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ICOS No: 19/106945

IN THE CROWN COURT IN NORTHERN IRELAND

SITTING AT DOWNPATRICK CROWN COURT

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THE QUEEN

v

R v WILLIAM HUTCHISON

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His Honour Judge Miller QC

[1] William Hutchison has pleaded guilty to the murder of Alice Morrow and accordingly I have passed upon him a sentence of life imprisonment, this being the only and prescribed sentence for this offence. The purpose of today's proceedings in his case is to determine the period of time he must remain in custody before he may be considered for release. Two things should be clearly understood by members of the public. First that the tariff period must be served in its entirety; there is no remission. Second that the decision as to whether he can be released after the expiration of the tariff period, will be made by the Parole Commissioners after careful consideration of the available information as to the level of risk he then presents.

[2] It is therefore not the case that release is automatic. Further once released he shall remain subject to licence conditions, which will remain in force for the remainder of his life and which, if breached, may lead to his return to custody for a further period.

[3] The Court is grateful to Mr Terence Mooney QC (appearing with Mrs Laura Ievers) for the Crown and Mr Niall Hunt QC (leading Mr Sean Mullan) on behalf of the defendant, for their focused and comprehensive written submissions on the principles applicable to the determination of the core question. These have been supplemented by brief oral argument, all of which have been of great assistance to me in this task.

[4] The key facts of the case have been outlined in the Crown statement and I do not intend repeating these *in extenso* though in due course I shall touch upon aspects when considering the aggravating and mitigating factors relevant to the determination of the appropriate tariff. Nevertheless a copy of the Statement will be attached as an appendix to these remarks for reference purposes. At this stage I shall simply refer to the circumstances relevant to the killing itself.

[5] Alice Morrow was murdered by this defendant on the evening of Sunday 10 March 2019. The emergency services responded to a 999 call made by the defendant to NIAS at 11.10pm that night. Police officers arrived at the scene at 11.21pm and found Ms Morrow lying on the bedroom floor. She was naked and appeared lifeless with evidence of multiple injuries to her body. Life was pronounced extinct at 11.25pm. She was 53 years of age.

[6] The post-mortem conducted two days later confirmed that death resulted following a sustained blunt force assault. The external examination of her body revealed no fewer than 71 single (or groups of) injury. Extensive bruising was apparent to her face, scalp and neck. She had also sustained a fracture to her nose. These injuries included those attributable to the use of a weapon, which was believed to be a rod or whip-like object and marks on her cheek corresponded with the pattern of the defendant's ring. An injury to her head could have led to unconsciousness and ultimately to her death. There was also evidence of substantial blows to her chest and back and rib fractures that would have impaired her ability to breathe. Finally finger-grip marks and bruising to Ms Morrow's jaw and throat support a conclusion that the defendant tried to strangle or otherwise asphyxiate her.

[7] Before I turn to a consideration of the sentencing principles I intend to make a few comments relevant to the circumstances of the deceased, Alice Morrow. When a hearing focuses on the issue of sentence, what may seem a disproportionate amount of time is spent in discussing the personal circumstances of the defendant upon whom that sentence is to be passed? He, of course is here and able, through his counsel, to make his plea. The same is not true of the deceased, who all too frequently is seen not as the person she was but only in the context of her untimely death.

Alice Morrow

[8] Ms Morrow was the mother of three adult children and had been widowed since 2003. She and the defendant were not co-habitees but had been in an on/off relationship for the 11 years prior to her untimely death. I shall make reference at a later stage to aspects of the history of that relationship but at this stage I wish to focus on her life as expressed through the words of those who knew her best, namely her family.

[9] The court is in receipt of statements from Ms Morrow's mother, sister, three children and the former partner of her eldest son. I do not intend to outline the detail of each statement but I do wish to highlight aspects. I do so for two purposes. First to emphasise the huge impact of the pain and sense of loss caused to this family by the defendant's actions, something which is of significance in the context of the purpose of today's hearing. The second reason is to draw attention to the life of this woman before it was so cruelly and brutally ended by this defendant.

