

Due to a typesetting error, some of the footnotes in the book have been printed incorrectly. We have listed the relevant footnote corrections in these chapter updates.

**Footnote number 619** should read: In force where the conviction was on or after 3 December 2012, Criminal Justice Act 2003 s 226A(1)(a) and 226B(1)(a) and Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No 4 and Savings Provisions) Order 2012 para 2 and 6.

**Footnote number 620** should read: Criminal Justice Act 2003 s 226A(a) and 226B(a)

**Footnote number 621** should read: Road Traffic Offenders Act 1988 s 35A(1)-(3) and (4)(e) and (f) and Powers of Criminal Courts (Sentencing) Act 2000 s 147A(1)-(3) and (4)(e) and (f) inserted by Coroners and Justice Act 2009 s 2 and Sch 16 paras 2 and 5. Schedule 16 is in force from 13/4/15.

**Footnote number 622** should read: Criminal Justice Act 2003 (Surcharge) Order 2012 2012/1696 and Criminal Justice Act 2003 (Surcharge) (Amendment) Order 2016 2016/398 both provide in Table 1 a £30 (or £20 for offences committed before 8/4/16) penalty for offences specified in Powers of Criminal Courts (Sentencing) Act 2000 s 76. An extended sentence under Criminal Justice Act 2003 s 226B is so specified.

**Footnote number 623** should read: Criminal Justice Act 2003 s 246A as amended by Legal Aid, Sentencing and Punishment of Offenders Act 2012 s 125

**Footnote number 624** should read: Criminal Justice Act 2003 s 226A(1)(c)

**Footnote number 625** should read: Criminal Justice Act 2003 s 226B(1)(c)

**Footnote number 626** should read: Criminal Justice Act 2003 s 226A(1)(a) and 226B(1)(a) make this requirement.

**Footnote number 627** should read: Criminal Justice Act 2003 s 226A(10)(a) and 226B(8)(a) make this requirement.

**Footnote number 628** should read: Criminal Justice Act 2003 s 226A(10)(b) and 226B(8)(b) make this requirement.

**Footnote number 629** should read: Criminal Justice Act 2003 s 226A(2) makes this requirement, as inserted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 Sch 18 para 1.

**Footnote number 630** should read: The phrase in Criminal Justice Act 2003 s 226A(1)(c), inserted by Legal Aid, Sentencing and Punishment of Offenders Act 2012 s 124, is 'imprisonment for life'. However, until Criminal Justice and Court Services Act 2000 s 61 is in force, Legal Aid, Sentencing and Punishment of Offenders Act 2012 Sch 21 para 36 applies and 'custody for life' is substituted for those aged 18-20.

**Footnote number 631** should read: As amended by Offender Rehabilitation Act 2014 s 8(2)

**Footnote number 632** should read: As inserted by Offender Rehabilitation Act 2014 s 8(2). In force 1/2/15, Offender Rehabilitation Act 2014 (Commencement No 2) Order 2015 2015/40

**Footnote number 633** should read: As inserted by Offender Rehabilitation Act 2014 s 8(2). In force 1/2/15, Offender Rehabilitation Act 2014 (Commencement No 2) Order 2015 2015/40 para 2

### **56.39 Significant risk How to assess Is the relevant time etc.**

*R v Atkinson* 2018 EWCA Crim 1612 D pleaded to attempted robbery and having a bladed article. In November 2017, D entered a newsagent's brandishing a knife and demanded money. In interview he made full admissions. In early 2017, D's alcohol consumption had escalated and he was abusing drugs. That had led to D resigning from his job the week before the robbery. The pre-sentence report said, 'D had accumulated debts and had been subject to various personal crises. D's personal circumstances were very different at the date of the sentence. There was less stress and he was capable of acting and thinking rationally.' The Judge passed an 8½-year extended sentence (4½ years' custody 4 years' extended

licence). Held. The time to assess dangerousness is at the date of sentence, not the date of the offence. We quash the extended sentence as there was no basis for such a finding at the date of sentence.

### **56.75 Licence extension      How long should it be?**

*R v Hale* 2018 EWCA Crim 813 LCJ D pleaded to 24 child sex and child-image offences. D was then aged 16-19 years and the four known female victims were aged 14 or 15. Other victims could be seen on the sex images. There was consensual vaginal intercourse. One girl was plied with alcohol to assist him having sex with her. The images included oral and vaginal penetration of children aged 5-8. D was now aged 20 with no convictions. He was sentenced to a 14-year extended sentence (10 years' custody 4 years' extended licence). Held. para 41 The 4-year extension does not reflect D's age and the availability of treatment on his release, and is disproportionate. **2 years** instead.

*R v Philips* 2018 EWCA Crim 2008 D pleaded to three offences of attempting sexual activity with a child. In breach of his SOPO, D set up a Facebook account pretending to be 14-year-old boy. This led to messages with someone who said she was a 14-year-old girl. D wrote to her about taking her virginity with pictures of his penis. The girl was fictional. D was aged 28. In 2014, he had a conviction for inciting a female aged 16 to engage in penetrative sex (2 years). In 2017, D breached his SHPO (15 months). D was sentenced to a 14-year extended sentence (6 years' custody 8 years' extended licence). D appealed only the extended licence, which was the maximum. The defence said D was relatively young and had not been able to complete a sex offending course, the pre-sentence report appeared to say that D would address his desires and the Judge did not give the crushing effect of the sentence enough weight. Held. We see merit in those points. The licence is not tied to the seriousness of the offending. It should not be longer than necessary and should be just and proportionate. It should not crush the defendant. The Judge paid insufficient attention to the section about offender rehabilitation in the *Dangerous Offenders Guide*, [www.banksr.com](http://www.banksr.com) Other Matters Guidelines tab, at para 9.3.6, see **56.74**. **4 years'** extended licence not 8.