Sentencing

A User Guide for Victims of Crime

Introduction

This leaflet aims to provide information about sentencing in the Crown Court in Northern Ireland.[1] It explains what happens at sentencing hearings; what sentences a court can impose and how the judge decides what sentence to impose. This leaflet is only a high-level guide. Each case is unique and therefore the sentence imposed will vary from case to case depending on all the facts and circumstances.

[1] The Crown Court has exclusive jurisdiction to try offences charged on indictment. Offences tried on indictment are the more serious offences.

1. What sentences can a judge impose?

A judge can impose either a non-custodial sentence or a custodial sentence.

Non-custodial sentences include:

- Fine
- Probation order
- Community service order

A custodial sentence is one where the offender is sentenced to a period in prison. Generally, the offender will serve half of the period of imprisonment imposed in custody and the other half on licence. This means they live in the community subject to licence conditions. The offender can be recalled to prison if they breach their licence conditions.

A suspended sentence is a custodial sentence, but the offender does not go to prison unless they re-offend during the period of the suspension. In this way, the threat of prison "hangs over their head."

2. What are the aims of sentencing?

There are four objectives in sentencing:

- Punishment of offenders;
- Protection of the public (including victims of crime);
- Reduction of crime by deterring others from committing similar offences;
- Rehabilitation of offenders to prevent future reoffending;
- The making of reparation by offenders to persons affected by their offending.

3. What happens at a sentencing hearing?

The judge-

- **Listens** – To the prosecution outlining the facts; the role the offender has played in the crime and the harm caused to the victim. The prosecution will also refer the judge to the relevant statutes and guideline cases which provide guidance about the appropriate sentence to impose in respect of specific crimes. The offender's legal adviser makes a plea in mitigation highlighting personal circumstances and other factors in the offender's favour.
- **Sees** – Various documents including a pre-sentence report, (this is prepared by the Probation Board for Northern Ireland and contains details about the offence; the offender; an assessment of their risk of re-offending and whether they are "dangerous"), medical reports (about injuries sustained or about the offender's health), victim personal statements (these are statements made by the victim about the impact of the offending), character references, and the offender's criminal record, if any.
- **Thinks** – Before sentencing the judge looks at the law set out in relevant statutes (legislation passed by Parliament or the Northern Ireland Assembly) about maximum sentences and considers guideline cases of the Northern Ireland Court of Appeal which set out guidelines for the range of sentencing appropriate for that type of offending.
- **Speaks** – The judge will orally make their sentencing remarks in public in open court. The judge will set out the facts; their assessment of the offender's culpability; their assessment of the level of harm caused; the aggravating and mitigating factors and the level of reduction for any guilty plea. The judge will then state the sentence they are imposing. The remarks may be anonymised to protect the identity of some victims of crime.

4. What factors influence the sentence imposed?

- **Culpability** – This is the offender's level of responsibility for the crime. It is generally assessed as being high, medium or low.
- **Harm** – This is the level of physical, mental, or emotional harm caused to the victim. This is generally assessed as being high, medium, or low. The assessment may be informed by the victim's personal statement.
- **Aggravation** – The court will consider factors that exacerbate the offending. For example, whether it involved a breach of trust, whether it was part of a course of domestic abuse, or whether it was racially motivated.
- **Mitigation** – The court will consider factors that lessen the offending. For example, the age of the offender, ill health, no previous offending etc.
- **The Law** - The court will take into account what relevant statutes, (that is the legislation passed by Parliament or the Northern Ireland Assembly) say about sentencing for specific crimes including the maximum sentence set out for specific crimes. It will also consider cases from the Northern Ireland Court of Appeal which set out guidelines for sentencing specific offences.
- **Reduction for pleading guilty** – In accordance with the Criminal Justice (Northern Ireland) Order 1996, the court may reduce the sentence if an offender pleads guilty. The maximum reduction is one third, but less reduction will be given if, for example, the offender pleads guilty on the morning of the hearing or has been caught "red handed".