[10] **Mrs Margaret Houston Stewart** is the mother of the deceased who was one of five children and her eldest daughter. It is plain from her statement that Mrs Stewart has experienced far too many tragedies in her life with the murder of a brother and the death through suicide of one son and her son-in-law who was the deceased's late husband. One can hardly imagine the additional trauma she has experienced through the murder of her daughter; something made all the more painful by the defendant's protracted efforts to drag out the legal process before finally admitting his guilt on the morning of his trial.

[11] This sense of hurt at how the defendant manipulated the legal process for his own ends is palpable in the statements of the other family members. **Glen Morrow,** who is the deceased's eldest child speaks eloquently of this frustration when he says:-

> *"From the moment he killed my mother I felt as though he was in control. It annoyed me that he was the centre of attention. He was in the spotlight. I felt and still feel like my Mum was forgotten – just another statistic".*

[12] There is no doubt that Alice Morrow was a lady who had significant issues with regard to her mental health and addiction to prescription drugs. Her daughter **Kelly-Anne** states that she was bi-polar and as such experienced *'manic highs and crushing lows'* and it is sad to relate that because of these issues her relationship with her children was fractious. Nevertheless she was clearly much loved by them and Kelly-Anne puts this dilemma in context when she observes:-

> *"My Mum was a very caring person, she would empty her purse for or give you everything in her cupboards or the shirt off her back, however she could push you away, sometimes there could be weeks that we wouldn't speak".*

[13] **Stuart Morrow** is the youngest in the family and the one who in terms of the physical and psychological impact has been most affected by his mother's death. He describes how from leaving school from the age of 16 he acted as his mother's official carer up until her death. He was responsible for making sure she attended her medical appointments and took her medication. He has struggled with alcohol abuse in the aftermath of her murder and the loss of the structure his caring responsibilities gave him.

[14] The impact upon the whole family is perhaps best summed up by Alice's younger sister, **Julie Tumlison** when she says:- "*Alice's murder made me question everything around me. I wonder what people are capable of. My once trusting nature now queries everything and everyone…I feel robbed of a future with my sister. Days can feel so sad, not crying sad, just lost, lonely, deprived sad, a sadness that sits really deep in your stomach. It makes the days darker and dimmer*". This speaks so eloquently of the sense of loss so many must feel in such circumstances when a loved one is taken by the cruel actions of one such as Hutchison.

[15] **Cheryl Woods** is the ex-partner of Glen Morrow and mother of the deceased's grand-daughter. She describes how Alice would visit four or five times a week and of the strong relationship that both she and her daughter had with her:-

> "*I knew Alice since I was 15 years old. I have lots of good memories of her and I want to share these with the kids but I can't. When I think about her I think about what he did but I am determined to get to a stage where I can share the memories without thinking about him*".

[16] It should be remembered that Cheryl Woods was a witness in the case, as the defendant rang her several times on the night he killed Alice Morrow. The memory of those calls and the fear the defendant instilled in Ms Woods set within the context of what he was still doing and had done to the deceased is chilling and has caused her to be severely traumatised. In common with the other family members she speaks of the defendant controlling the deceased in her lifetime and perpetuating that sense by his refusal to plead guilty until the last possible moment. Accordingly each has been impacted and damaged to a very real degree.

[17] There can be no doubt that Alice Morrow's life was ended brutally and most cruelly by the defendant in what was clearly a sustained attack during which she must have suffered most grievously. No words from this court can lessen the pain, hurt and sense of loss felt by her family and to which I have made reference. Nevertheless I extend my heartfelt sympathy to each of them and trust that with today's proceedings they may finally be allowed to properly begin the grieving process and the journey towards rebuilding their lives.

<u>William Hutchison</u>

[18] I turn now to consider the defendant's background and personal circumstances. The court is in receipt of a detailed and helpful PSR dated 1h September 2021, prepared by Niamh Quiery (PBNI). This taken in conjunction with the reports of Dr Aidan Devine (Senior Clinical Psychologist) dated 15 October 2019 and that of Dr Christine Kennedy (Consultant Forensic Psychiatrist) dated 18 September 2020 helps to provide important background information and analysis.

[19] The defendant was born on 11 June 1976 and is now 45 years of age. He is the younger of two boys originating from the Ballynafeigh area of Belfast. When he was

eight years of age his parents separated and he and his brother remained with their mother but maintained close contact with their father, who was a police officer. Coming from a strong military background the defendant was brought up in a culture of standing up for himself and where there was a tolerance for what was perceived to be an acceptable level of violence in self-defence.

