

IN THE CENTRAL CRIMINAL COURT

THE KING

-v-

HARRY WHITTAKER

SENTENCING REMARKS OF HHJ SIMON MAYO KC

28 JANUARY 2026

Introduction

1. Harry Whittaker, please remain seated while I explain the sentence I am to pass and my reasons. A copy of these remarks will be provided to you and your legal representatives after the hearing.
2. On 27 October 2025 the jury convicted you of four offences contrary to section 4(1) of the Explosive Substances Act 1883:
 - a. Count 1¹: Possessing an explosive substance—black powder and pyrotechnic stars (641g).
 - b. Count 3: Making an explosive substance—potassium nitrate and carbon (62g).
 - c. Count 4: Making an improvised explosive device (IED) with a hot-wire igniter and flash powder.
 - d. Count 5: Possessing rocket motors containing explosive powder.
3. I must also sentence you for related offences to which you pleaded guilty:

¹ Using numbering on the trial indictment at B4 on the DCS.

- a. On 18 June 2024, possession of a regulated substance—potassium cyanide (7.5kg)—labelled ‘Weapon of mass destruction’, ‘Extreme Danger’, and ‘Zyklon B’. (Count 5)²
- b. On 27 June 2025, possession of mercury (Count 6) and thallium (Counts 7–8).
- c. Also on 27 June 2025, possession of ammunition without a certificate (Count 9).

Factual Basis of Sentence

4. On 6 May 2024 police searched your home at Hyde Road, Caddington, following concerns raised by paramedics who had attended you on 18 April 2024. In a brick-built shed at the foot of the garden officers found shelves containing jars and test tubes of chemicals, including regulated substances forming Counts 5–8 at B3. From a workbench drawer they recovered a rudimentary IED (Count 4), a potassium-nitrate/carbon mixture you had created (Count 3), and three rocket motors likely removed from commercial fireworks (Count 5).
5. Photographs of the shed—and your bedroom—showed a dirty, disorganised environment, with used syringes embedded in a chair. In the context of your heroin addiction, these conditions materially increased the risks posed by your storage, handling and experimentation with explosives and chemicals. Your assertions that you took sufficient precautions were not credible.
6. Other evidence of relevance to mindset and risk included:
 - a. The labelling of the potassium cyanide as a ‘weapon of mass destruction’ and ‘Zyklon B’.
 - b. The ‘Annihilator’ toxic-gas firebomb device and matching labels bearing racist and antisemitic sentiment.

² Using the numbering on the indictment at B3 on the DCS.

- c. Communications to family and friends contemplating violent or unlawful use of chemicals against particular racial or religious groups.
- d. Your evidence referencing potential cyanide contamination of water supplies 'by the Muslims', and your message to your mother about putting ricin in the water supply of Bury Park.

7. These sentiments are repugnant. I have ensured that emotion plays no part in my decision. Your attempt to dismiss the comments as 'politically incorrect humour' was not credible. In a note served earlier this morning you offer further explanations as to the messages you sent, the items which adorned your bedroom (including an image of Adolf Hitler and other Nazi memorabilia), and the material contained on your laptop. I do not find those explanations credible in the context of everything that I have seen and read. I had the considerable advantage of assessing your credibility while you gave evidence over a number of days.

8. I sentence you only for the offences of which you were convicted, but in assessing seriousness I must consider foreseeable harm in the context of your conduct, in accordance with section 63 of the Sentencing Act 2020. Where there was doubt, I resolved it in your favour.

9. Having carefully considered the evidence, I am sure that your conduct in making, possessing, and using explosives gave rise to a risk of harm to others. I accept the prosecution submissions as to the risks inherent in the way in which you kept, experimented with, and used the explosives and chemicals which you had in your possession.

10. Whilst I cannot be sure that you had formed any settled intent to use the explosives or chemicals for a violent purpose, you spoke about it and, to that extent, contemplated it. In my judgment, that is relevant to an assessment of the risk of harm inherent in the offences you were convicted of, and the risk that you pose to the public.

