

SENTENCING
ADVISORY
PANEL

SINGAPORE

Information Note on General Sentencing Principles



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This note provides an overview of sentencing principles in Singapore, including the sentencing process, the types of sentences which the courts can impose, and the principles which guide the courts in deciding on an appropriate sentence.

The contents of this note are based on the existing law as of **27 October 2022**.

I. SENTENCING PROCESS

The sentencing process generally comprises the following steps.

Step 1: Conviction

- An offender can only be sentenced for an offence for which he has been convicted.
- An offender may be convicted after he pleads guilty ("PG") or if he is found guilty at the conclusion of a trial.

Step 2: Offender's criminal records and prosecution's address on sentence

- The court will be informed of the offender's criminal records, and composition records where appropriate.¹
- The prosecution may then address the court on the appropriate sentence and highlight any relevant factors which may affect the sentence.
- In certain cases, the prosecution may provide to the court a victim impact statement, which enables the court to better appreciate the harm suffered by the victim(s) as a result of the offence (including physical injuries or psychological harm).
- However, the absence of a victim impact statement does not prevent the court from assessing the harm suffered by the victim based on the facts of the case.²

Step 3: Plea in mitigation and reply

- The offender may, either in person or through his defence counsel, make a plea in mitigation, to seek a reduced sentence. The prosecution has a right of reply.
- In exceptional cases, the court may convene a *Newton* hearing³ if necessary to resolve a difficult question of fact that is material to the court's determination of the sentence.⁴ A *Newton* hearing is similar to a trial: both sides will be able to call witnesses, adduce evidence and make submissions in support of their position on the disputed issue which is material to sentence. The court will then make a finding on the disputed issue.

¹ *Teo Seng Tiong v Public Prosecutor* [2021] 2 SLR 642 at [101].

² *Ng Jun Xian v Public Prosecutor* [2017] 3 SLR 933 at [46]–[47].

³ Named after the decision of the Court of Appeal of England and Wales in which the procedure was first recognised, *R v Robert John Newton* (1982) 4 Cr App R(S) 388.

⁴ *Ng Chun Hian v Public Prosecutor* [2014] 2 SLR 783 at [24]; *Chong Yee Ka v Public Prosecutor* [2017] 4 SLR 309 at [53].

Step 4: Passing of sentence

- The court will pass sentence, after considering the facts of the case and the submissions of the parties.
- In general, a sentence of imprisonment takes effect on the day that it is passed, unless the court otherwise directs. The court has the discretion to postpone or backdate the sentence (i.e. for the sentence to start at an earlier date such as the date when the offender was arrested for the offence that he has been sentenced, where the offender remains in custody after arrest): see part [X\(D\)](#) below.
- The court may also order a stay of execution (i.e. a temporary suspension) of the sentence under certain circumstances – e.g. where there is an appeal against the sentence, the court may order that the sentence be stayed until the appeal is decided. However, filing an appeal against sentence, without more, does not act as an automatic stay of execution of the sentence.

II. TYPES OF SENTENCES

Statute law defines the types of sentences that the court may impose for a specific offence, and the range of such sentences that may be imposed. For example, some offences may only be punishable with a fine of up to a specified amount.⁵ The court will consider the specific facts of the case and pass an appropriate sentence that is within the prescribed range of sentences.

The main types of sentences are briefly described below.

Imprisonment

- Imprisonment involves detention in prison for a specified period.
- The maximum imprisonment term for an offence is defined by law. For example, the offence of voluntarily causing hurt has a maximum imprisonment term of 3 years.
- Certain offences also carry a minimum imprisonment term. For example, the offence of robbery has a minimum imprisonment term of 2 years, and a maximum imprisonment term of 10 years.⁶

Fines

- A fine is a monetary penalty. In some cases, a fine may serve to deprive the offender of ill-gotten gains.⁷
- If the offender is unable to pay the fine, he may be required to serve an imprisonment term instead of the fine.⁸
- The offender may apply to court for the fine to be paid by instalments, or by a later date. The court will consider whether this should be allowed, in the circumstances of the case.

Caning

- For certain serious offences, the law may provide for caning to be imposed. Examples include rape and voluntarily causing grievous hurt.
- Caning can only be imposed on male offenders who are not more than 50 years of age at the time of the caning.⁹ Where caning cannot be imposed for any offender, the court may impose an imprisonment term of up to 12 months, instead of caning.¹⁰
- Where an adult offender is sentenced at the same sitting for 2 or more offences punishable by caning, the aggregate sentence of caning cannot exceed 24 strokes.¹¹
- Caning may only be inflicted if a medical officer is present and certifies that the offender is in a fit state of health to undergo the punishment.¹²

⁵ For example, the offence of wilful trespass on property under s 21(1) of the Miscellaneous Offences (Public Order and Nuisance) Act is punishable with a fine not exceeding \$1,000.

⁶ A sentence of at least 6 strokes of the cane must also be imposed. Harsher sentences apply if the robbery was committed after 7pm and before 7am.

