medical assistance, remaining at the scene, co-operating with the authorities
- Offender acted to a degree under a mental health condition (where not amounting to the partial defence of diminished responsibility)

STEP 2

Adjust the figure within the range for the aggravating and mitigating factors affecting the offender.

AGGRAVATING FACTORS of offender

- Previous convictions for violence offences
- Relevant convictions for other offences
- Offence committed whilst on bail

MITIGATING FACTORS of offender

- Good character
- Genuine remorse
- Disability or ill-health¹⁰
- Steps taken to address offending behaviour
- Youth and/or lack of maturity where it explains offending
- Assistance given to the authorities

STEP 3

Credit should be given for a guilty plea as appropriate. A reduction of one-third should be given for a guilty plea entered at the earliest practicable opportunity. Credit will usually reduce significantly the later the plea.

STEP 4

Adjust the figure on assessing totality if sentencing for more than one offence. If appropriate, dangerousness should also be considered.

¹⁰ Persons with disabilities are persons with a physical, mental, or sensory impairment, whether permanent or temporary, that may limit the capacity to fully and effectively perform one or more essential activities of daily life, and effectively participate in society on an equal basis with others, and which can be caused or aggravated by the economic and social environment (adapted from **Art 1 of the IACPWD**).

STEP 5

Credit must be given for time spent on remand for the relevant offence, to be calculated with precision¹¹.

STEP 6

Finally, consider ancillary and restraining orders, confiscation, compensation, etc, if applicable.

Pass the Sentence

The court must give reasons, explaining the construction of the sentence in a way that can be readily understood by the defendant, in particular justifying any departure from the guideline.

¹¹ See the requirements for assessing time on remand in **Gomes v The State 2015** UKPC 8, see para 12; **Shonovia Thomas v The Queen Appeal** No.6 of 2010; and **Romeo Da Costa Hall v The Queen 2011** CCJ 6. The judge will declare the precise time spent on remand which is to be credited to the sentence passed and it is for the prison to calculate the earliest date of release taking into account the time on remand - see para 6 of **Practice Direction 8A of 2019**.

MANSLAUGHTER BY REASON OF AN UNLAWFUL ACT - Section 3

Within the ECSC, in the nine member states and territories, the offence of manslaughter (by reason of unlawful act) is found in both common law and statute.

CONSTRUCTING THE SENTENCE

STEP 1

Consider the level of culpability by finding the starting point by consulting the guideline and the grid below. Then adjust the figure within the range for the aggravating and mitigating factors of the offence.

A case of manslaughter by reason of an unlawful act requires an assessment of the seriousness of the offence, including the culpability of the offender, and its consequences, by reference to the harm caused.

To establish the starting point for the offence within the relevant range, there are four stages within Step 1.

FIRST STAGE

The first stage is to determine the offence category based on consequence.

The consequence of manslaughter is always the death of the victim.

SECOND STAGE

The second stage is to consider SERIOUSNESS by assessing the culpability of the offender.

SERIOUSNESS - Level A - Very High

- The extreme character of one or more Level B factors, and /or
- A combination of Level B factors.

SERIOUSNESS - Level B - High

- Death was caused in the course of an unlawful act which involved an intention by the offender to cause harm falling just short of really serious bodily harm.
- Death was caused in the course of an unlawful act which carried a high risk of death or really serious harm 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).
- Leading role in a joint/group attack

SERIOUSNESS - Level C - Medium

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 seriousness at level B and D.

- 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.
- Death was caused in the course of an unlawful act which was in defence of self or others (where not amounting to a defence)
- Concealment, destruction, defilement or dismemberment of the body (where not separately charged).
- Lesser role in a joint/group attack

SERIOUSNESS - Level D - Lower

- Death was caused in the course of an unlawful act
- 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

THIRD STAGE

Having determined the level of responsibility, find the starting point by consulting the grid below, where the sentences are expressed in years, not as percentages of a maximum ¹². In rare and exceptional

Consequence	Seriousness - Level A – Very High	Seriousness - Level B - High	Seriousness - Level C - Medium	Seriousness – Level D - Lower
	Starting point 24 years Range 14-30 years	Starting point 18 years Range 10-24 years	Starting point 12 years Range 6-16 years	Starting point 6 years Range non-custodial-9 years
Death of the victim				

FOURTH STAGE

Having determined the starting point, consider the following non-exhaustive list of aggravating and mitigating factors of the offence and adjust upwards or downwards if required, taking care not to double-count factors considered in stages 1 and 2.

¹² In the nine island nations of the ECSC, the maximum sentence for manslaughter by reason of an unlawful act is life imprisonment, except on Antigua & Barbuda, where it is 35 years, though this figure still allows for the figures expressed in the grid. Notwithstanding the starting points expressed in years, in appropriate though rare cases the maxima may apply.

AGGRAVATING FACTORS of the offence

- More than one person killed as a result of the offence
- 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
- Involvement of others through coercion, intimidation or exploitation
- Significant mental or physical suffering caused to the deceased
- Victim vulnerable due to age or disability
- History of violence or abuse towards the victim by the offender
- Persistence of violence
- Leading role in group
- Blame wrongly placed on other(s)
- Abuse of a position of trust
- Victim was providing a public service or performing a public duty at the time of the offence
- Offence involved use of a weapon
- Other(s) put at risk of harm by the offending
- Death occurred in the context of an offence which was planned or premeditated
- Death occurred furthering another offence
- Offence committed in the presence of children
- Actions after the event (including but not limited to attempts to cover up/conceal evidence)

MITIGATING FACTORS of the offence

- History of significant violence or abuse towards the offender by the victim
- Lack of premeditation as to committing the unlawful act

STEP 2

Adjust the figure within the range for the aggravating and mitigating factors affecting the offender.

AGGRAVATING FACTORS of offender

- Previous convictions for violence offences
- Relevant convictions for other offences
- Offence committed whilst on bail

MITIGATING FACTORS of offender

- Good character
- Genuine remorse
- Disability or ill-health¹³
- Steps taken to address offending behaviour
- Youth and/or lack of maturity where it explains offending
- Assistance given to the authorities

STEP 3

Credit should be given for a guilty plea as appropriate. A reduction of one-third should be given for a guilty plea entered at the earliest practicable opportunity. Credit will usually reduce significantly the later the plea.

STEP 4

Adjust the figure on assessing totality if sentencing for more than one offence. If appropriate, dangerousness should also be considered.

¹³ Persons with disabilities are persons with a physical, mental, or sensory impairment, whether permanent or temporary, that may limit the capacity to fully and effectively perform one or more essential activities of daily life, and effectively participate in society on an equal basis with others, and which can be caused or aggravated by the economic and social environment (adapted from **Art 1 of the IACPWD**).

STEP 5

Credit must be given for time spent on remand for the relevant offence, to be calculated with precision¹⁴.

STEP 6

Finally, consider ancillary and restraining orders, confiscation, compensation, etc, if applicable.