[20] Following a terrorist bombing of his mother's car, the family relocated out of Belfast to Ballygowan where the defendant attended the latter stages of his primary school education. His career at secondary school was not a happy experience with him experiencing bullying and being placed in detention. Although he told Ms Quiery that he had been treated for ADHD there was no formal diagnosis. He left school with no formal qualifications but subsequently completed a City & Guilds qualification in car mechanics at his local technical college. Thereafter his employment record was sporadic but due to his substance misuse he has been long-term unemployed for many years prior to his detention on this charge.

[21] The defendant reports having had five partners (including the deceased) in the course of his life and has a total of nine children to the other four women. Of these children four are below the age of 18 with the youngest being a son of 11 years with whom he had direct contact in the company of the child's mother prior to his detention. Since then his own father sees the child and updates the defendant as to his welfare.

[22] Taken in the context of the index offence it is both significant and deeply troubling that a consistent picture emerges of a history of domestic violence in all his previous relationships. It is noted that he was referred to the Public Protection Arrangements for Northern Ireland (PPANI) following a violent offence committed against one partner. Whilst the defendant acknowledged that relationships were jeopardised due to his alcohol abuse it is worrying that he continues to deny aggression of any kind in those relationships with the exception of the incident where he was convicted of assaulting a partner in 2005. This incident involved him striking the victim's legs with the metal tube of a vacuum cleaner. Even then the defendant sought to justify his actions by claiming that his partner was to blame as she was violent towards him.

[23] This culture of denial is further emphasised in the account Hutchison gave to Ms Quiery of his relationship with the deceased. He claims that he loved her and never showed any aggression towards her notwithstanding her report made in 2018 of domestic violence going back over a three year period. The court is aware from the depositions and the reports before it that there was a litany of claims and concerns raised by family members and other witnesses regarding the defendant's controlling and violent behaviours towards Ms Morrow who was by virtue of her own mental health and addiction issues clearly very vulnerable.

[24] Drug and alcohol abuse have been key features of the defendant's lifestyle since the 1980's. This included use of hard drugs including 'heroin' though he claims

no longer to use this drug but rather self-medicates with Subutex as a substitute. Whilst he asserts that he has been abstinent from alcohol, medical records from the Ulster Hospital A&E Unit record him attending there in 2018 whilst under the influence of alcohol. Since his admission to HMP Maghaberry he has twice failed a drugs test.

[25] The defendant presents as someone who is self-centred and determined to write his own version of events. When confronted by Ms Quiery with the prosecution history of the index offence, he is described as becoming *'agitated'* stating "*he was being stitched up*". Indeed whilst accepting that he had willingly entered a guilty plea to the charge, he continued to assert his innocence claiming his decision was in essence purely pragmatic and self-serving in the hope of achieving a lesser tariff. Pausing there I note that in the detailed written submissions received on 20 October, Mr Hunt QC confirms that Hutchison stands by his guilty plea although he continues to contest the Crown case. I shall address this at a later stage when I come to assess the degree of credit that can be allowed for this guilty plea.

[26] During the consultation with the defendant Ms. Quiery put the essential details of the Crown case to him, including his telephone conversation with Ms Woods on the night of the murder. In this he was recorded as saying "*I never hit her this bad before, I haven't hit her in two years, I've fucked up this time, this is the worst I've hit her*". He went on to say that he didn't want to call an ambulance as he "*didn't want to go back to gaol*", before concluding "*if she doesn't wake up I am going to have to bury her*". Notwithstanding this overwhelming evidence and his guilty plea, the defendant persisted and continues to persist in denying his guilt. The account he then gave to Ms Quiery is nothing short of a total fabrication and devoid of even the merest semblance of truth. I dismiss it as a tissue of lies, but take it into account as being indicative of a man who has exhibited no remorse for his actions and has shown nothing but contempt for the feelings of the deceased's family.

