

YEAR 12
LAW INDUCTION

25TH JUNE 2026

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Section 2 Sentencing Practice

To help judges or magistrates come to a decision, they go through a series of stages.

1. Consider the Tariff for the Offence

The judges or magistrates will start by considering the **normal tariff for the offence** committed. For example, a person driving a car while banned would normally expect to receive three or four months imprisonment.

2. Consider the Seriousness of the Offence

The court will consider how serious the offence was. For example, abh could be a scratched knee, or it could be a pair of black eyes and heavy bruising around the face. It will also consider any **aggravating factors** (these make the offence more serious), and any **mitigating factors** (these make the offence less serious). Examples of aggravating factors for abh might include: the use of a weapon, joint enterprise (a gang), the offence was racially motivated, the attack was planned. Examples of mitigating factors for abh might include: severe provocation, the attack was on the spur of the moment, nobody else was involved.

3. Consider any Factors relevant to the Offender

The court will now examine the circumstances of the offender. If a prison sentence is being considered, the probation service will be asked to write a **pre-sentence report** about the defendant. This will include details of his family life, financial circumstances, previous convictions, medical problems etc.

The court will also consider mitigating and aggravating factors.

Mitigating factors might include: an early plea of guilty (this will normally reduce the sentence by one third), signs of genuine remorse, co-operation with the police, any particular medical conditions, family responsibilities.

Aggravating factors could include: previous convictions for similar offences, being on bail at the time of the offence, resisting arrest, or showing no remorse.

Read the passage below and follow the instruction underneath it.

Fred is 75 years old. He comes originally from Hungary. For years his neighbour, Jack, has kept him awake at night with loud music and barking dogs. During the day Jack is abusive towards Fred, mocking his accent and taunting him about the noise. One day Jack opens the gate into Fred's beautiful garden and allows his dogs to run amok. Fred is distraught. He bangs on Jack's door and, after a heated argument in which he is racially abused and pushed aside by the stronger, younger man, Fred, who has a bad temper, loses control and hits Jack repeatedly over the head with a spade, causing him a fractured skull.

Identify what the court will consider when sentencing Fred.

1. **Normal tariff** For such a violent example of grievous bodily harm a person would normally expect a prison sentence of a few years.

2. **Aim** What would the main aim of the court be in sentencing Fred?

3. Identify any aggravating or mitigating factors concerning the offence.

Aggravating factors

Mitigating factors

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4. **Decide your sentence.**

Section 3 Types of Sentences

Under the Powers of Criminal Courts (Sentencing) Act 2000 there are four main types of sentences available to the courts. These are:

A. Custodial Sentences

Under the PCCSA 2000, a custodial sentence should only be passed if the offence is so serious that there is no alternative, or if the offence is of a violent or sexual nature and the public needs to be protected. Prison sentences can only be passed on anyone aged 21 or over. Normally the judge or magistrates are free to choose the length of the sentence, but for murder the judge has to give a life sentence. A life sentence will

usually be at least 14 years. Some murderers, such as Ian Brady and Ian Huntley, are likely to serve a full life sentence.

An offender may also be given a suspended sentence. The sentence may be suspended for up to two years. This means that he does not have to serve the sentence unless he re-offends within the two years.

B. Community Sentences

Under the Criminal Justice Act 2003, the courts can impose a community order. This may contain any number of requirements from an available list. These include an unpaid work requirement, where the offender will work for between 40 and 300 hours on a project identified by the probation service as suitable. He may be given a curfew requirement, forcing him to stay at home between certain hours of each day, or a supervision requirement placing him under the supervision of a probation officer for a period up to three years. He may also be given a drug rehabilitation requirement, or an alcohol treatment requirement to help him overcome any addictions.

C. Fines

Fines are rarely given as punishments in the Crown Court because the offences are too serious. The maximum fine in the magistrates' court is £5,000, but this is always related to the ability to pay. However, a high proportion of fines are never paid, which can lead to many offenders being given short prison sentences instead. To try to overcome this problem the courts can order that the money be paid directly from the offender's wage or benefits.