Pass the Sentence

The court must give reasons, explaining the construction of the sentence in a way that can be readily understood by the defendant, in particular justifying any departure from the guideline.

¹⁴ See the requirements for assessing time on remand in **Gomes v The State 2015** UKPC 8, see para 12; **Shonovia Thomas v The Queen** Appeal No.6 of 2010; and **Romeo Da Costa Hall v The Queen 2011** CCJ 6. The judge will declare the precise time spent on remand which is to be credited to the sentence passed and it is for the prison to calculate the earliest date of release taking into account the time on remand - see para 6 of **Practice Direction 8A of 2019**.

CAUSING DEATH BY DANGEROUS DRIVING - Section 4

In the nine member states and territories of the ECSC causing death by dangerous driving, sometimes said to be reckless driving¹⁵, attracts different maximum sentences.

CONSTRUCTING THE SENTENCE

STEP 1

The first step in constructing a sentence is to establish the starting point for the offence.

A case of causing death by dangerous driving requires an assessment of the seriousness of the offence, including the culpability of the offender, and its consequences, by reference to the harm caused.

To establish the starting point for the offence within the relevant range, there are four stages within Step 1.

¹⁵ This guideline does not apply where the driving, which caused a death, was merely careless or under the influence of alcohol or drugs; instead the driving must be dangerous or reckless, as falling far below the standard expected of an ordinary prudent motorist, so creating an obvious risk to the ordinary motorist of causing death, serious injury or serious damage.

FIRST STAGE

The first stage is to determine the offence category based on consequence.

The consequence of dangerous driving is always the death of the victim.

SECOND STAGE

The second stage is to consider SERIOUSNESS by assessing the culpability of the offender.

The 'danger' created by the driving is of serious injury or death and/or of serious damage to property.

SERIOUSNESS - Level A - High

Driving that involved a deliberate decision to ignore, or a flagrant disregard for, the rules of the road so as to cause a high risk of danger, which can be evidenced by:

- A prolonged, persistent and deliberate course of very bad driving
- Racing or competitive driving against another driver
- Gross avoidable distraction such as reading or composing text messages over a period of time
- Consumption of substantial amounts of alcohol or drugs leading to gross impairment
- A group of determinants of seriousness which in isolation or smaller number would place the offence in level 2

SERIOUSNESS - Level B - Medium

Driving that created a substantial risk of danger, which can be evidenced by:

- Greatly excessive speed for a shorter duration
- Avoidable distraction such as reading or composing a text message
- Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs, or as a result of a known medical condition, or by deliberately failing to take prescribed medication

- Ignoring warning not to drive under medication known to cause drowsiness
- Aggressive driving such as driving too close to the vehicle in front, persistent inappropriate attempts to overtake, or cutting in after overtaking
- A group of determinants of seriousness which in isolation or smaller number would place the offence in level C

SERIOUSNESS - Level C - Lesser

Driving that created a significant risk of danger, which can be evidenced by:

- Driving above the speed limit/at a speed that is inappropriate for the prevailing conditions
- Driving when knowingly deprived of adequate sleep or rest or knowing that the vehicle has a dangerous defect or is poorly maintained or is dangerously loaded
- A brief but obvious danger arising from a seriously dangerous manoeuvre
- Driving whilst avoidably distracted
- Failing to have proper regard to vulnerable road users

THIRD STAGE

Having determined the consequence and level of seriousness find the starting point by consulting the grid below¹⁶.
Maximum sentence is 'x'.

Percentages¹⁷ are approximations and may not divide neatly, so that some adjustment is permissible.

	Seriousness - Level A	Seriousness - Level B	Seriousness - Level C
Consequence – death of the victim	Starting point 75% x Range 60%-90% x	Starting point 55% x Range 40%-70% x	Starting point 35% x Range non-custodial-50% x

¹⁶ Where there is a mandatory minimum sentence, this may in appropriate cases be the starting point if it is greater than the starting point assessed under these guidelines.
¹⁷ Percentages only apply to custodial terms, not to fines which remain within the discretion of the Court.

FOURTH STAGE

Having determined the starting point, consider the following non-exhaustive list of aggravating and mitigating factors of the offence and adjust upwards or downwards if required, taking care not to double-count factors considered in stages 1 and 2.

AGGRAVATING FACTORS of the offence

- More than one person killed as a result of the offence
- Knowingly putting more than one person at risk of death or serious injury
- Serious injury to one or more victims, in addition to the death(s)
- Disregard of warnings

- Other offences committed at the same time, such as driving other than in accordance with the terms of a valid licence; driving while disqualified; driving without insurance; taking a vehicle without consent; driving a stolen vehicle; driving while a learner without supervision
- The offender's irresponsible behaviour such as failing to stop, falsely claiming that one of the victims was responsible for the collision, or trying to throw the victim off the car by swerving in order to escape
- Driving off in an attempt to avoid detection or apprehension
- Being intoxicated through voluntary consumption of drink or drugs
- Using a handheld mobile phone at the time of the offence
- Driving a poorly maintained or dangerously loaded vehicle being used for commercial gain

MITIGATING FACTORS of the offence

- Alcohol or drugs consumed unwittingly (including unwitting effect of lawful medication)
- Offender was seriously injured in the collision
- The victim was a close friend or relative
- Actions of the victim or a third party contributed significantly to the likelihood of a collision occurring and/or death resulting
- The offender's lack of driving experience contributed to the commission of the offence
- The driving was in response to a proven and genuine emergency falling short of a defence

STEP 2

Adjust the figure within the range for the aggravating and mitigating factors affecting the offender.

AGGRAVATING FACTORS of offender

- Previous convictions for driving offences
- Relevant convictions for other offences
- Offence committed whilst on bail

MITIGATING FACTORS of offender

- Good character
- Good driving record
- Genuine remorse
- Disability or ill-health¹⁸
- Steps taken to address offending behavior
- Youth and/or lack of maturity where it explains offending
- Assistance given to the authorities

STEP 3

Credit should be given for a guilty plea as appropriate. A reduction of one-third should be given for a guilty plea entered at the earliest practicable opportunity. Credit will usually reduce significantly the later the plea.

STEP 4

Adjust the figure on assessing totality if sentencing for more than one offence. If appropriate, dangerousness should also be considered.

¹⁸ Persons with disabilities are persons with a physical, mental, or sensory impairment, whether permanent or temporary, that may limit the capacity to fully and effectively perform one or more essential activities of daily life, and effectively participate in society on an equal basis with others, and which can be caused or aggravated by the economic and social environment (adapted from **Art 1 of the IACPWD**).

STEP 5

Credit must be given for time spent on remand for the relevant offence, to be calculated with precision¹⁹.

STEP 6

Finally, consider ancillary and restraining orders, confiscation, compensation, etc, if applicable.

Pass the Sentence


The court must give reasons, explaining the construction of the sentence in a way that can be readily understood by the defendant, in particular justifying any departure from the guideline.