The Defendant's record and the assessment of dangerousness

[27] Hutchison comes before the Court with 51 convictions commencing in October 1994 when he was 18 years of age. One third of these convictions are for road traffic related matters, one for theft, 2 for drugs whilst the remainder are for public order and violent offences. Of particular concern are the 10 convictions for serious assault and two for threats to kill. Several of these offences were committed in the context of domestic violence. In 2004 he was sentenced to a custody probation order with a commensurate term of three years in respect of a charge of GBH committed against a female. The following year at Downpatrick Crown Court he received concurrent terms of 18 months for two AOABH offences committed against a previous partner. Although those sentences were initially suspended they were breached by the commission of eight offences of assault and resisting police officers together with two counts of threats to kill and one of common assault, again where his partner was the victim. This catalogue of offences resulted in the suspended

sentences being activated but made to run concurrent to a total sentence of three and a half years custody/probation for the new offences.

[28] In 2014 the defendant appeared before Laganside Magistrates' Court where he received a further five months for yet another AOABH, this time the victim was the deceased, Ms Morrow's son. The following year he received a DCS of two years once again in respect of charges of AOABH and possession of an offensive weapon. Finally in 2018 he was made the subject of a 240 hour CSO for two charges of assault on police; one of common assault together with a charge of disorderly behaviour. These orders were revoked and replaced with a sentence of four months imprisonment following his being remanded into custody in respect of the index offence.

[29] In considering the issues relevant to a determination of *'dangerousness'* in this case it is clear that there is a long and established pattern of aggressive behaviours particularly rooted in the context of domestic violence. Back in 2008 as part of the probation element of the custody/probation order, Hutchison completed the ***'Men Overcoming Domestic Violence and Addictions Programme'.*** Whilst he reportedly engaged positively in this programme, his history of offending thereafter would strongly suggest this had little or no impact on his attitudes or behaviours. It is not without significance that in 2015 he was returned to custody less than six weeks after commencing the licence period of the DCS imposed earlier that year.

[30] Ms Quiery points out that there is a history of adjudicated (and unadjudicated) domestic violence accusations including reports made by Ms Morrow in 2018 only months before her murder the following March. As a result of the history of relevant offending the defendant has been subject to PPANI for several years. Whilst originally assessed as a Category 2 offender (namely someone whose previous offending and/or current behaviour present clear and identifiable evidence that he ***could cause serious harm*** through the carrying out of a contact sexual or violent offence) this was downgraded in 2017 to Category 1 (as someone presenting ***little evidence*** that he would do so). It is indeed a cause of considerable regret that this was done given what occurred less than two years later. As a direct result of Ms Morrow's murder he is now assessed as a Category 3 offender; namely as presenting clear and identifiable evidence that he is ***highly likely*** to commit such a serious contact sexual or violent offence.

[31] It comes as little surprise that Ms Quiery assesses the defendant as presenting a high likelihood of general re-offending. Further set within the context of the recorded history it was inevitable that the conclusion of the RMM convened on 2 September 2021 was that he met the criteria of posing a significant risk of serious harm. I have considered the risk factors identified at that meeting (as set out at Page 6 of the PSR) and accept that determination. I note that this assessment was supplemented by the completion of a Brief Spousal Assault Form (B-Safer), which is designed as an evaluation of risk in the context of intimate relationships. This identified the need for specific offence focused work to address how Hutchison

manages his behaviour and emotions within the context of interpersonal relationships to reduce the likelihood of further intimate relationship violence.

[32] As matters stand I am satisfied that the defendant currently fulfils the statutory criteria of *'dangerousness'* as set out in the **Criminal Justice (NI) Order 2008**. It will, however, be for the Parole Commissioners to determine whether that remains the position when he has served the full tariff period set today. Lest there be any doubt on the matter and as previously noted he will only be released thereafter if he is no longer assessed as being a *'dangerous offender'*.

Sentencing principles

[33] I turn now to the sentencing principles applicable to tariff hearings and will then consider how these should be applied to the facts of this case. In so doing I shall make passing reference to the submissions of counsel. I shall then set out my conclusion on how these apply to my determination of the appropriate tariff taking fully into account the aggravating and mitigating factors I find to be present in this case.

