

ANNEX E: Proposed new section entitled ‘Purposes and Effectiveness of Sentencing’

1. Purposes and Effectiveness of Sentencing

The court must have regard to the five purposes of sentencing when determining sentence. The weighting each purpose should be given will vary from case to case, however both community and custodial sentences can achieve all the purposes of sentencing.

- The punishment of offenders
- The reduction of crime (including its reduction by deterrence)
- The reform and rehabilitation of offenders
- The protection of the public
- The making of reparation by offenders to persons affected by their offences

The court must ensure that any restriction on the offender’s liberty is commensurate with the seriousness of the offence. A restriction on liberty can be achieved by a community or a custodial sentence.

Effectiveness

The court should ‘step back’, and review whether the sentence it has preliminarily arrived at fulfils the purposes of sentencing. Where relevant, the court should ensure that a rehabilitative sentence has been fully considered, which research has shown can reduce the risk of reoffending when compared to a short custodial sentence, therefore fulfilling other purposes of sentencing, such as reduction of crime and protection of the public, through its sentencing.

The effectiveness of a sentence will be based on the individual offender. The [Equal Treatment Bench Book](#) (*link*) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. The Council has issued overarching guidelines for consideration in the [sentencing of offenders with mental disorders, developmental disorders, or neurological impairments](#) (*link*).

Courts should review this guideline if it applies to the case.

In addition, courts should be aware that research suggests that female offenders have different criminogenic needs than men, and in particular an immediate custodial sentence may not address these needs. Courts should take into consideration that there are fewer female prisons than male prisons which may mean that female offenders are at a greater risk of being housed further away from their families and communities, and that research suggests that female offenders are at a greater risk of being homeless and unemployed than men after release from prison.

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