

How do courts in the ACT choose a sentence?



Sentencing is individualised - the court looks at the individual circumstances of the offender and the individual circumstances of the offence when determining what sentence to impose. There is no single, automatic sentence that courts impose for offences in the ACT.

Sentencing is a complex balancing act. The judge or magistrate responsible for sentencing an offender will look at all the features of the case and the offender in order to decide on an appropriate sentence.

The judge or magistrate may ask the prosecution and defence lawyers the following questions at the sentencing hearing:

The circumstances of the offence:

- What is the maximum penalty for the offence?
- What sentences have been given in similar cases?
- How serious was the offending (compared to other examples of the crime)?
- How blameworthy is the offender for what occurred?
- What motivated the offending?
- What was the impact on the victim and community?
- Did the offender plan the crime?
- Did the offender use a weapon or commit the crime with a group?

The circumstances of the offender:

- How old is the offender?
- What are the rehabilitation prospects of the offender?
- Did the offender plead guilty to the offence?
- Has the offender shown remorse for their offending?
- What is the background of the offender?
- Does the offender have a criminal record?

The purpose of sentencing

A sentence must also achieve at least one purpose of sentencing. The seven purposes are set out in sentencing legislation. Each purpose is as important as the others, and they should all be taken into account when deciding a sentence.



*Just and adequate **punishment***



Prevent crime by **detering** the offender and other people from committing the same or similar offence



Protect the community



Rehabilitation of the offender



Denouncing (criticising) the conduct of the offender



Holding the offender **accountable**



Recognising the **harm** done to the victim/s and community