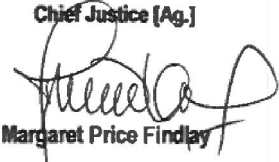
¹⁹ See the requirements for assessing time on remand in **Gomes v The State 2015** UKPC 8, see para 12; **Shonovia Thomas v The Queen** Appeal No.6 of 2010; and **Romeo Da Costa Hall v The Queen 2011** CCJ 6. The judge will declare the precise time spent on remand which is to be credited to the sentence passed and it is for the prison to calculate the earliest date of release taking into account the time on remand - see para 6 of **Practice Direction 8A of 2019**.


EFFECTIVE DATE

This Sentencing Guideline will come into effect on 6th January, 2025.

Date this 18th day of December, 2024.


Mario Michel
Chief Justice (Ag.)


Margaret Price Findlay
Justice of Appeal


Iain Morley
High Court Judge

31st December, 2024.

No. 121

This guideline should be read in conjunction with Practice Directions 8 A-D, numbers 1 to 4 of 2019 (7 A-D Anguilla)



A Sentencing Guideline of
The Eastern Caribbean Supreme Court

Violence Offences

Republished on 31st December, 2024

This Sentencing Guideline is made pursuant to the Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules, 2019¹.

The previous Sentencing Guideline for Violence Offences which came into effect on 12th April 2021, and reissued on 8th November 2021, is revoked and replaced by this Sentencing Guideline.

INTRODUCTION

This compendium sentencing guideline will deal with the following offences of violence:

- Inflicting unlawful violence with intent to cause really serious harm (page 4);
- Unlawful violence without intent to cause really serious harm (page 11); and

¹ Made pursuant to Rule 7(1) for the Territory of the Virgin Islands, Montserrat, Antigua and Barbuda, Saint Kitts and Nevis, Commonwealth of Dominica, Saint Lucia, Saint Vincent and the Grenadines and Grenada; and made pursuant to Rule 8(1) for Anguilla.

- Kidnapping (page 18).

Sections concerning other types of violence may be added in time.

Applicability of Guideline

In sentencing for these offences, the Chief Justice has issued guidelines and the court must apply the relevant guidelines and sentence accordingly, unless to do so would not be in the interests of justice. It is only permissible to depart from the guidelines in exceptional circumstances, where such departure can be justified. Clear reasons for not applying the guideline must be given when passing sentence.

It is required that every court will follow the steps below, with each relevant step being identified to the offender in public before the sentence is passed. Starting points and ranges apply to all adult offenders,² whether they have pleaded guilty or been convicted after a trial. Credit for a guilty plea is taken into consideration only at Step 3.

Step 1

Consider the seriousness of the offence. Find the starting point by consulting the guideline and the grid below. Then adjust the figure within the range for the aggravating and mitigating factors of the offence.

Step 2

Adjust the figure within the range for the aggravating and mitigating factors affecting the offender.

Step 3

Adjust the figure on assessing discount for any plea of guilty, if applicable.

² For persons below the age of 18, see the Practice Direction 8D on Sentencing Guidelines No. 4 of 2019.

Step 4

Adjust the figure on assessing totality if sentencing for more than one offence. If appropriate, dangerousness should also be considered.

Step 5

Credit must be given for time spent on remand for the relevant offence, to be calculated with precision³.

Step 6

Finally, consider ancillary orders, confiscation, compensation, etc., if applicable.

Pass the Sentence

The court must give reasons, explaining the construction of the sentence in a way that can be readily understood by the defendant, in particular justifying any departure from the guideline.

³ See the requirements for assessing time on remand in **Gomes v The State 2015** UKPC 8, see para 12; **Shonovia Thomas v The Queen** Appeal No.6 of 2010; and **Romeo Da Costa Hall v The Queen 2011** CCJ 6. The judge will declare the precise time spent on remand which is to be credited to the sentence passed and it is for the prison to calculate the earliest date of release taking into account the time on remand - see para 6 of **Practice Direction 8A of 2019**.

INFLECTING UNLAWFUL VOILENCE WITH INTENT TO CAUSE REALLY SERIOUS HARM.

In the nine member states and territories of the ECSC, there are different maxima and different articulations for the offence of assault leading to 'wounding' or 'causing grievous bodily harm', (meaning really serious harm), 'with intent' to cause such harm. This guideline treats all such offences generically, whether as conspiracy, a substantive offence, or an attempt.

CONSTRUCTING THE SENTENCE

STEP 1

The first step in constructing a sentence is to establish the starting point for the offence.

A case concerning inflicting violence with intent to cause really serious harm requires an assessment of the seriousness of the offence, including the culpability of the offender, and its consequences, by reference to the harm caused.

To establish the starting point for the offence within the relevant range, there are four stages within Step 1.

FIRST STAGE

The first stage is to consider consequence by assessing the harm caused by the offence. This should include an assessment of the evidence.

Categories arising from CONSEQUENCE are as follows:

CONSEQUENCE - Category 1 - Highest

- Severe physical or psychological harm (which can be evidence from the victim)
- Severe long-term physical or psychological impact of injury (which can be evidence from the victim)
- Significant degradation/humiliation

CONSEQUENCE - Category 2 - High

- Serious physical or psychological harm

CONSEQUENCE - Category 3 - Lesser

- Lesser harm with no long term impact

SECOND STAGE

The second stage is to consider seriousness by assessing the culpability of the offender. Levels of SERIOUSNESS may be demonstrated by one or more of the following:

SERIOUSNESS - Level A - High

- Planning and premeditation
- Leading role in a group or gang attack
- Offence involves abduction
- Prolonged detention/sustained incident with repeated assault or multiple blows on the same victim
- Violence or threats of violence (beyond what is inherent in the offence)
- Forced entry into victim's home
- Intention to commit more serious harm than actually resulted from the offence
- Offence committed against those working in the public sector or providing a service to the public
- Use of weapon, or weapon equivalent (for example, shod foot, headbutting, use of acid, use of animal)
- Deliberate targeting of vulnerable person
- Offence motivated by hostility to sexual orientation, race, religion, disability, or group identity

SERIOUSNESS - Level B - Lesser

- None of the above applies

THIRD STAGE

Having determined the consequence and level of seriousness, find the starting point by consulting the grid below.

Maximum sentence is 'x'.⁴

Percentages⁵ are approximations and may not divide neatly, so that some adjustment is permissible.

	Seriousness - Level A	Seriousness - Level B
Consequence – Category 1	Starting point 75% x Range 60%-90% x	Starting point 50% x Range 35%-65% x
Consequence – Category 2	Starting point 60% x Range 45%-75% x	Starting point 35% x Range 20%-50% x
Consequence – Category 3	Starting point 45% x Range 30%-60% x	Starting point 20% x Range 5%-35% x

⁴ Where the maximum sentence is life imprisonment, simply for the purposes of the calculation 'x' is to be treated as 30 years, (but please note that this does not have the effect of meaning a sentence where the maximum is life can never be more than 30 years).

⁵ Percentages only apply to custodial terms, not to fines which remain within the discretion of the Court.