D. Discharges

There are two types of discharge, conditional and absolute. A conditional discharge allows the convicted offender to leave the court a free man on condition that he does not re-offend for up to three years. If he does so, the court can impose a harsher or longer sentence the next time. Conditions, such as attending rehabilitation may also be imposed. This is a common sentence in Magistrates' Courts for first-time offenders. An absolute discharge means that no penalty is imposed. This is only likely to occur where the offender is technically guilty, but not blameworthy.

	Aim of sentencing	Aggravating and mitigating factors	Type of sentence
<p>Sarah robs William at knifepoint in a street in order to steal his expensive mobile 'phone for "a laugh". Sarah does not have any previous convictions, but is thought to be part of a gang which has behaved anti socially in the local area before.</p>			
<p>Archie, the single father of a 6-month old baby, steals infant milk formula because he is unemployed. He has no previous convictions.</p>			
<p>Ahmed beats up an asylum seeker who has moved into a hostel next door. He has a number of previous convictions for violent offences and shows no remorse for his actions. He pleads not guilty.</p>			
<p>Jemma regularly shouts abuse at her husband and hits him when she is drunk. She has one previous conviction for ABH. She shows remorse for her actions when she is sober.</p>			

Define each of the following key terms, relating to sentencing, in your own words:

Retribution	
Deterrence	
Reparation	
Rehabilitation	
Public protection	
Aggravating factors <i>Examples of aggravating factors:</i>	
Mitigating factors <i>Examples of mitigating factors:</i>	

Custodial sentence, including suspended sentence	
Community sentence	
Fine	
Absolute discharge	
Conditional discharge, including rehabilitation requirements	

LAW: SUMMER PROJECT

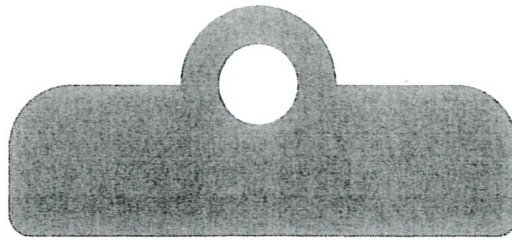
ENGLISH LEGAL SYSTEM: SENTENCING



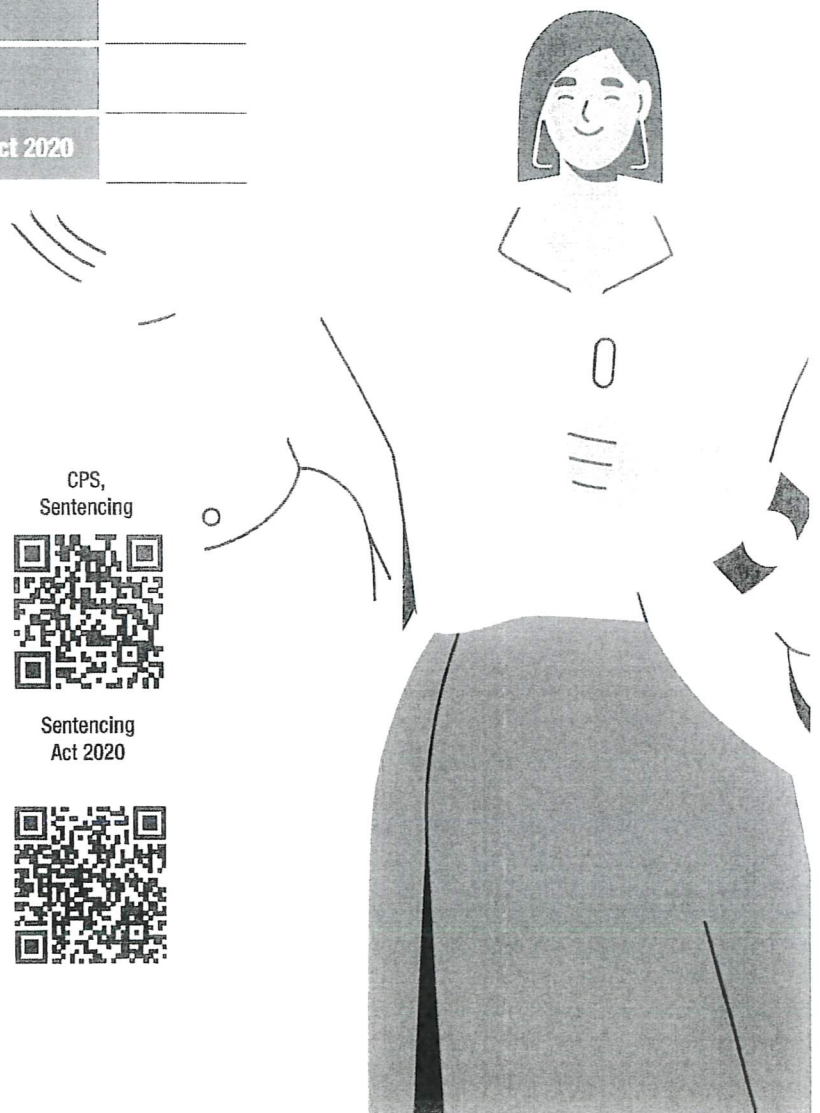
Student Name:

