

Principles and Purposes of Sentencing

Draft Sentencing Guideline

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Core Principle of Sentencing

1. Sentences in Scotland must be fair and proportionate.

2. This principle requires that:

- (i) all relevant factors of a case must be considered including the seriousness of the offence, impact on the victim and circumstances of the offender;
- (ii) sentencing decisions should treat similar* offences in a similar manner. This helps aid consistency and predictability;
- (iii) sentences should be no more severe than is necessary to achieve the appropriate purposes of sentencing in each case;
- (iv) reasons for sentencing decisions must be stated as clearly and openly as circumstances permit;
- (v) sentencing decisions must be made lawfully and sentencers must have regard to any sentencing guidelines which are applicable; and
- (vi) people should be treated equally, without discrimination.

**Similarity*

3. In the context of sentencing, “similar” means having features or factors in common. The aim of individual guidelines will be to identify where cases should be treated as similar. Treating cases similarly does not mean that cases be treated in exactly the same way. Within any offence type, variations in sentencing will occur due to the nature and particular circumstances of the offence(s) in question and of the people involved.

Purposes of Sentencing

4. The sentence selected should best achieve the purposes of sentencing that are appropriate to the particular case, but always reflecting the core principle of fairness and proportionality.
5. The purposes may include:
 - a) **Punishment.** Sentencing may seek to punish the offender as a consequence of their criminal behaviour, normally resulting in some sort of loss depending on the sentence chosen.
 - b) **Reduction of crime.** Sentencing may aim to protect the public from offending behaviour by seeking to reduce:
 - (i) the risk of reoffending through the effective **rehabilitation of offenders**, providing people with the opportunity to change and move away from past offending behaviour;
 - (ii) the risk of crime by imposing **preventative measures** and by **detering** offending behaviour.
 - c) **Reflecting society's disapproval of an offender's behaviour.**
 - d) **Giving the offender the opportunity to make amends.** Sentencing acknowledges the harm caused to victims and/or communities. Sentencing may also aim to recognise and meet the needs of victims and/or communities by requiring the offender to repair at least some of the harms caused; this may be with the co-operation of those affected.
6. In achieving the appropriate purpose(s) of a particular sentence, efficient use of public resources should be considered. Early guilty pleas are recognised as increasing the efficient use of public resources.

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