FOURTH STAGE

Having determined the starting point, consider the following non-exhaustive list of aggravating and mitigating factors of the offence and adjust upwards or downwards if required, taking care not to double-count factors considered in stages 1 and 2.

AGGRAVATING FACTORS of the offence

- Steps taken to prevent victim reporting or obtaining assistance
- Steps taken to prevent victim from assisting or supporting prosecution
- Offender motivated by revenge
- Attempts to conceal/dispose of evidence
- Blame wrongly placed on others
- Presence of others including relatives, especially children or partner of the victim
- Victim is a child or young person or particularly vulnerable, including through poverty
- Abuse of power and/or position of trust
- Commission of offence whilst under the influence of alcohol or drugs
- Violence in a domestic context

MITIGATING FACTORS of the offence

- Mental disorder or learning disability, or medical condition, if it helps to explain why the offence occurred
- Subordinate role in group or gang
- Lack of premeditation
- Excessive (and therefore not lawful) self-defence
- Significant provocation
- Seeking help by calling for medical assistance
- Offender subject to physical or mental abuse from victim

STEP 2

Adjust the figure within the range for the aggravating and mitigating factors affecting the offender.

AGGRAVATING FACTORS of offender

- Previous convictions for violence offences
- Relevant convictions for other offences
- Offence committed whilst on bail

MITIGATING FACTORS of offender

- Good character
- Genuine remorse
- Disability or ill-health⁶
- Steps taken to address offending behaviour

- Youth and/or lack of maturity where it explains offending
- Assistance given to the authorities

STEP 3

Credit should be given for a guilty plea as appropriate. A reduction of one-third should be given for a guilty plea entered at the earliest practicable opportunity. Credit will usually reduce significantly the later the plea.

STEP 4

Adjust the figure on assessing totality if sentencing for more than one offence. If appropriate, dangerousness should also be considered.

⁶ Persons with disabilities are persons with a physical, mental, or sensory impairment, whether permanent or temporary, that may limit the capacity to fully and effectively perform one or more essential activities of daily life, and effectively participate in society on an equal basis with others, and which can be caused or aggravated by the economic and social environment (adapted from Art 1 of the **IACPWD**).

STEP 5

Credit must be given for time spent on remand for the relevant offence, to be calculated with precision.⁷

STEP 6

Finally, consider ancillary and restraining orders, confiscation, compensation, etc., if applicable.

Pass the Sentence

The court must give reasons, explaining the construction of the sentence in a way that can be readily understood by the defendant, in particular justifying any departure from the guideline.

⁷ See the requirements for assessing time on remand in **Gomes v The State 2015** UKPC 8, see para 12; **Shonovia Thomas v The Queen** Appeal No.6 of 2010; and **Romeo Da Costa Hall v The Queen 2011** CCJ 6. The judge will declare the precise time spent on remand which is to be credited to the sentence passed and it is for the prison to calculate the earliest date of release taking into account the time on remand - see para 6 of **Practice Direction 8A of 2019**.

UNLAWFUL VIOLENCE WITHOUT INTENT TO CAUSE REALLY SERIOUS HARM

In the nine member states and territories of the ECSC, there are different maxima and different articulations for the offence of assault with basic intent, involving recklessness, sometimes leading to 'wounding' or 'causing grievous bodily harm' (meaning really serious harm), or to 'actual bodily harm', (but where there is no intention to cause really serious harm). This guideline treats all such offences generically, whether as conspiracy, a substantive offence, or an attempt.

CONSTRUCTING THE SENTENCE

STEP 1

The first step in constructing a sentence is to establish the starting point for the offence.

A case concerning reckless unlawful violence without intent to cause really serious harm requires an assessment of the seriousness of the offence, including the culpability of the offender, and its consequences, by reference to the harm caused.

To establish the starting point for the offence within the relevant range, there are four stages within Step 1.

FIRST STAGE

The first stage is to consider consequence by assessing the harm caused by the offence. This should include an assessment of the evidence.

Categories arising from CONSEQUENCE are as follows:

CONSEQUENCE - Category 1 - Highest

- Severe physical or psychological harm (which can be evidence from the victim)
- Severe long-term physical or psychological impact of injury (which can be evidence from the victim)
- Significant degradation/humiliation

CONSEQUENCE - Category 2 - High

- Serious physical or psychological harm

CONSEQUENCE - Category 3 - Lesser

- Lesser harm with no long term impact

SECOND STAGE

The second stage is to consider seriousness by assessing the culpability of the offender.

Levels of SERIOUSNESS may be demonstrated by one or more of the following.

SERIOUSNESS- Level A - High

- Violence arising in the course of another offence
- Leading role in a group or gang attack
- Offence involves abduction
- Prolonged detention/sustained incident with repeated assault on the same victim
- Violence or threats of violence (beyond what is inherent in the offence)
- Forced entry into victim's home
- Offence committed against those working in the public sector or providing a service to the public
- Use of weapon, or weapon equivalent (for example, shod foot, head-butting, use of acid, use of animal)
- Deliberate targeting of vulnerable person
- Offence motivated by hostility to sexual orientation, race, religion, disability, or group identity

SERIOUSNESS - Level B - Lesser

- None of the above applies

THIRD STAGE

Having determined the consequence and level of seriousness, find the starting point by consulting the grid below.

Maximum sentence is 'x'.

Percentages⁸ are approximations and may not divide neatly, so that some adjustment is permissible

	Seriousness -	Seriousness -
	Level A	Level B
Consequence – Category 1	Starting point 75% x Range 60%-90% x	Starting point 50% x Range 35%-65% x
Consequence – Category 2	Starting point 60% x Range 45%-75% x	Starting point 35% x Range 20%-50% x
Consequence – Category 3	Starting point 45% x Range 30%-60% x	Starting point 20% x Range 5%-35% x

⁸ Percentages only apply to custodial terms, not to fines which remain within the discretion of the Court.

FOURTH STAGE

Having determined the starting point, consider the following non-exhaustive list of aggravating and mitigating factors of the offence and adjust upwards or downwards if required, taking care not to double-count factors considered in stages 1 and 2.

AGGRAVATING FACTORS of the offence

- Steps taken to prevent the victim reporting
- Offender motivated by revenge
- Attempts to conceal/dispose of evidence
- Blame wrongly placed on others
- Presence of others including relatives, especially children or partner of the victim
- Victim is a child or young person or particularly vulnerable, including through poverty
- Abuse of power and/or position of trust
- Commission of offence whilst under the influence of alcohol or drugs
- Violence in a domestic context

MITIGATING FACTORS of the offence

- Subordinate role in group or gang
- Lack of premeditation
- Excessive (and therefore not lawful) self-defence
- Significant provocation
- Seeking help by calling for medical assistance

- Offender subject to physical or mental abuse from victim
- Mental disorder or learning disability, or medical condition, if it helps to explain why the offence occurred

STEP 2

Adjust the figure within the range for the aggravating and mitigating factors affecting the offender.