Hand in date:

As part of your upcoming Law studies, you will be learning about how the English legal system works, you will learn the process of how criminal cases are heard in the courts, the roles of the legal personnel who will assist these cases and how the guilty offender is punished by the courts. These tasks will allow you to gain an understanding of some of the aspects of sentencing that judges must consider when they are punishing the guilty offender and passing the sentence for the crime that they have committed.



Summer Task Check List:	Task Complete
Task 1: Key Legal Terms	
Task 2: Sentencing Aims	
Task 3: Factors in Sentencing	
Task 4: Sentencing Cases.	
Task 5: Insight into the Sentencing Act 2020	



Useful Resources

Tutor2u
Sentencing Blogs



Sentencing
Council



CPS,
Sentencing



Gov.uk –
How sentences
are worked out



Courts and
Tribunals
Judiciary



Sentencing
Act 2020



TASK 1 KEY LEGAL TERMS

When studying Law, you will use different key legal terms and it is important to know and understand what each term means. You should research the UK definitions of each of the following terms.

Key Term	Definition	Did you get this correct?
Defendant		
Prosecution		
Offender		
Magistrate		
Judge		
A Jury		
Solicitor		
Barrister		

Key Term	Definition	Did you get this correct?
Crown Court		
Magistrates Court		
Indictment		

INTRODUCTION TO SENTENCING

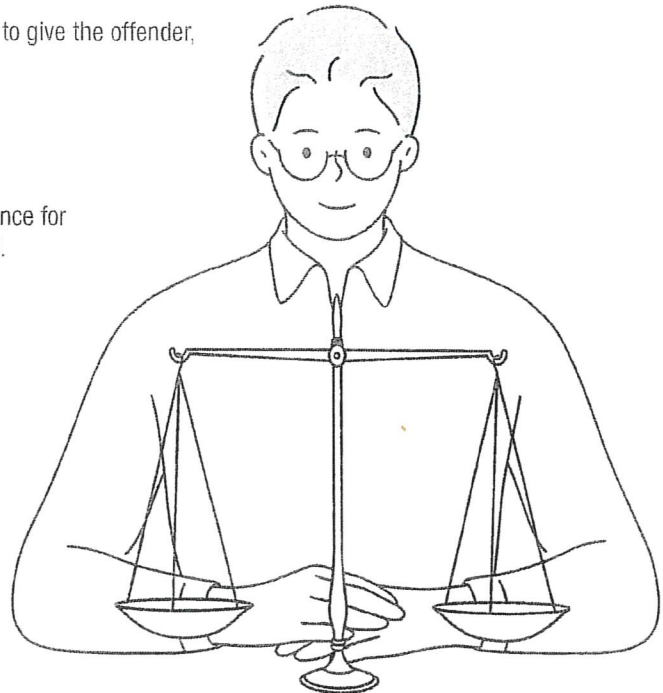
When a person is suspected of committing a crime, their first encounter with the law is often dealt with by the police, who will question them and gather evidence around their involvement in the crime. If the police believe that the person has committed the crime, they will pass this to the Crown Prosecution Service (CPS) who will decide whether there is enough evidence and whether it is in the interests of justice to charge the individual with the criminal offence. It will then be the role of the criminal courts to determine whether the person is guilty or innocent.