Reports and Sentencing Notes

11. Prior to this hearing, I read with care the sentencing notes prepared by Miss Dummett and Miss Dyer (including one served this morning).
12. I have also read a Pre-Sentence Report dated 19 January 2026, written by Jessica Stephen. The report was of some assistance to me in assessing culpability and the risk of harm to the public; it was not a predominate factor in my assessment.
13. I bear in mind the criticisms of the report made by Ms Dyer. The thrust of Ms Dyer's criticisms of the PSR are directed toward the evidential basis underpinning the conclusions reached by Jessica Stephen. I have only taken into account the views expressed in the PSR where I judge the conclusions to be based on proper inferences drawn from the available evidence and information.
14. Prior to this hearing I also reminded myself of the content of a psychological assessment report dated 4 July 2024 prepared by Dr Anne Preston.
15. When assessing the relevance of your mental health to the proper assessment of culpability, and whether custody will be particularly onerous for you because of your mental health, I have considered and applied the Sentencing Council's Guideline on sentencing offenders with mental disorders (etc).
16. In this case I have had the considerable benefit of observing you and listening to you over the course of the trial. That was particularly so during the days when you gave evidence from the witness box. The trial process has provided me with valuable insight into you, your understanding of your own conduct, and your attitude towards the law which regulates the possession and use of explosives and other regulated substances. It also gave me a valuable insight into the level of your intellectual functioning, and your attitude towards others.

17. I reach the firm conclusion that you are a highly intelligent and articulate individual who was fully capable of appreciating that your conduct was unlawful and potentially dangerous.

18. In my judgment, your culpability is not significantly diminished by reason of your mental health or neurodivergence. I accept that your ASD is likely to have contributed to a heightened focus on subjects of particular interest to you. However, I do not accept that your ASD impaired your ability to distinguish between right and wrong, nor that it significantly reduced your capacity to appreciate that your actions were illegal and potentially dangerous. You have continued to assert that your conduct did not create any danger, but I do not consider that assertion to be consistent with the facts.

19. Having given careful consideration to all the relevant evidence and material, I am satisfied that, although any disorder or impairment from which you were suffering at the time of the offences may have had some influence on your functioning, it did not, in my judgment, significantly impair your capacity to exercise appropriate judgment, to make rational decisions, or to understand the nature and consequences of your actions in relation to the explosives and chemicals in your possession.

Explosives - Sentencing Principles

20. There are no sentencing guidelines issued by the Sentencing Council in respect of offences contrary to section 4 of the Explosive Substances Act 1883. I have been referred to, and considered, a number of cases where the CACD has considered, on appeal, sentences imposed for such offences in the Crown Court. Those cases were clearly decided on their particular facts, but it is possible to derive some principles of general application. In *Harvey [2019] 1 Cr. App. R. (S.) 23*, Sweeney J observed that there are three matters that must be considered when passing sentence in a case of this type:

- a. the background of the offence and the motivation of the offender;

- b. the potential for harm posed by the explosive substance (even if there was no intention of use); and
- c. the strong need for deterrence.

21. As to deterrence, I note what the CACD said in *R v Kasprzak [2014] 1 Cr. App.*

R. (S.) 20, at para 15:

In our judgment, at a time when information about how to obtain ingredients for the making of explosives, as well as the instructions themselves, are so readily available on the internet, deterrence must play a significant part in the sentencing process.

22. In the absence of an offence specific guideline, I have resorted to general sentencing principles and followed the Sentencing Council's general guideline which sets out overarching principles. When assessing the seriousness of your offending I have considered both culpability and harm.

23. For the reasons I explained earlier in these sentencing remarks, I find that your culpability for these offences is high notwithstanding your ASD and ADHD diagnoses.

24. I accept the prosecution's submissions as to the potential harm posed by the making and possession of explosives in this case. In particular, I have considered the following:

- a. The overall circumstances of your offending summarised at paragraph 20 of the prosecution sentencing note.
- b. The unsafe conditions in which you possessed and/or made explosives and other dangerous substances in your garden shed.
- c. The proximity of neighbouring properties in a residential area.
- d. Your ongoing addiction to Class A drugs with the likely impact that such addiction would have on your behaviour.
- e. The risks inherent in dismantling and/or modifying commercial fireworks.

