

# Principles and purposes of sentencing

## Sentencing guideline

Effective from 26 November 2018

## Applicability

This guideline applies to all offenders who are sentenced on or after 26 November 2018.

## Core principle of sentencing

### 1. Sentences in Scotland must be fair and proportionate.

#### 2. This principle requires that:

- all relevant factors of a case must be considered including the seriousness of the offence, the impact on the victim and others affected by the case, and the circumstances of the offender;
- sentences should be no more severe than is necessary to achieve the appropriate purposes of sentencing in each case;
- reasons for sentencing decisions must be stated as clearly and openly as circumstances permit;
- sentencing decisions must be made lawfully and sentencers must have regard to any sentencing guidelines which are applicable;
- people should be treated equally, without discrimination; and
- sentencing decisions should treat similar cases in a similar way, assisting consistency and predictability.

#### 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 similar cases should be dealt with in exactly the same way. Variations in sentencing will occur due to the nature and particular circumstances of the cases(s) in question, including the timing of any plea of guilty.

## Purposes of sentencing

4. The sentence selected should best achieve the purposes of sentencing that are appropriate to the particular case but should always reflect the core principle of fairness and proportionality.
5. In no particular order, the purposes may include:
  - **Protection of the public.** Sentencing may seek to protect the public from offending behaviour through preventative measures and by deterring offending behaviour.
  - **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.
  - **Rehabilitation of offenders.** Sentencing may seek to reduce the risk of reoffending through the effective rehabilitation of offenders, providing people with the opportunity to change and move away from past offending behaviour.
  - **Giving the offender the opportunity to make amends.** Sentencing acknowledges the harm caused to victims and communities. Sentencing may also aim to recognise and meet the needs of victims and communities by requiring the offender to repair at least some of the harm caused.
  - **Expressing disapproval of offending behaviour.** Sentencing may act as an expression of society's concern about and disapproval of the offending behaviour under consideration.

In achieving the appropriate purpose(s) of a particular sentence, the efficient use of public resources may be considered.

**Scottish Sentencing Council**  
**Parliament House**  
**Parliament Square**  
**Edinburgh**  
**EH1 1RQ**

[sentencingcouncil@scotcourts.gov.uk](mailto:sentencingcouncil@scotcourts.gov.uk)  
[www.scottishsentencingcouncil.org.uk](http://www.scottishsentencingcouncil.org.uk)

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