[34] There is no dispute regarding the applicable guiding principles as to how a court approaches the fixing of a minimum term. Both Crown and defence accept that these are to be found in *R v McCandless & Others [2004] NICA 1*, which is the leading case in this jurisdiction. The principles are set out in the Crown written submission, which I adopt for the purposes of these remarks.

[35] The case sets out the Practice Statement issued by Lord Woolf, CJ and reported at [2002] 3 All ER 412. The principal sections of the Practice Statement are set out at paragraphs 10 to 19 thereof as follows: -

> "**The normal starting point of 12 years**
>
> 10. Cases falling within this starting point will normally involve the killing of an adult victim, arising from a quarrel or loss of temper between two people known to each other. It will not have the characteristics referred to in para 12. Exceptionally, the starting point may be reduced because of the sort of circumstances described in the next paragraph.
>
> 11. The normal starting point can be reduced because the murder is one where the offender's culpability is significantly reduced, for example, because: (a) the case came close to the borderline between murder and manslaughter; or (b) the offender suffered from mental disorder, or from a mental disability which lowered the degree of his criminal responsibility for the killing,

although not affording a defence of diminished responsibility; or (c) the offender was provoked (in a non-technical sense), such as by prolonged and eventually unsupportable stress; or (d) the case involved an overreaction in self-defence; or (e) the offence was a mercy killing. These factors could justify a reduction to eight/nine years (equivalent to 16/18 years).

The higher starting point of 15/16 years

12. The higher starting point will apply to cases where the offender's culpability was exceptionally high or the victim was in a particularly vulnerable position. Such cases will be characterised by a feature which makes the crime especially serious, such as: (a) the killing was 'professional' or a contract killing; (b) the killing was politically motivated; (c) the killing was done for gain (in the course of a burglary, robbery etc.); (d) the killing was intended to defeat the ends of justice (as in the killing of a witness or potential witness); (e) the victim was providing a public service; ***(f) the victim was a child or was otherwise vulnerable;*** (g) the killing was racially aggravated; (h) the victim was deliberately targeted because of his or her religion or sexual orientation; ***(i) there was evidence of sadism, gratuitous violence or sexual maltreatment, humiliation or degradation of the victim before the killing; (j) extensive and/or multiple injuries were inflicted on the victim before death***; (k) the offender committed multiple murders.

Variation of the starting point

13. Whichever starting point is selected in a particular case, it may be appropriate for the trial judge to vary the starting point upwards or downwards, to take account of aggravating or mitigating factors, which relate to either the offence or the offender, in the particular case.

14. Aggravating factors relating to the offence can include: (a) the fact that the killing was planned; (b) the use of a firearm; (c) arming with a weapon in advance; (d) concealment of the body, destruction of the crime scene and/or dismemberment of the body; ***(e) particularly in domestic violence cases, the fact that the murder was the culmination of cruel and violent behaviour by the offender over a period of time.***

15. Aggravating factors relating to the offender will include the offender's previous record and failures to respond to previous sentences, to the extent that this is relevant to culpability rather than to risk.

16. Mitigating factors relating to the offence will include: (a) an intention to cause grievous bodily harm, rather than to kill; (b) spontaneity and lack of pre-meditation.

17. Mitigating factors relating to the offender may include: (a) the offender's age; (b) clear evidence of remorse or contrition; (c) a timely plea of guilty.

Very serious cases

18. A substantial upward adjustment may be appropriate in the most serious cases, for example, those involving a substantial number of murders, or if there are several factors identified as attracting the higher starting point present. In suitable cases, the result might even be a minimum term of 30 years (equivalent to 60 years) which would offer little or no hope of the offender's eventual release. In cases of exceptional gravity, the judge, rather than setting a whole life minimum term, can state that there is no minimum period which could properly be set in that particular case.

19. Among the categories of case referred to in para 12, some offences may be especially grave. These include cases in which the victim was performing his duties as a prison officer at the time of the crime or the offence was a terrorist or sexual or sadistic murder or involved a young child. In such a case, a term of 20 years and upwards could be appropriate."