AGGRAVATING FACTORS of offender

- Previous convictions for violence offences
- Relevant convictions for other offences
- Offence committed whilst on bail

MITIGATING FACTORS of offender

- Good character
- Genuine remorse
- Disability or ill-health⁹
- Steps taken to address offending behaviour
- Youth and/or lack of maturity where it explains offending
- Assistance given to the authorities

STEP 3

Credit should be given for a guilty plea as appropriate. A reduction of one-third should be given for a guilty plea entered at the earliest practicable opportunity. Credit will usually reduce significantly the later the plea.

STEP 4

Adjust the figure on assessing totality if sentencing for more than one offence. If appropriate, dangerousness should also be considered.

⁹ Persons with disabilities are persons with a physical, mental, or sensory impairment, whether permanent or temporary, that may limit the capacity to fully and effectively perform one or more essential activities of daily life, and effectively participate in society on an equal basis with others, and which can be caused or aggravated by the economic and social environment (adapted from **Art 1 of the IACPWD**).

STEP 5

Credit must be given for time spent on remand for the relevant offence, to be calculated with precision.¹⁰

STEP 6

Finally, consider ancillary and restraining orders, confiscation, compensation, etc., if applicable.

Pass the Sentence

The court must give reasons, explaining the construction of the sentence in a way that can be readily understood by the defendant, in particular justifying any departure from the guideline.

¹⁰ See the requirements for assessing time on remand in **Gomes v The State 2015** UKPC 8, see para 12; **Shonovia Thomas v The Queen Appeal** No.6 of 2010; and **Romeo Da Costa Hall v The Queen 2011** CCJ 6. The judge will declare the precise time spent on remand which is to be credited to the sentence passed and it is for the prison to calculate the earliest date of release taking into account the time on remand - see para 6 of **Practice Direction 8A of 2019**.

KIDNAPPING

In the nine member states and territories of the ECSC, there are different words used to describe kidnapping, (e.g. the words 'false imprisonment' or 'unlawful confinement' are also used), and there are often different maximum sentences. For the purposes of this guideline, the word 'kidnapping' will be used generically to cover all types, whether as conspiracy, a substantive offence, or an attempt.

CONSTRUCTING THE SENTENCE

STEP 1

The first step in constructing a sentence is to establish the starting point for the offence.

A case of kidnapping requires an assessment of the seriousness of the offence, including the culpability of the offender, and its consequences, by reference to the harm caused. To establish the starting point for the offence within the relevant range, there are four stages within Step 1.

FIRST STAGE

The first stage is to consider consequence by assessing the harm caused by the offence. This should include an assessment of the evidence.

Categories arising from CONSEQUENCE are as follows:

CONSEQUENCE - Category 1 - Highest

- Severe physical or psychological harm (which can be evidence from the victim)
- Significant degradation/humiliation
- Severe long-term impact of detention

CONSEQUENCE - Category 2 - High

- Serious physical or psychological harm

CONSEQUENCE - Category 3 - Lesser

- Lesser harm with no long-term impact

SECOND STAGE

The second stage is to consider seriousness by assessing the culpability of the offender.

Levels of SERIOUSNESS may be demonstrated by one or more of the following:

SERIOUSNESS - Level A - High

- Planning and premeditation
- Leading role in a group or gang
- Prolonged detention
- Abduction for financial gain
- Abduction for sexual offending

- Offence committed to facilitate other serious offending
- Violence or threats of violence
- Forced entry into victim's home
- Offence committed against those working in the public sector or providing a service to the public
- Use of weapon
- Deliberate targeting of vulnerable person
- Offence motivated by hostility to sexual orientation, race, religion, disability, or group identity

LESSER SERIOUSNESS - Level B - Lesser

- None of the above applies
- Involved through coercion, intimidation or exploitation

THIRD STAGE

Having determined the consequence and level of seriousness, find the starting point by consulting the grid below.

Maximum sentence is 'x'.¹¹

Percentages¹² are approximations and may not divide neatly, so that some adjustment is permissible.

	Seriousness - Level A	Seriousness - Level B
Consequence – Category 1	Starting point 75% x Range 60%-90% x	Starting point 50% x Range 35%-65% x
Consequence – Category 2	Starting point 50% x Range 35%-65% x	Starting point 25% x Range 10%-40% x
Consequence – Category 3	Starting point 35% x Range 20%-50% x	Starting point 10% x Range non-cusdoial-25% x

¹¹ Where the maximum sentence is life imprisonment, simply for the purposes of the calculation 'x' is to be treated as 30 years, (but please note that this does not have the effect of meaning a sentence where the maximum is life can never be more than 30 years).

¹² Percentages only apply to custodial terms, not to fines which remain within the discretion of the Court.

FOURTH STAGE

Having determined the starting point, consider the following non-exhaustive list of aggravating and mitigating factors of the offence and adjust upwards or downwards if required, taking care not to double-count factors considered in stages 1 and 2.

AGGRAVATING FACTORS of the offence

- Steps taken to prevent the victim reporting
- Offender motivated by revenge
- Attempts to conceal/dispose of evidence
- Blame wrongly placed on others
- Presence of others including relatives, especially children or partner of the victim
- Abuse of power and/or position of trust
- Victim is a child or young person or particularly vulnerable, including through poverty
- Commission of offence whilst under the influence of alcohol or drugs
- Violence in a domestic context
- Third parties are threatened

MITIGATING FACTORS of the offence

- Subordinate role in group or gang
- Lack of premeditation
- Mental disorder or learning disability, or medical condition, if it helps to explain why the offence occurred

STEP 2

Adjust the figure within the range for the aggravating and mitigating factors affecting the offender.

AGGRAVATING FACTORS of offender

- Previous convictions for kidnapping offences
- Relevant convictions for other offences
- Offence committed whilst on bail

MITIGATING FACTORS of offender

- Good character
- Genuine remorse
- Evidence of genuine attempt to address offending behaviour.
- Disability or ill-health¹³
- Youth and/or lack of maturity where it explains offending
- Offending motivated by genuinely desperate circumstances
- Assistance given to the authorities

STEP 3

Credit should be given for a guilty plea as appropriate. A reduction of one-third should be given for a guilty plea entered at the earliest practicable opportunity. Credit will usually reduce significantly the later the plea.

STEP 4

Adjust the figure on assessing totality if sentencing for more than one offence. If appropriate, dangerousness should also be considered.

¹³ Persons with disabilities are persons with a physical, mental, or sensory impairment, whether permanent or temporary, that may limit the capacity to fully and effectively perform one or more essential activities of daily life, and effectively participate in society on an equal basis with others, and which can be caused or aggravated by the economic and social environment (adapted from **Art 1 of the IACPWD**).

STEP 5

Credit must be given for time spent on remand for the relevant offence, to be calculated with precision.¹⁴

STEP 6

Finally, consider ancillary and restraining orders, confiscation, compensation, etc., if applicable.

