

## Sentencing: How it works

If you were given the details of several different crimes, how would you work out the right sentence for each offender?



## How do judges and magistrates decide on a sentence?

One of the most important things is to make sure appropriate sentences are given for each crime – in other words, the punishment should fit the crime. To do this, judges and magistrates in England and Wales use sentencing guidelines. These help them sentence in the same way, whether they're in Newcastle, Newport or Newbury. Each and every crime and every offender is different and no two cases or victims are ever the same, but the way in which a judge or magistrate decides the sentence is the same.

## What types of sentence are there?

### Prison

The toughest type of sentence is prison and this is used when a crime is so serious, or an offender's record is so bad, no other sentence will do. Offenders normally spend half their sentence in prison, and the rest on licence in the community. Being on licence means offenders have to obey certain rules, like wearing an electronic tag. If they don't, they can be sent back to prison for the rest of the sentence. Some short prison sentences can also be suspended, which means that instead of going straight to jail, the offender has a period of probation with conditions. If they break the conditions, they can be sent to prison.

### Community sentences

Community sentences combine rehabilitation with activities carried out in the community, such as unpaid work like removing graffiti, getting treatment for drug addiction or keeping to a curfew. This is not a soft option - offenders can be made to do between 40 and 300 hours of demanding work.

### Fines

Fines are the most common type of sentence and are for less severe offences. The amount of fine depends on the seriousness of the offence and how much money the offender has.

### Discharges

These are used for the least serious offences for which the experience of being taken to court is thought to be punishment enough.



# What things do judges and magistrates take into account?

For each crime there is a range of sentences available and the judge or magistrates have to decide which sentence is right. They will think about many important issues:

- **How serious is the crime?**

The more serious, the greater the sentence. A burglar who kicked down someone's front door and threatened them with a knife would be treated more seriously than one who reached through an open window to steal something.

- **What was the harm to the victim?**

This could be physical injury like a broken arm, psychological effects such as stress or the loss of possessions or money.

- **How blameworthy was the offender?**

Planning the offence, using a weapon or targeting a vulnerable victim, all make the offender more blameworthy.

- **Has the offender got previous convictions?**

Someone who has been found guilty of similar crimes before will be treated more harshly.

- **What are the offender's personal circumstances?**

The offender might look after dependent relatives.

- **Is the offender sorry?**

The offender might have shown genuine remorse for committing the crime.

- **Has the offender pleaded guilty?**

Offenders who admit they committed a crime save victims and witnesses the stress of going through a trial – and save court costs and time. They usually get a lower sentence with up to a maximum of a third off when they admit their crime at the very earliest opportunity.

- **How can reoffending be stopped?**

Judges and magistrates will think about what sentence is most likely to stop the offender from committing more crime.



This leaflet was produced by the Sentencing Council. If you'd like to find out more about sentencing, please visit our website at [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk)

If you would like to try sentencing for yourself, visit the "You be the Judge" website – <http://ybtj.cjsonline.gov.uk> This interactive site gives the facts of a case – you choose the sentence, then compare it with the actual one given by the judge.



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