- f. The significant quantities of explosive material that you possessed.
- g. The significant quantity of chemicals such as potassium cyanide (7.5kg) where a lethal dose is estimated to be as little as 200mg.
- h. The fact that you had made a rudimentary IED.

25. An important consideration for the court when assessing potential harm is whether or not an explosive device or substance was intended to be used to cause harm or to frighten, or to damage any property. As I have indicated earlier in these sentencing remarks, I cannot be sure that you had a settled intention to use the explosive substances to cause harm or damage property. I reject, however, your evidence that when you spoke about the violent use of explosives and chemicals that was no more than empty rhetoric and/or inappropriate humour.

26. I have considered the arguments advanced by Ms Dyer as to the sentencing guidelines for the more serious offence in section 3 of the Explosives Act. In effect, she submits that the starting point for the lowest category of offending within that guideline, namely four years' custody, should function as a benchmark against which the sentence for offences under section 4 of the Explosives Act should be set.

27. I do not accept that the courts powers to sentence for offences under section 4 should be notionally limited by reference to the lowest category in the guideline for another, albeit related, offence. True it is that an offence under section 3 will generally be regarded as more serious because it requires proof of an ulterior intent to cause harm or damage, but the sentencing exercise for offences of this kind will invariably be intensively fact specific, and the task of the court in every case is to determine the appropriate sentence that properly reflects the particular circumstances of the offence and the offender.

Poisons and Regulated Substances – Approach to sentencing

28. The maximum sentence for an offence under section 3(1) of the Poisons Act 1972 is 2 years. There are no offence specific guidelines issued by the Sentencing Council.
29. The overarching guideline states that the degree of culpability will still be important when deciding sentence, even where the offence is one of strict liability.
30. The observations that I have made earlier in my sentencing remarks about the assessment of culpability in the context of your diagnosed conditions applies here also.
31. Once again, the broader circumstances in which you kept and used the chemicals is relevant to the proper assessment of the potential harm arising from your offending.
32. I will give you full credit for your guilty pleas in relation to Counts 5-8.

Possession of Ammunition without a certificate

27. I must also sentence you for possession of a round of ammunition. The round was live, but you pleaded guilty on the basis that you believed that it was 'used' or 'empty'. There was evidence that you had dismantled other ammunition, to extract the gunpowder it contained.
28. This offence would fall into category C3 of the guideline and the starting point is a fine. Considering the other sentences I intend to impose in this case, I will impose no separate penalty for this offence.

Aggravating and Mitigating Factors

24. You are now 33 years of age. You have a previous conviction for assault occasioning actual bodily harm and dangerous driving. I note that offending was associated with your use of class A drugs. I take into account however that you do not have any conviction for an offence of a similar nature to the offences for which you are to be sentenced today.

25. The prosecution's note for sentence refers to a number of aggravating factors which I might take into account. I have already made clear the extent to which I have taken those matters into account in assessing the seriousness of your offending. I have been careful to ensure that I have not double-counted any factor.

26. I have considered with care the submissions made on your behalf by Miss Dyer in her two notes on sentence and in oral submissions today, including the progress that you have made to address your addiction to heroin whilst in custody. To the extent that it is proper to do so I have taken those matters into account in your favour.

27. I have read the letters of reference written by your brother and mother. I note what they have said about you, your character, and what they say about any risk that you pose to others. The opinions they have expressed must be set in the context of all the evidence and information that I have heard during this trial.

28. I have also read the letter that you sent to me this morning. I hope that your stated commitment to lead a law-abiding life when you are released from custody is genuine.

Structure of Sentence

24. I intend to reflect the totality of your offending in the sentence that I pass in respect of Count 4, and to impose concurrent sentences for all other offences.

When taking that approach I have read and applied what is said in the Totality guideline.

25. Having arrived at what I believe to be the appropriate sentences; I have taken a step back and considered whether the total sentence is just and proportionate.

Dangerousness

30. The offences of which you were convicted by the jury are specified offences. I must therefore consider the dangerousness provisions in the Sentencing Act.