Pass the Sentence


The court must give reasons, explaining the construction of the sentence in a way that can be readily understood by the defendant, in particular justifying any departure from the guideline.

¹⁴ See the requirements for assessing time on remand in **Gomes v The State 2015** UKPC 8, see para 12; **Shonovia Thomas v The Queen Appeal** No.6 of 2010; and **Romeo Da Costa Hall v The Queen 2011** CCJ 6. The judge will declare the precise time spent on remand which is to be credited to the sentence passed and it is for the prison to calculate the earliest date of release taking into account the time on remand - see para 6 of **Practice Direction 8A of 2019**.

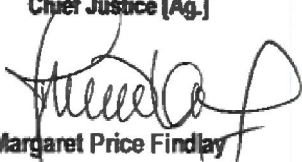
EFFECTIVE DATE

This Sentencing Guideline will come into effect on 6th January, 2025.

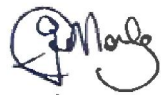
Date this 18th day of December, 2024.



Mario Michel
Chief Justice (Ag.)



Margaret Price Findlay
Justice of Appeal



Iain Morley
High Court Judge

31st December, 2024.

No. 122

EASTERN CARIBBEAN SUPREME COURT

(SENTENCING GUIDELINES) RULES 2019

PRACTICE DIRECTION 8A NO. 1 OF 2025

(REISSUE)

GENERAL SENTENCING PRINCIPLES

This Practice Direction is made pursuant to rule 7(1) of the Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules 2019 and supplements rule 8(2).

Practice Direction 8A, No. 1 of 2019 is revoked and substituted by this practice direction.

INTRODUCTION

This Practice Direction highlights the importance of the court giving reasons when sentencing, the factors which the court should take into consideration and how these should be included as part of the sentencing remarks.

THE IMPORTANCE OF GIVING REASONS

All sentences must be clearly expressed and the reasoning given. Factors taken into consideration, whether as aggravating or mitigating, should be set out as part of the sentencing remarks. Any departure from the guidelines must be explained as part of the reasoning. In particular, the court must ensure that there is no element of double counting, meaning that a factor taken into account at one step should not then be taken into account again at a later step.

LIST OF RELEVANT FACTORS

Below is a non-exhaustive list of relevant factors to which the court must have regard.

1. *Credit for an early guilty plea*¹

An early guilty plea is in the public interest and should attract credit of one-third. It is the duty of defence counsel to tell an offender about this. In addition an offender should be told it by the court on first appearance and in any event no later than when the Defendant is arraigned. After arraignment the amount of credit you will receive for a guilty plea reduces on a sliding scale all the way to trial. A guilty plea after the first opportunity attracts up to ¼ (maximum 25% reduction) down to a maximum of 1/10 (10% off the sentence) for a guilty plea on the first day of trial. Reasons must be given if the court decides to give no or reduced credit.

2. *Sentence indication*

The court may give a formal indication of sentence prior to plea if sought by the defence. The relevant procedure is described in ECSC Practice Direction No. 2 of 2015². The court should only give this indication if it is appropriate in all the circumstances and the usual principles of sentencing must be applied.

3. *Totality*

- a. The principle of totality requires a court, when sentencing for more than one offence, to pass a sentence that reflects the total criminality but which is just and proportionate so that the sentence does not exceed what is necessary to reflect the overall offending behaviour. This principle applies regardless of whether the offences form a single episode of criminality or two or more separate acts of criminality.

¹ See the **Practice Direction No. 1 of 2015** at <https://www.eccourts.org/wp-content/uploads/2012/09/Early-Guilty-Plea-Scheme-PD-No.-1-of-2015.pdf>.

² See the **Practice Direction No. 2 of 2015** at <https://www.eccourts.org/wp-content/uploads/2012/09/Sentence-Indications-re-issue-PD-No.-2-of-2015.pdf>.

- b. A sentencing court must, however, take care when applying the totality principle. Public confidence in the administration of justice requires the Court to explain clearly why it has taken a particular approach to multiple sentences. A court must apply the guideline on the totality principle issued by the ECSC in on 6th January 2025, when a defendant is being sentenced for two or more offences.

4. *Time served on remand*

All offenders are entitled to credit for the time they have spent in custody on remand for the offence. The court shall state the precise number of days to be credited. The prison authorities, prosecution and defence practitioners must ensure that the court is furnished with accurate information relating to the time spent in custody on remand.³

5. *Pre-sentence reports*

Whether any report is ordered and if any recommendation is followed remains a matter for the discretion of the court. Reasons should be given when a recommendation is or is not followed. If possible, the report must consider the impact of the offence on any victim.

6. *Prevalence*

If there is a high incidence of a particular offence then the court is entitled to take this into account. If it affects the sentence, then reasons must be given. Prevalence can be established by taking judicial notice of local circumstance if appropriate, or by receiving evidence from local police, prosecutors, probation officers, or other appropriate persons.

³ See **Gomes v The State [2015]** UKPC 8, at paragraph 12; **Shonovia Thomas v The Queen** BVIHCRA2010/0006; and **Romeo Da Costa Hall v The Queen** [2011] CCJ 6 (AJ).

7. *Good character*

As a general principle of sentencing good character is a mitigating factor affecting the offender and should result in a reduction of sentence. However, there may be circumstances where the combination of aggravating factors makes the offence so abhorrent that the good character of a defendant may be insufficient to merit a reduction in sentence.

8. *Bad character*

In most cases, bad character, if relevant, is an aggravating factor affecting the offender and may result in an increase in sentence.

9. *Voluntary intoxication*

Voluntary intoxication, whether by drink or drugs, is not a mitigating factor save in exceptional circumstances, and in many cases may be aggravating.

10. *Abuse of trust*

Abuse of trust is an aggravating factor, particularly in sexual offences and offences of dishonesty.

11. *Dangerousness*

In cases involving serious physical and/or sexual violence the court may find the offender to be 'dangerous'. The reasons for such a finding must be expressed in the sentencing remarks.

- a. Dangerousness is established by a finding that the defendant presents a significant ongoing risk of serious harm to any member of the public by the commission of future similar offences. "Serious harm" means death or serious personal injury, whether physical or psychological.
- b. The finding can only be made on the extreme facts of the current offence alone or on the combination of the current offence with previous serious offending.
- c. The court must seek a report on the issue but is not necessarily bound to follow any recommendation. Reasons for not following such a recommendation must be given as part of the sentence.
- d. If the offender is found to be 'dangerous' the court may impose a longer than commensurate sentence. If so, the court should specify the original sentence and additional term imposed to reflect the finding of dangerousness.
- e. Dangerousness should be considered at step 4 as part of the process of considering the principle of totality.

12. *Assistance to the prosecuting authorities*

If an offender has provided accurate and hitherto unknown information to the prosecuting authorities, enabling serious criminal activity to be stopped and criminals to be apprehended, then in accordance with the case of *Ong v Regina* 2012⁴ there may be a further reduction in sentence. Such information must be confirmed in evidence in camera by a senior police officer.