When the court case starts the person who has been accused of the crime will be known as the defendant, they will have the opportunity in court to plead guilty or not guilty to the crime. If they plead not guilty, a trial will happen and either a bench of Magistrates (3 people) or a jury (12 people) will decide if the defendant is guilty or not guilty. If the defendant pleads guilty or are later found guilty by the Magistrates or the jury, it will then be the role of the Magistrates or the judge to sentence the defendant for the crime that they have committed. Once they are guilty the defendant will then be known as the offender.

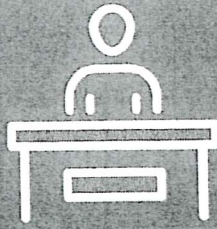
When the judge or Magistrate is deciding what sentence to give the offender, they will consider a number of things such as:

- The aim of the sentence
- The factors within the case
- Sentencing guidelines

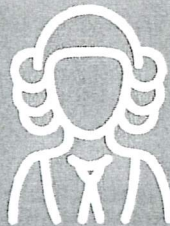
They will use these to decide the most appropriate sentence for the offender and to reflect the crime that was committed.



SENTENCING WITHIN THE ENGLISH LEGAL SYSTEM

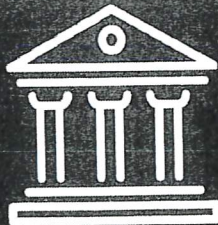


The defendant has pleaded guilty or been found guilty by the Magistrates or Jury. They will now be known as the offender.



There will then be a sentencing hearing, here the Judge or Magistrates will decide the most appropriate sentence to give the defendant for the crime that has been committed.

When deciding the sentence, the judge will consider the following:



The aims and purpose of the sentence

Here the magistrate/judge will consider what they want to achieve when they sentence the offender. Do they want to punish them? Rehabilitate them? Deter them from committing a crime again?



The factors in the case

They will look at various aspects of the case and the case facts and decide if certain elements or factors justify a more serious or more lenient sentence.



Sentencing Guidelines

The magistrates/judge will look at sentencing guidelines. Each criminal offence has a guideline, these will outline the different sentences that can be given based on the different aspects and factors involved within the case.

TASK 2 SENTENCING AIMS

The first thing that a Judge or Magistrate will consider is the aim and purpose of their sentence. They will consider what they want to achieve for the offender with the sentence that they will pass. The different aims that they can consider can now be found in Section 57 of the Sentencing Act 2020.

Task: Below you will find an explanation of each of the different aims and purposes of sentencing. You should read each explanation and then using the different types of sentences listed below the table, decide which sentence could be used by the judge to achieve that aim or purpose.

Aim/Purpose of Sentencing	Explanation	The sentence type that would achieve this aim	Did you get this correct?
Punishment of Offenders	The offender's behaviour deserves to be punished. The sentence should be seen as giving the offender 'just deserts' and the punishment should fit the crime that they have committed.		
Reduction in Crime	Here the offender will receive a sentence that will aim to reduce crime, this could be done by giving a harsh sentence to deter the offender and other people from committing crimes again in the future. The offender and others in society will not commit future crimes because they will be in fear of receiving harsh punishments.		
Reform and Rehabilitation of Offenders	The sentence will aim to reform or rehabilitate the offender. The sentence will change the offender's behaviour and tackle the reasons why they commit a crime in the hope that they will not commit crimes again.		
Protection of the Public	This aim works upon the principle that the public needs to be protected from dangerous offenders. The sentence will remove the offender from society as a whole or parts of it to ensure that the offender is incapable of committing crimes, so the public are protected from them.		
To Make Reparation to the People Affected by Their Offences	This aim will require the offender to compensate the victim or society for the crime that they committed. Here the sentence will make sure that the offender will repay the victim of the crime or society as a whole.		

