

64.4 Judicial approach

R v Surgenor 2018 EWCA Crim 357 D pleaded to aggravated burglary. The Judge placed the offence in Category 1 and started at 9 years. Held. On a strict mechanistic application of the relevant guideline this case is in Category 1. But the guideline also contains a non-exhaustive list of additional factual elements which enables a court to adjust upwards or downwards the starting point. A tariff is a tariff for the general and the sentencer is sentencing the particular individual for the particular offence, which requires a close assessment and analysis of the culpability and harm occasioned against the personal mitigation available. In this case there was considerable personal mitigation. Ultimately the sentencer, in making that analysis of culpability and harm against the personal mitigation, must ensure that a just and proportionate sentence is imposed. A strict mechanistic application of the guideline would result here in a sentence which would be contrary to the interests of justice. We start at 5 years, so with plea, 3 years 4 months' YOI, not 6 years.

For more detail, see [221.7](#).

Note: A summary of the principles might be to look at all the relevant factors and move from the starting point up and down to arrive at a just provisional sentence, before applying the plea discount. Ed.