13. *Mentally impaired offenders*

Mental impairment⁵ is a relevant consideration if the offender has a diagnosed mental illness or a severe impairment. This must be supported by a report from a suitably qualified professional.

⁴ See *Ong v Regina* 2012 NZLR 258 at paragraph 13.

⁵ See *The Queen v Godwin Modeste*, GDAHCR2016/0064.

14. *Delay*

It may be a mitigating factor under Step 2 warranting in appropriate circumstances some reduction in a sentence if there has been unreasonable delay between the time of charge and of sentence. The reduction given is at the discretion of the judicial officer who shall exercise it after consideration of all relevant factors including the Defendant's contribution to the delay⁶.

15. *Principals and Accessories*

Care must be taken when dealing with sentencing for offences of joint criminal enterprise to distinguish as appropriate the roles played between principals and accessories, and construct the sentence accordingly.⁷

16. *Attempts & Conspiracy*

In sentencing for inchoate offences the court should apply the guideline for the substantive offence. Sentence should be based on the seriousness of the harm intended, and culpability, even if not caused.

- a. Concerning attempts, having calculated the appropriate sentence using the relevant guideline there should be some small adjustment to reflect the fact that the completed offence was not carried out.

- b. Concerning conspiracies, it may be appropriate to reflect the fact that an offender voluntarily abandoned the plan or left the agreement.
- c. Disruption, even at an early stage, by police or other agencies should not, ordinarily reduce the sentence imposed.

⁶ See **Urban St.Brice v The AG** SLUHCVP2018/0036 where there is dictum that "A finding that a defendant is largely responsible for the delay in the completion of his criminal trial is not decisive of whether the right to a fair hearing within a reasonable time has been breached, as the time may come where the overall delay is so great, irrespective of who caused it, that the court is impelled to conclude that the right has been breached "

⁷ See: **Aguillera et al v The State** 2016 Trinidad & Tobago Appeals 578 of 2015; **R v Raji et al** [2022] EWCA Crim 1594; **R v Grant et al** [2021] EWCA Crim 1243; **R v Watson et al** [2023] EWCA Crim 960.

- d. Reasons should always be given for an adjustment to an otherwise appropriate sentence.

EFFECTIVE DATE

This Practice Direction as updated will come into effect on 6th January, 2025.

Dated this 20th day of December, 2024.



Mario Michel
Chief Justice [Ag.]

31st December, 2024.

No. 123

EASTERN CARIBBEAN SUPREME COURT
(SENTENCING GUIDELINES) RULES 2019
PRACTICE DIRECTION 8C
NO. 2 OF 2025
(REISSUE)
WHEN TO IMPOSE A SUSPENDED SENTENCE

This Practice Direction is made pursuant to rule 7(1) of the Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules 2019 and supplements rule 8(4).

Practice Direction 8C, No. 3 of 2019 is revoked and substituted by this practice direction.

INTRODUCTION

This practice direction highlights the factors to which the court must have regard when imposing a suspended sentence.

IMPOSING A SUSPENDED SENTENCE

1. In certain circumstances, a sentence of imprisonment may be suspended.
2. A suspended sentence remains a prison sentence and should not be passed unless a term of imprisonment is warranted. It should not be considered another form of non-custodial penalty like probation or community service.
3. Subject to local legislation making it permissible, it should be considered rare to suspend a sentence of more than two years' imprisonment, and rare to suspend for more than two years.
4. If a sentence is legally capable of being suspended, suspension should always be considered, with explanation given if the sentence will, or will not, be suspended.
5. The court may consider the following non-exhaustive list of factors in exercising its discretion whether to suspend a sentence:
 - a. Can appropriate punishment only be achieved by immediate custody?
 - b. Does the offender present a risk or danger to the public or to the victim?
 - c. Has there been a history of poor compliance with court orders?
 - d. Is there a realistic prospect of rehabilitation?
 - e. If sentencing a person under 21, is there a realistic prospect that incarceration will so affect an offender as to turn that person more towards criminality and less toward rehabilitation?
 - f. Is there strong personal mitigation?
 - g. What will be the impact of an immediate custodial sentence on dependent relatives, employees, and the community?
6. When suspending imprisonment, the offender must be clearly told of the consequences of further offending during the period of suspension. In certain jurisdictions, this may mean the automatic imposition of the term suspended. If imposed, the court must consider whether the term is concurrent or consecutive, in whole or in part, to the sentence for the later offending. The principle of totality should always be considered.
7. To assist in assessing whether a sentence should be suspended, there should be consideration of the below table.

<u>Factors Against Suspension</u>	<u>Factors Favouring Suspension</u>
Offender presents a risk/danger to the public	Realistic prospect of rehabilitation.
Appropriate punishment can only be achieved by immediate custody.	Strong personal mitigation.
History of poor compliance with court orders	Immediate custody will result in significant harmful impact upon others

EFFECTIVE DATE

This Practice Direction as updated will come into effect on 6th January, 2025.

Dated this 20th day of December, 2024.



Mario Michel
Chief Justice [Ag.]

31st December, 2024.

No. 124

**EASTERN CARIBBEAN SUPREME COURT
(SENTENCING GUIDELINES) RULES 2019**

**PRACTICE DIRECTION 8D
NO. 3 OF 2025
(REISSUE)**

SENTENCING PRINCIPLES CONCERNING PERSONS BELOW 18

This Practice Direction is made pursuant to rule 7(1) of the Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules 2019 and supplements rule 8(5).

Practice Direction 8D, No. 4 of 2019 is revoked and substituted by this practice direction.

INTRODUCTION

This practice direction highlights the consideration the court must have when sentencing persons below the age of 18 and how these must be applied in determining sentence, where there is no domestic legislation restricting the sentencing of children.

FACTORS TO BE CONSIDERED BY THE COURT

1. In this Practice Direction, a "child" is a person under the age of 18, divided into two categories, where a "minor" is a child under 14 and a "young person" is a child aged between 14 and 17.
2. When sentencing minors or young persons as at the date of the offence a court must have regard to:
 - the principal aim, to prevent offending by children and young persons;

