

Tutorial 2 – Sentencing

1. What is the purpose of sentencing?

There are five purposes of sentencing which are contained in Section 142(1) of the Criminal Justice Act 2003:-

- (a) The punishment of offenders
- (b) The reduction of crime (including reduction by deterrence)
- (c) The reform and rehabilitation of offenders
- (d) The protection of the public
- (e) The making of reparation by offenders to persons affected by their offence

2. What are the four levels of culpability?

- **Intention** – The offender must have intention to harm, the worse the harm is intended, the more serious the offence is.
- **Reckless** – Where the offender is aware some harm may be caused but does not think about the consequences of the harm or the extent whereas most people would.
- **Knowledge** – The offenders knows the risks caused by his actions even if he does not intend to cause the harm brought by the risks.
- **Negligence** – Where the offender is guilty of negligence

3. How is culpability assessed?

Section 143(1) assessment of seriousness of an offence should consider not only the harm caused by the offence but harm intended to be caused by the offence or might foreseeably be caused by the offence.

The exact level of culpability will be determined by factors such as motivation, if the offence was spontaneous or if the offender was in a position of trust.

4. What are the aggravating and mitigating features that can be taken into account?

Aggravating

- Offence committed whilst on bail for other offences e.g. Stabbing somebody whilst on bail for actual bodily harm.
- Failure to respond to previous sentences

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