

108.8 Proper approach/procedure

R v Gamble 2019 EWCA 600 D pleaded to fraud. The Court had three schedules of TICs and D had signed them. However, they were not put to D at Court. The Judge said he had taken the TICs into account, which increased the loss from just over £4,800 to nearly £17,900. Held. para 19 The defendant [must¹] be explicitly asked whether he admits the further offences and asked to confirm if he wishes the court to take them into account. It can be done schedule by schedule and not offence by offence. This is not a mere formality but an essential safeguard to ensure that the defendant has given his express and unequivocal assent to being sentenced on this basis. It was not done below and we have now rectified it in this Court. The proper approach is as follows: 1 The court should determine the starting point for the offences without regarding the TICs. 2 The court should consider the aggravating factors [which includes the TICs] and the mitigating features of the case and adjust the starting point accordingly. 3 The court should consider and apply the further credit that may be due, e.g. a plea of guilty.

¹ The judgment says 'should' here. It is clear the Court meant 'must'.