

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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Table of Contents Mark Scheme Jan 14 4h

1. Understanding the eBook Mark Scheme Jan 14 4h
 - The Rise of Digital Reading Mark Scheme Jan 14 4h
 - Advantages of eBooks Over Traditional Books
2. Identifying Mark Scheme Jan 14 4h
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Mark Scheme Jan 14 4h
 - User-Friendly Interface
4. Exploring eBook Recommendations from Mark Scheme Jan 14 4h
 - Personalized Recommendations
 - Mark Scheme Jan 14 4h User Reviews and Ratings
 - Mark Scheme Jan 14 4h and Bestseller Lists
5. Accessing Mark Scheme Jan 14 4h Free and Paid eBooks
 - Mark Scheme Jan 14 4h Public Domain eBooks
 - Mark Scheme Jan 14 4h eBook Subscription Services
 - Mark Scheme Jan 14 4h Budget-Friendly Options

6. Navigating Mark Scheme Jan 14 4h eBook Formats
 - ePub, PDF, MOBI, and More
 - Mark Scheme Jan 14 4h Compatibility with Devices
 - Mark Scheme Jan 14 4h Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Mark Scheme Jan 14 4h
 - Highlighting and Note-Taking Mark Scheme Jan 14 4h
 - Interactive Elements Mark Scheme Jan 14 4h
8. Staying Engaged with Mark Scheme Jan 14 4h
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Mark Scheme Jan 14 4h
9. Balancing eBooks and Physical Books Mark Scheme Jan 14 4h
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Mark Scheme Jan 14 4h
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Mark Scheme Jan 14 4h
 - Setting Reading Goals Mark Scheme Jan 14 4h
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Mark Scheme Jan 14 4h
 - Fact-Checking eBook Content of Mark Scheme Jan 14 4h
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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