[36] It is important to emphasise that the sentencing court should not be constrained by the arbitrary fixing of a starting point according to rigid application to defined categories. The Court in *McCandless* observed at paragraph 8:-

> *"Not only is the Practice Statement intended to be only guidance, but the starting points are, as the term indicates, points at which the sentencer may start on his journey towards the goal of deciding upon a right and appropriate sentence for the instant case".*

[37] The further observations of Sir Brian Kerr presiding in the case of *AG Reference No 6 of 2004 (Doyle)* [2004] NICA 33 at paragraph 24, are both pertinent and helpful:

> *"What the Practice Statement does is to provide a broad structure for the manner in which the minimum sentence should be chosen. We agree with the submission of Mr McCloskey QC, counsel for the Attorney General, that in the vast majority of cases the sentencer should be able to decide which of the starting points is appropriate to the particular case that he or she is dealing with. The facts of an individual case may not precisely mirror those outlined in the statement but, as we have said, the categories in the Practice Statement should be regarded as illustrative rather than comprehensive. Once the starting point has been chosen, the facts of the case should be examined in order to identify those factors that may give rise to a variation of the starting point. Once more, the aggravating and mitigating matters outlined in the Practice Statement must be regarded for this purpose merely as examples".*

The Crown and Defence submissions

[38] The thrust of the defence contention, as set out in the written submission to the court, is that this case falls towards the lower end of the normal sentencing range. Such a finding, Mr Hunt tacitly acknowledged, would be dependent on the Court accepting a number of matters and in particular that the defendant's drug dependency brings the case closer to one of diminished responsibility. It is also submitted in this context that the evidence cannot exclude the conclusion that the defendant's intention was not to kill but to cause grievous bodily harm.

[39] I reject both limbs of this submission. There is little doubt that the defendant abused both alcohol and drugs throughout his life but there is no evidence that his mental state was so impacted at the relevant time that he was not able to both understand what he was doing or the consequences of his actions. In these circumstances his condition must be seen as an aggravating and not a mitigating factor. This conclusion is borne out by the contents of his telephone conversation with Ms Woods recited above. Whereas I accept that it is at least tenable that this was not a planned and premeditated killing I am satisfied that whatever may have sparked the unleashing of his violence against Ms Morrow the sustained brutality of the assault coupled with his refusal to seek medical assistance until it was far too late leads to the inevitable conclusion that Hutchison was at the very least supremely indifferent as to her fate.

[40] Dr Christine Kennedy (Consultant Clinical Psychiatrist) was tasked by the defendant's legal team to examine him pre-trial with a view to forming an opinion on his fitness to stand trial. She was also asked to consider his mental state at the time of the offence. The conclusions to Dr Kennedy's report are illuminating.

Whereas the defendant recounted a history of significant head injury in 1999 and having had a titanium plate inserted in his leg in 2003, it was noted that neither event was corroborated by his GP notes and records. Dr Kennedy notes:- "*because he is generally an unreliable historian, with a clear tendency to omit any information which shows him in a negative light, it is difficult to be certain about his life experiences.*"

[41] With regard to the key question of the defendant's state on the night of the murder Dr Kennedy notes the following:-

> "*He did not identify any problems with his mental state prior to the index incident. He said he and Ms Morrow were on good terms at the time. The statement of Cheryl Woods as to his demeanour at the party the night before was that things were unremarkable between the couple. There is no evidence as to his mental state at or around the relevant time*".

[42] Later in her report the doctor observes:- "*There is no mental health factor impacting his capacity to form an intent from the evidence provided*". With regard to the reported incidents of head injury coupled with drug abuse and the alleged impact of these incidents on his cognitive function, it is significant that the 2 CT scans of his brain in 2012 and 2018 were both normal.

[43] I accept that the defendant's aggressive behaviours and resort to violence has its roots in his childhood experiences and that this has been exacerbated by his years of substance abuse. He undoubtedly has suffered from depression and paranoia, but he has shown an inability or perhaps more accurately, an unwillingness to address the consequences of his repeated offending particularly with regard to his intimate relationships. In the context of the index offence he presents with "*a significant risk of future violence and his partner was reported as a high risk MARAC case*". [Dr Kennedy at Para 8.13]

<u>Conclusions as to Starting Point</u>

[44] I have given consideration to the specific and several submissions advanced both in writing and orally by Crown and defence counsel over and above those highlighted in the preceding paragraphs. Each has made reference to various authorities, several of which provide the court with useful guidance as to the approach to be taken to the issues that arise in these cases. I should, however make it clear that I do not find it particularly helpful to compare the facts of one murder to another when assessing the category or indeed range within which the tariff should fall. It goes without saying that any murder is heinous but it doesn't necessarily follow that a frenzied attack resulting in multiple wounds should automatically lead to a higher tariff than one involving a single wound or even blow. Each case must be seen against the background of the totality of factors relevant to how the killing took place.