31. I must assess whether you present a significant risk to members of the public of serious harm occasioned by the future commission by you of further specified offences.

32. In making that assessment I have considered the following:

- a All the information about the nature and circumstances of your current offending.
- b All the information about your previous offending.
- c Any information about any pattern of behaviour of which your current and past offending is part.
- d Everything that I know about you.

33. Your reckless behaviour in September 2019 when driving off and injuring your neighbour when you were desperate to obtain heroin to feed your habit, and the fact that you continued to take heroin during the period of the index offences, together with your disorganised lifestyle is a pattern of behaviour relevant to the assessment of the risk of harm that you present to others.

34. Having carefully considered all the available information and the arguments advanced on both sides, I have come to the conclusion that you present a

significant risk to members of the public of serious harm occasioned by the future commission by you of further specified offences.

35. You have not previously been convicted of a specified offence. In those circumstances the court may not impose such an extended sentence, unless the custodial period which the court would impose for the specified offence is at least four years.

Sentence

36. In respect of count 4 of the trial indictment, the least sentence which properly reflects the seriousness of that offence and the totality of your offending is **45 months' imprisonment**.

37. In respect of Count 3 of the trial indictment, the sentence is **36 months' imprisonment concurrent**.

38. In respect of Counts 1 and 5 of the trial indictment, there will be a sentence of **30 months' imprisonment on each count concurrent**.

39. In respect of Count 5 (of the main indictment at B3), **12 months' imprisonment concurrent** (reduced from 18 months to reflect credit for your guilty plea).

40. In respect of counts 6 to 8 inclusive (of the indictment at B3), **10 months on each count concurrent** (reduced from 15 months to reflect credit for your guilty plea).

41. In respect of Count 9 (of the indictment at B3), I impose **no separate penalty** for the reasons I explained earlier.

42. **The total sentence is 45 months' imprisonment.** It follows that the '4-year term condition' in section 280 of the Sentencing Act is not met. It is not open to

the court in those circumstances to consider the imposition of an extended determinate sentence of imprisonment.

Effect of the Sentence and Days on remand / Qualifying curfew

33. The effect of the sentences that I have imposed today is that you will have to serve no longer than one half of the sentence of 45 months in prison. You will then be released on licence for the remainder of that term. If you fail to comply with the terms of your licence, or if you commit any further offence while on licence, you are liable to be recalled to prison to serve what then remains of your sentence.

34. The days that you have spent in custody will automatically count toward your sentence. I intend also to give you credit for the days that you have spent on bail on a qualifying curfew. I am told that you spent a total of 447 days on a qualifying curfew, and on that basis, I direct that **224 days** should count toward the sentence of imprisonment which I have imposed today.

35. Counsel should check those calculations before leaving court, and to draw any error to my attention as soon as possible. If any error of calculation subsequently becomes apparent the parties must request the case be listed as soon as possible so that error can be corrected.

Ancillary Orders

36. The prosecution has applied for a criminal behaviour order. A draft of the order has been uploaded to the DCS (at Q29). Save for one suggested amendment to the wording, the application is not opposed but I have nonetheless considered whether an order is necessary (applying the test in section 331 of the Sentencing Act) and whether the terms of the order are proportionate to meet the risks identified.

37. I am satisfied that the making of a criminal behaviour order in the proposed terms is both necessary and proportionate. In my judgment the order will go some way to mitigate some of the risks which I have identified in these sentencing remarks. I will make the order in the terms sought, I do not accept that the wording prohibiting making a fire at your home places disproportionate restrictions on you. The order will be for a little over 10 years and will cease to have effect on 1 February 2036.

38. I will in addition make a deprivation order under section 153 of the Sentencing Act in respect of the items listed on the schedule uploaded to the DCS at Q30.

39. The statutory surcharge must be paid in the appropriate sum.

40. I direct that a copy of these sentencing remarks should be included in your prison file in the hope that it may assist those charged with the duty of setting the terms of your release on licence.

HHJ Simon Mayo KC
Central Criminal Court
28 January 2026