

254.4a *Judicial guidance*

R v Harvey 2018 EWCA Crim 755 D pleaded to making an explosive substance. Held. para 22 Three matters must be considered in this type of case, namely: i) the background of the offence and the motivation of the offender, ii) the potential for harm posed by the explosive substance (even if there was no intention of use), and iii) the strong need for deterrence. In *R v Riding* 2009 EWCA Crim 892, 2010 1 Cr App R (S) 7 (p 37), this Court approved reference to sentence for firearms offences as being the nearest analogy.

254.5 *Cases*

R v Harvey 2018 EWCA Crim 755 D pleaded to making an explosive substance. D lived an isolated life and displayed traits of schizoid and paranoid personality disorders. He was interested in scientific experiments and had turned his kitchen into a laboratory which contained, among other things, chemicals, test tubes, explosives and propellants, bomb-making books, clippings relating to the 7/7 bombings in London and a box of screws. Over a period of three years, D had fallen out with his immediate neighbours, who D thought caused too much noise. The neighbours lived in fear of D's 'unsocial actions' and what he was going to do next. D decided to scare the family to such an extent that they would be forced to move from their house. D constructed a small explosive consisting of a metal cube around an inch across, match heads and a flash bulb. The cube was tightly taped up with two long wires emerging from it. An expert who later examined the device said that if an electric current from a battery was passed through the wires, the flash bulb would operate and ignite the match heads, causing a loud bang. The expert also said that the fragments of the metal cube would be projected away from the explosion and potentially harm people or damaging property. D attached another wire to the device and lowered it from his upstairs window to just above the fence between him and his neighbours. He left the device hanging there. The father of the family next door, V, saw the device, took his young children inside and then came back to take photographs. He thought it was a nail bomb. As this was only four days after the Manchester Arena bombing, V said he was reluctant to call the police and so instead went to D's front door but there was no answer. V then saw D pulling the device back inside and heard him say, "It's just wires." V then took the photographs he had taken to his local police station. Police then searched D's house and found the device in question as well as the homemade laboratory. In interview D said that he had dangled the device to frighten V and had not intended to detonate it. In his victim personal statement, V said that he thought daily about the likely consequences of D returning home and spoke of the fear and distress that D had caused him and his family. D was aged 54 at the time of sentence and had no previous convictions. The pre-sentence report indicated that D displayed limited victim empathy. He was assessed as posing a high risk of serious harm to the public. There was a 5½ month delay before sentence because of D's ill-health, caused by a rat bite to D when he was in custody. The Judge considered D to be a rather eccentric man who conducted amateur experiments of no great threat. He considered that D had achieved his purpose, which was to scare his neighbours. The Judge started at 5 years and reduced that by a third for the guilty plea. Held. D made not just an explosive but a small, functional, explosive device, which had the potential to injure people in proximity to it, albeit not seriously. V's children were exposed and, unsurprisingly, the whole family were very scared. The Judge was entitled to take into account the diversion of public resources in Manchester. The Judge had to give effect to the strong need for deterrence. After full discount for the plea, **28 months** not 3 years 4 months.