[45] Based on the foregoing conclusions I am satisfied that this case clearly falls within the higher starting point of 15/16 years with at least three of the suggested indicators set out at paragraph 12 applying ***(f, i & j)***. Following from this consideration must be given to any variation from that point.

Variation to the Starting Point

[46] Paragraph 13 of the Practice Statement empowers the sentencing court to vary the starting point upwards or downwards, "*to take account of aggravating or mitigating factors, which relate to either the offence or the offender, in the particular case*". Paragraph 14 deals with aggravating factors relevant to the offence. These "*can include*" at sub-paragraph (e): - "*particularly in domestic violence cases, the fact that the murder was the culmination of cruel and violent behaviour by the offender over a period of time*".

[47] Clearly this factor is applicable to the present case. I reject any suggestion that to include it as an aggravating feature in addition to one determining that the case falls into the higher starting point amounts to double counting. Sir Brian Kerr (as he then was) LCJ addressed this point in *R v Andrew Robinson* [2006] NICA 29, when he observed: -

> "*[8] Factors identified as aggravating features in paragraph 14 of the statement may also be considered as justifying the selection of the higher starting point. We have particularly in mind domestic murders. In view of the incidence of this type of crime in our community, we consider that where domestic murder occurs as "the culmination of cruel and violent behaviour by the offender over a period of time", this will normally warrant the selection of the higher starting point. Consideration of this issue should not be confined to its significance as an aggravating feature giving rise to an increase on whatever starting point is selected*".

[48] Moreover at paragraph 9 of the ruling the Chief Justice observed that the fact after committing the murder Robinson had engaged in a pretence designed to throw suspicion from himself, would of itself have justified the selection of the higher starting point. His Lordship continued: -

> "*Engaging in this type of pretence is not referred to specifically in the Practice Statement as a factor that justifies the selection of a higher starting point but its omission does not preclude that result. We consider that this is a substantial aggravating feature that makes the culpability of the applicant significantly greater. As* ***paragraph 12*** *of the statement makes clear, the selection of the higher starting point is warranted where the culpability of the offender is exceptionally high. Any factor tending to have that effect, even if not mentioned in the*

paragraph, should nevertheless be taken into account in deciding whether the higher starting point is appropriate".

[49] In the present case I consider the defendant's actions after he killed Ms. Morrow amount to serious aggravating features justifying not only the selection of the higher starting point but it being varied significantly upwards.

[50] Let me be clear; we have no real idea of what actually happened in the deceased's home on the night of 10 March 2019. There were only two people present in the house that night; the defendant and the deceased.

[51] The account of events we are left with is the defendant's and this has to be seen as entirely self-serving. He offers no explanation let alone a credible explanation as to how Ms Morrow came by her catastrophic injuries. We do know, however, that he subjected her to a prolonged and brutal attack and that she must have suffered grievously before she eventually died. We also know that he deliberately refused to seek medical attention for her, even at a time where it is possible she might have survived. Subsequently when the police and paramedics arrived he cried '*crocodile tears*' and sought to portray himself in the role of a grieving partner who had simply come upon this horrific scene. His account from that point on was replete with unsupported assertion, contradictions and blatant and cruel lies.

[52] Paragraph 15 of the Practice Direction requires the Court to consider any aggravating factors relating to the offender, which will include "*the offender's previous record and failures to respond to previous sentences, to the extent that this is relevant to culpability rather than risk".*

[53] The defendant's criminal record and the history outlined in the various reports provide a picture of a man with limited insight into the feelings and needs of others; who was motivated by thoughts of self over the rights and wishes of others. The impact of his upbringing in terms of instilling in him an acceptance of casual violence might provide some explanation for misconduct in his youth but this has never been addressed in any meaningful way despite his claims to the contrary. Rather there has been a consistent history of physical and indeed psychological abuse particularly with regard to female intimates, which reached its culmination in the index offence. Taken collectively these various factors lead me to conclude that the starting point should be varied significantly upwards.

