

Deferred Sentences

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

Always consult your legal adviser if you are considering deferring a sentence.

The court is empowered to defer passing sentence for up to six months ([Sentencing Code, s.5](#)). The court may impose any conditions during the period of deferment that it considers appropriate. These could be specific requirements as set out in the provisions for community sentences, restorative justice activities ([Sentencing Code, s.3](#)) or requirements that are drawn more widely. The purpose of deferment is to enable the court to have regard to the offender's conduct after conviction or any change in his or her circumstances, including the extent to which the offender has complied with any requirements imposed by the court.

The following conditions must be satisfied before sentence can be deferred ([Sentencing Code, s.5](#)):

1. the offender must consent (and in the case of restorative justice activities the other participants must consent);
2. the offender must undertake to comply with requirements imposed by the court; and
3. the court must be satisfied that deferment is in the interests of justice.

Deferred sentences will be appropriate only in very limited circumstances.

- deferred sentences are likely to be relevant predominantly in a small group of cases close to either the community or custodial

sentence threshold where, should the offender be prepared to adapt his behaviour in a way clearly specified by the sentencer, the court may be prepared to impose a lesser sentence;

- sentencers should impose specific and measurable conditions that do not involve a serious restriction on liberty;
- the court should give a clear indication of the type of sentence it would have imposed if it had decided not to defer;
- the court should also ensure that the offender understands the consequences of failure to comply with the court's wishes during the deferment period.

If the offender fails to comply with any requirement imposed in connection with the deferment, or commits another offence, he or she can be brought back to court before the end of the deferment period and the court can proceed to sentence.