



## JUDICIARY OF ENGLAND AND WALES

# How are sentences decided?

When deciding on a sentence, the judge or magistrate must consider the five purposes of sentencing set out in law. The purposes – which apply to adult offenders aged 18 and over - are:

- Punishment - This shows society's unhappiness with the offence committed.
- Crime reduction - This includes preventing the individual offender from committing another crime, and deterring others from committing a similar offence.
- Reform and rehabilitation - This is aimed at changing the offender's future behaviour.
- Protection of the public - This can include protecting the public from the offender and from the risk of further crimes being committed.
- Reparation - This means that the offender must make amends to those who have been affected.

When working out the sentence, the judge must also consider factors which apply to each individual case. These include:

- The seriousness of the offence – this is worked out by looking at the harm caused, or intended to be caused, and how far the offender can be considered responsible for what happened;
- The offender's previous convictions;
- Whether the offender pleaded guilty – admitting guilt would usually result in a lesser sentence;
- Totality – in other words, if an offender is being sentenced for more than one offence;
- The relevant law including the maximum, and in some cases minimum, sentence; and
- Any sentencing guidelines relevant to the offence committed.

Different offenders may not be given the same sentence for the same type of crime depending on the circumstances of the crime and the offender.

The judge or magistrate must also take into account any 'aggravating' and 'mitigating' factors:

- An aggravating factor is something that makes a crime more serious.
- A mitigating factor is something that makes a crime less serious.

### 'Aggravating' factors – examples

A burglar breaks into a house and the owners of the property are in bed. A court is likely to consider the fact that the house was occupied at the time as an aggravating factor. It makes the crime more serious than if the owners hadn't been in at the time.

A violent offence is aggravated if there are hate crime aspects to it: for example, if the offender has been motivated by hostility or prejudice towards those of a different race or sexual orientation.

### 'Mitigating factors' – examples

A burglar breaks into a house. A court is likely to consider the fact that the burglary wasn't planned – and no damage done to the property – as mitigating factors.

A sentence may be also reduced if the court looks at 'personal' mitigating factors, for example that:

- The offender is genuinely sorry for what they have done
- There are events in the offender's personal life which may have affected their behaviour.