Mitigation

[54] I turn now to consider the extent to which credit, if any, should be given for the defendant's guilty plea. It is important that this is seen separately to the issue of remorse, of which I find there to be absolutely no evidence. Every espoused expression of grief is seen entirely from the defendant's perspective from the time of the actual murder to his consultation with Ms Quiery for the purposes of the preparation of the PSR. Although he espouses a concern for the deceased's family his words and deeds extending even after the change of plea is indicative of self-

interest and displays a lack of empathy verging on callousness. After due consideration of his personal circumstances as set out above I find nothing by way of mitigation beyond the fact of the guilty plea.

Conclusion as to the appropriate Starting Point

[55] Balancing these additional factors I am satisfied that the starting point should be varied upwards to **24 years,** which is the tariff I would have imposed had the defendant been convicted of this murder after a contested trial. Finally I must consider the extent to which that figure should be reduced to take account of the guilty plea.

Reduction in tariff for the Guilty Plea

[56] Hutchison throughout eight interviews over a two day period between 11 and 13 March 2019 continuously denied responsibility for Ms Morrow's death. This remained his position until the morning of his trial on 7 June 2021 more than two years later when he applied to be re-arraigned and entered the guilty plea to the charge of her murder.

[57] In view of the defendant's subsequent denial of guilt albeit in the context of his conversely accepting his plea as entered, Mr Hunt QC wisely did not seek to advance any argument on the degree of credit to be afforded beyond referencing the range as set by the relevant authorities.

[58] In *R v William Turner & James Henry Turner* [2017] NICA 52 the then Lord Chief Justice, Sir Declan Morgan conducted an analysis of the approach to sentence reduction for guilty pleas in murder cases throughout the UK. Ultimately the court concluded (at paragraph 40):-

> *"Each case clearly needs to be considered on its own facts but it seems to us that an offender who enters a not guilty plea at the first arraignment is unlikely to receive a discount for a plea on re-arraignment greater than one-sixth and that a discount for a plea in excess of 5 years would be wholly exceptional even in the case of a substantial tariff. We have concluded, however, that it would be inappropriate to give any more prescriptive guidance in this area of highly fact specific sensitive discretionary judgement. Where, however, a discount of greater than one-sixth is being given for a plea in a murder case the judge should carefully set out the factors which justify it in such a case".*

[59] Despite overwhelming evidence that he had murdered Alice Morrow, William Hutchison persisted in a denial of his guilt for over two years. When he did eventually plead guilty he did so for entirely pragmatic and self-serving reasons. Thereafter he added salt to the wounds of his victim's family by effectively refusing

to take responsibility for his actions. As the LCJ went on to say later in the judgment of the court in *Turner* (at paragraph 50) *"a primary reason for mitigation for a guilty plea is the vindication and sense of justice that it provides for friends and relatives. Where a plea of not guilty at arraignment is entered the friends and relatives of the deceased are generally deprived of that vindication and sense of justice at that time"*. That is certainly the position in this case and this impacts upon the level of credit attaching to the guilty plea. The only solace this family has is that the defendant's plea has avoided the additional trauma that a fully contested trial would have entailed.

[60] In the final analysis in assessing the tariff in this case I have borne in mind the observations of the LCJ in *Turner* (at paragraph 37); "*…when looking at the aggravating and mitigating factors, including the appropriate reduction for a guilty plea, it is necessary in each case to stand back to see whether the overall figure properly reflects the seriousness and circumstances of the particular offence*". In so doing I have concluded that the reduction for the guilty plea should be three years or approximately 13% of the tariff that would have applied following conviction after a contested trial.

Conclusion

[61] Weighing all these factors in the balance I consider that the appropriate tariff is **21 years**, which I set as the minimum term that you must serve before you may be considered for parole and release on licence.

Sentence:

Count 1 – Murder – LIFE IMPRISONMENT with a tariff of 21 Years
Offender Levy - £50.00
Geoffrey Miller QC
Judge of the Crown Court in Northern Ireland
22nd October 2021