

DISQUALIFICATION FROM KEEPING AN ANIMAL.: BREACH OF VOLUME 1

51.2a Breach Offences Guideline 2018

Breach Offences Guideline 2018, see www.banksr.com Other Matters Guidelines tab In force 1 October 2018 p 51

Breach of disqualification from keeping an animal

[Animal Welfare Act 2006 \(section 32\)](#)

STEP ONE

Determining the offence category

The court should determine the offence category with reference only to the factors listed in the tables below. In order to determine the category the court should assess **culpability** and **harm**.

Culpability

A	Serious and/or persistent breach
B	All other cases

Harm

The level of **harm** is determined by weighing up all the factors of the case to determine the harm that has been caused or was at risk of being caused.

In assessing any risk of harm posed by the breach, consideration should be given to the original offence(s) for which the order was imposed and the circumstances in which the breach arose.

Category 1	<ul style="list-style-type: none"> • Breach causes or risks death or very serious harm or suffering to animal(s) • Breach results in risk of or actual serious harm to individual(s)
Category 2	• Cases falling between Categories 1 and 3
Category 3	<ul style="list-style-type: none"> • Breach causes or risks little or no harm or suffering to animal(s) • Breach results in very low risk of or little or no harm to individual(s)

51.2b

STEP

Starting point and category range

TWO

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range from the appropriate sentence table below. The starting point applies to all offenders irrespective of plea or previous convictions. The court should then consider further adjustment within the category range for aggravating or mitigating features.

Harm	Culpability	
	A	B
Category 1	<p>Starting point 16 weeks' custody</p> <p>Category range 6 weeks' to 26 weeks' custody</p>	<p>Starting point 8 weeks' custody</p> <p>Category range Medium-level community order to 16 weeks' custody</p>

Harm	Culpability	
	A	B
Category 2	Starting point 8 weeks' custody	Starting point Medium-level community order
	Category range Medium-level community order to 16 weeks' custody	Category range Band C fine to high-level community order
Category 3	Starting point Medium-level community order	Starting point Band A fine
	Category range Band C fine to high-level community order	Category range Discharge to Band B fine

For the meaning of high-level and medium-level community orders, see [15.12](#). For a Band A-C fine, see [58.27](#).

51.2c [Aggravating and mitigating factors]

Page 54 The table below contains a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point.

In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Factors increasing seriousness

Statutory aggravating factors:

Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction

Offence committed whilst on bail

Other aggravating factors:

Breach committed immediately or shortly after order made

History of disobedience to court orders

Breach conducted in commercial context

Breach involves deceit regarding ownership of/responsibility for animal

Harm risked or caused to multiple animals (where not taken into account at step one)

Offence committed on licence or while subject to post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

Breach committed after long period of compliance

Genuine misunderstanding of terms of order

Prompt voluntary surrender/admission of breach or failure

Age and/or lack of maturity where it affects the responsibility of the offender

Mental disorder or learning disability where linked to the commission of the offence

Sole or primary carer for dependent relatives

STEP THREE to STEP EIGHT These are: Consider assistance to the prosecution, Reduction for guilty plea, Totality principle, Ancillary orders, Duty to give reasons and Consider time spent on bail with a tag.