- the aim of rehabilitation; and
 - the welfare of the minor or young person.
3. In cases involving an offender who was a minor at the date of offence, the court should reduce the sentence to at most half of the appropriate term for an adult to reflect their youth and immaturity.
 4. In cases involving a young person at the date of the offence, the court should reduce the sentence to at most two-thirds of the term appropriate for an adult offender to reflect their youth and immaturity.
 5. A custodial sentence should always be a measure of last resort for minors and young persons and a custodial sentence may only be imposed when the offence is so serious that no other sanction is appropriate.
 6. It is important to avoid "criminalising" minors and young persons unnecessarily. The primary purpose of sentencing minors or young persons is to encourage them to take responsibility for their own actions and promote re-integration into society rather than to punish.
 7. Whilst the seriousness of the offence will be important, the approach to sentencing should focus more on the individual offender, rather than the offence. For a minor or young person the court should focus on rehabilitation where possible. A court should also consider the effects the sentence is likely to have on the minor or young person (both positive and negative) as well as any underlying factors contributing to the offending behaviour.
 8. Any restriction on liberty must be commensurate with the seriousness of the offence. In considering the seriousness of any offence, the court must consider the minor or young person's culpability in committing the offence and any harm which the offence caused, was intended to cause, or might foreseeably have caused.
 9. It is also important to bear in mind any factors that may diminish the culpability of a minor or young person. The court should consider the extent to which any minor or young person has been acting impulsively and whether their conduct has been affected by inexperience, emotional volatility or negative influences. They may not fully appreciate the effect their actions can have on other people and may not be capable of fully understanding the distress and pain they cause to the victims of their crimes. Minors and young persons are also likely to be susceptible to peer pressure and other external influences, and changes taking place during adolescence can lead to experimentation resulting in criminal behaviour. When considering a minor or young person's age, their emotional and developmental age is of at least equal importance to their chronological age (if not greater).
 10. For these reasons, minors and young persons are likely to benefit from being given an opportunity to address their behaviour and may be receptive to changing their conduct. They should, if possible, be given the opportunity to learn from their mistakes without undue penalisation or stigma, especially as a court sanction might have a significant effect on the educational or employment prospects of the minor or young person.
 11. Offending by a minor or young person is often a phase which passes fairly rapidly and so the sentence should not result in the alienation of the minor or young person from society if that can be avoided.
 12. The impact of punishment is likely to be felt more heavily by a minor or young person in comparison to an adult as any sentence will seem longer due to their young age. In addition, incarceration may interfere with a minor or young person's education and this should be considered by a court at sentencing.
 13. In having regard to the welfare of the minor or young person, a court should ensure that it is alert to:
 - any mental health problems or learning difficulties/disabilities;
 - any experiences of brain injury or traumatic life experience (including exposure to drug and alcohol abuse) and the developmental impact this may have had;

- any speech and language difficulties and the effect this may have on the ability of the minor or young person (or any accompanying adult) to communicate with the court, to understand the sanction imposed or to fulfil the obligations resulting from that sanction;
 - the vulnerability of minors and young persons to self-harm, particularly within a custodial environment; and
 - the effect on minors and young persons of experiences of loss, neglect and abuse.
14. Factors regularly present in the background of minors and young persons that come before the court include deprived homes, poor parental employment records, low educational attainment, early experience of offending by other family members, experience of abuse and/or neglect, negative influences from peer associates and the misuse of drugs and/or alcohol. The court should always seek to ensure that it has access to information about how best to identify and respond to these factors and, where necessary, that a proper assessment has taken place in order to enable the most appropriate sentence to be imposed.
15. The court should consider the reasons why, on some occasions, a minor or young person may conduct themselves inappropriately in court (e.g. due to nervousness, a lack of understanding of the system, a belief that they will be discriminated against, peer pressure to behave in a certain way because of others present, a lack of maturity, etc) and take this into account.
16. When considering a minor or young person who may be particularly vulnerable, a sentencing judge should consider which available disposal is best able to support the minor or young person and which disposals could potentially exacerbate any underlying issues. This is particularly important when considering custodial sentences as there are concerns about the effect on vulnerable minors and young persons of being in closed conditions, with significant risks of self-harm, including suicide.
17. These principles do not undermine the fact that the sentence should reflect the seriousness of the offence. Further guidance on assessing the seriousness of an offence can be found in the specific offence guideline.

EFFECTIVE DATE

This Practice Direction as updated will come into effect on 6th January, 2025.

Dated this 20th day of December, 2024.



Mario Michel
Chief Justice [Ag.]

31st December, 2024.

BY COMMAND

KATTIAN BARNWELL-SCOTT
Secretary to Cabinet
Prime Minister’s Office

Prime Minister’s Office
St. Vincent and the Grenadines.

31st December, 2024.

DEPARTMENTAL AND OTHER NOTICES

EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
SAINT VINCENT AND THE GRENADINES

A.D. 2025

JANUARY CRIMINAL ASSIZES

NOTICE is hereby given that a sitting of the Eastern Caribbean Supreme Court (St. Vincent Circuit) in its Criminal Jurisdiction, will be held at the Courtroom No.2, High Court of Justice, D' Ville Plaza, Halifax Street, Kingstown, on **Tuesday 14th January, 2025 at 9:00** in the forenoon and continuing.

ALL PARTIES CONCERNED also such persons as are bound by recognizance, to prosecute, answer charges, give evidence or summoned as jurors or witnesses are hereby commanded to give their personal attention and attendance.

NAKITA D. CHARLES (Ms.),
Deputy Registrar
High Court.

THE BUSINESS COMPANIES (AMENDMENT AND CONSOLIDATION) ACT,
CHAPTER 149 OF THE REVISED LAWS OF
SAINT VINCENT AND THE GRENADINES, 2009

HANKEY LIMITED (No. 23254 BC 2016)
(IN VOLUNTARY LIQUIDATION)

Pursuant to Section 167(4) of the Act, Notice is hereby given that the aforementioned Company has passed the relevant resolutions as required by the Act and:

- 1. Is now in voluntary liquidation prior to being wound up and dissolved;
- 2. Commenced its dissolution on the 20th December, 2024 AND;
- 3. Has duly appointed Seyma Yavuz of Talacker 41, 8001 Zurich, Switzerland, as Liquidator.

SEYMA YAVUZ,
Liquidator.

THE BUSINESS COMPANIES (AMENDMENT AND CONSOLIDATION) ACT,
CHAPTER 149 OF THE REVISED LAWS OF
SAINT VINCENT AND THE GRENADINES, 2009

MILLGROVE LTD. (No. 22232 BC 2014)
(IN VOLUNTARY LIQUIDATION)

Pursuant to Section 167(4) of the Act, Notice is hereby given that the aforementioned Company has passed the relevant resolutions as required by the Act and:

- 1. Is now in voluntary liquidation prior to being wound up and dissolved;

2. Commenced its dissolution on the 23rd December, 2024 AND;

3. Has duly appointed Pius Moos of Altgasse 21, 6340 Baar, Switzerland, as Liquidator.

PIUS MOOS,

Liquidator.

THE BUSINESS COMPANIES (AMENDMENT AND CONSOLIDATION) ACT,

CHAPTER 149 OF THE REVISED LAWS OF

SAINT VINCENT AND THE GRENADINES, 2009

FLYDRAGON LTD. (No. 24208 BC 2017)

(IN VOLUNTARY LIQUIDATION)

Pursuant to Section 167(4) of the Act, Notice is hereby given that the aforementioned Company has passed the relevant resolutions as required by the Act and:

1. Is now in voluntary liquidation prior to being wound up and dissolved;

2. Commenced its dissolution on the 19th December, 2024 AND;

3. Has duly appointed Wassim Lababedi of 6th Floor, Green Hill Bld, Talat Al Khayat, Beirut, Lebanon as Liquidator.

WASSIM LABABEDI,

Liquidator.