Possible Sentencing Types:

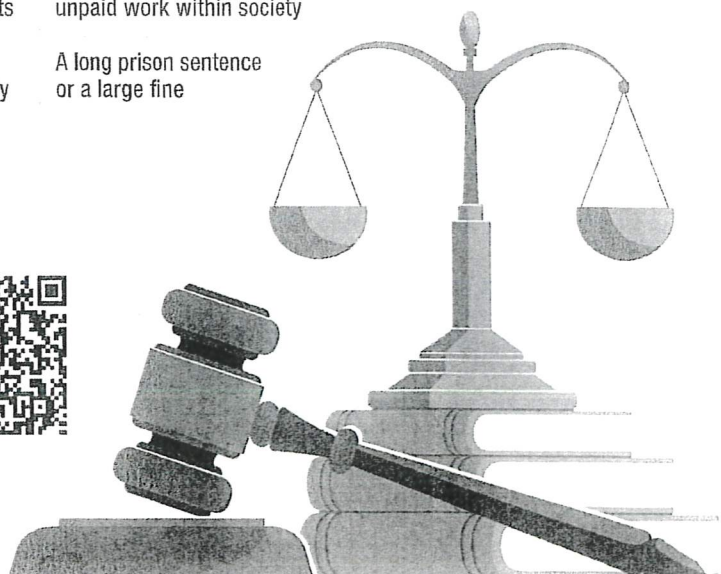
A fixed term prison sentence that is proportionate to the crime eg if murder is committed then a life sentence is given

Drug and Alcohol treatment or education requirements
Long prison sentences, curfew, prohibited activity order

Compensation order or unpaid work within society

A long prison sentence or a large fine

Further information on types of sentences can be found on the Sentencing Council website:



TASK 3 SENTENCING FACTORS

When the Magistrate or the judge is trying to decide the most appropriate sentence for the offender, they will look at the facts (story) of the case and identify any aggravating or mitigating factors that could help them determine how serious or lenient the sentence should be.

Aggravating Factors	These factors make the crime worse or more serious	These factors will justify the judge giving the offender a harsher sentence	The more aggravating factors that are present in a case, the more serious the sentence
Mitigating Factors	These factors make the crime less serious	These factors will justify the judge giving the offender a more lenient sentence	The more mitigating factors that are present in a case, the more lenient the sentence

Using the definitions of aggravating and mitigating factors, look at the list of factors below and identify if the factor is aggravating or mitigating.

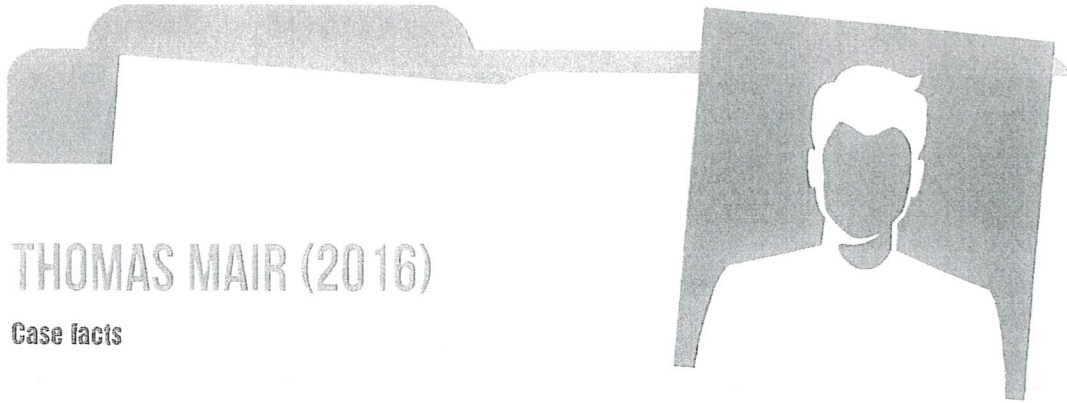
Aggravating Factors These make the crime seem worse	Mitigating Factors These make the crime seem less serious or bad

- | | | | | |
|--------------------------------|--|--|-----------------------------------|---|
| A vulnerable victim | The offender is suffering from a mental illness | Showing no remorse | Racially aggravated crimes | The offender has no previous convictions |
| The offender is a child | Use of a weapon | The offender has previous convictions | An early guilty plea | Co-operating with the police |

TASK 4 SENTENCING CASES

Research the following cases and create a case file on each of the offenders. You should complete the following for each case:

- Explain the facts of the case.
- Identify the aggravating and mitigating factors in the case.
- Detail the sentence that was given.
- Decide if you think that the sentence was justified and explain why.



THOMAS MAIR (2016)

Case facts

Aggravating Factors	Mitigating Factors

The Sentence Given:

Is this sentence justified? Why?

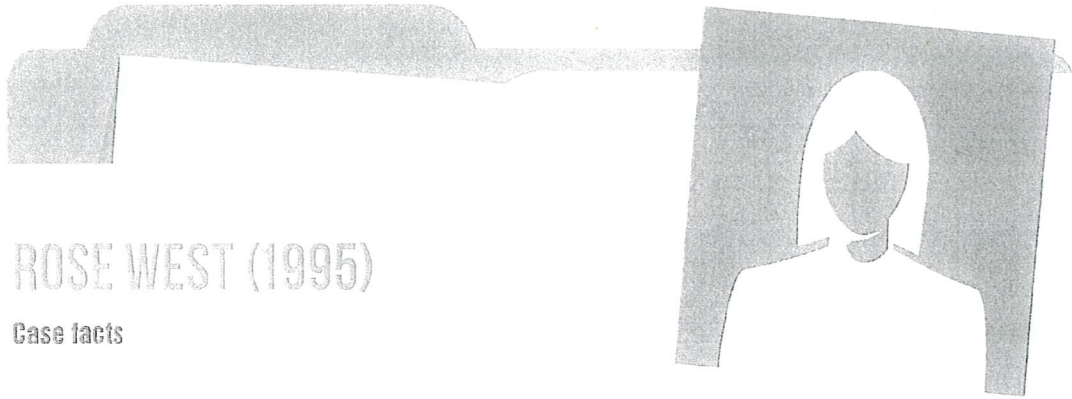
WILLIAM CORNICK (2014)

Case facts

Aggravating Factors	Mitigating Factors

The Sentence Given:

Is this sentence justified? Why?



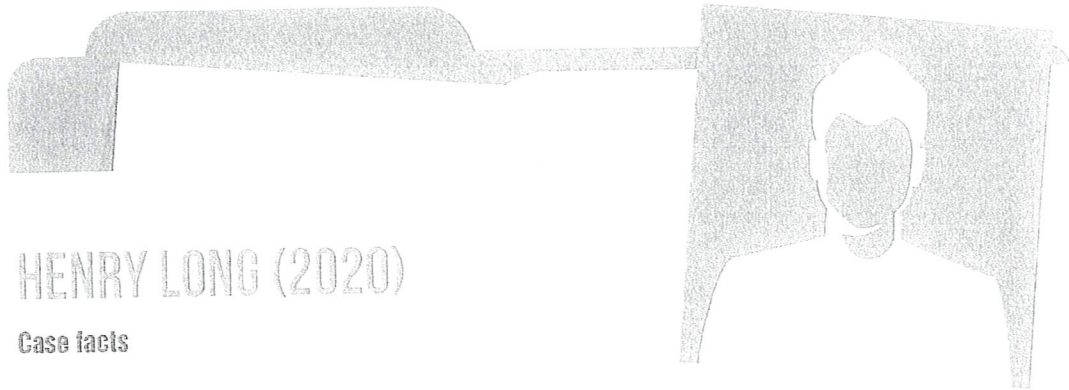
ROSE WEST (1995)

Case facts

Aggravating Factors	Mitigating Factors

The Sentence Given:

Is this sentence justified? Why?



HENRY LONG (2020)

Case facts

Aggravating Factors	Mitigating Factors

The Sentence Given:

Is this sentence justified? Why?