⁷ *Public Prosecutor v Su Jiqing Joel* [2021] 3 SLR 1232 at [35]–[38].

⁸ Section 319(1)(b)(v) Criminal Procedure Code ("CPC").

⁹ Section 325 CPC.

¹⁰ Section 325(2) CPC; *Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904.

¹¹ Section 328 CPC.

¹² Section 331 CPC.

Death Penalty

- For a small number of very serious offences such as murder and trafficking in significant quantities of drugs, the law may provide for the death penalty to be imposed. Only the High Court or the Court of Appeal can impose the death penalty.

Corrective training and preventive detention

- Corrective training and preventive detention involve long periods of incarceration in prison, which may exceed the maximum imprisonment term prescribed for the offence. They are generally imposed on recalcitrant offenders who commit serious offences.
- Corrective training may be imposed for a period of between 5 and 14 years, and applies to repeat offenders¹³ who are at least 18 years of age. The court will consider whether it is expedient to impose corrective training with a view to the offender's reformation and the prevention of crime.¹⁴
- Preventive detention may be imposed for a period of between 7 and 20 years, and applies to repeat offenders¹⁵ who are at least 30 years of age. The court will consider whether it is expedient to impose preventive detention for the protection of the public.¹⁶

Community sentences

- Community sentences are alternatives to imprisonment, caning and fines, and consist of one or more of the following community orders:

Mandatory treatment order

Requires an offender suffering from a treatable psychiatric condition that contributed to the offence to undergo psychiatric treatment for a period of up to 36 months (which may include a requirement to reside in a psychiatric institution).

Day reporting order

Requires the offender to report to a day reporting officer for supervision and to undergo counselling and rehabilitation programmes, for a period between 3 and 12 months.

Community work order

Requires the offender to perform unpaid community work that is associated with the offence, under the supervision of a community work officer.¹⁷

Community service order

Requires the offender to make amends to the community by performing unpaid community service under the supervision of a community service officer.

Short detention order

Requires the offender to be detained in prison for a period not exceeding 14 days.

¹³ The legal criteria for corrective training are set out in section 304(1) CPC.

¹⁴ *Sim Yeow Kee v Public Prosecutor* [2016] 5 SLR 936 at [37].

¹⁵ The legal criteria for preventive detention are set out in section 304(2) CPC.

¹⁶ *Sim Yeow Kee v Public Prosecutor* [2016] 5 SLR 936 at [37].

¹⁷ As at the date of this note, there are no offences prescribed to be punishable with community work orders.

- Community orders may only be imposed where certain criteria are met. For example, community orders are generally not available for offences punishable with a maximum imprisonment term of more than 3 years, or where the offender was previously sentenced to corrective training or preventive detention.¹⁸
- If the offender re-offends or breaches any conditions of a community order, the court may revoke the community order and re-sentence the offender to the prescribed sentence for the offence (e.g. imprisonment).¹⁹
- The offender's criminal record for that conviction will be rendered "spent" upon successful completion of the community sentence, i.e. the offender is deemed to have no record of that conviction.²⁰
- Before imposing a community sentence in respect of an offence, the court may also impose a sentence of imprisonment that is provided for that offence, and suspend that sentence of imprisonment for the period when any community sentence is in force (a "suspended sentence"). The order of imprisonment will be carried out if the community order should subsequently be revoked.²¹

Probation

- For some offences, the law may allow probation to be imposed as a sentence. In such cases, the court may order the offender to be supervised by a probation officer for a period between 6 months and 3 years, instead of any other sentence.²²
- A probation order can contain a range of conditions including a community service requirement, a curfew, electronic monitoring, and a requirement to attend rehabilitative programmes.
- If the offender re-offends or breaches any conditions of the probation order, the court may revoke the probation order and re-sentence the offender to the prescribed sentence for the offence (e.g. imprisonment).
- Probation is more commonly ordered for young offenders below 21 years of age, although it is also available for adult offenders in certain situations.
- Probation, if completed successfully, will not result in a criminal record.

¹⁸ Refer to section 337 CPC. However, mandatory treatment orders may be imposed on an offender who is convicted of certain prescribed offences punishable with a maximum imprisonment term exceeding 3 years but not exceeding 7 years (section 337(2)(c) CPC), provided none of the other disqualifying criteria are present.

¹⁹ Sections 352 and 354 CPC.

²⁰ Section 7DA of the Registration of Criminals Act. There are some exceptions, e.g. court proceedings or disqualification under written law from admission to professions.

²¹ Sections 337(6) to 337(9) CPC.

²² The legal criteria for probation are set out in section 5 of the Probation of Offenders Act.

Reformative training

- The court may impose reformative training to reform the offender and to prevent crime. Reformative training applies to young offenders below 21 years of age at the time of conviction, and may be imposed instead of any other sentence.²³
- Reformative training comprises two phases:

Residential phase

A residential phase when the offender is detained in a reformative training centre for a minimum period of 6 or 12 months, as specified by the court.

Supervision phase

A supervision phase where the offender is released into the community under the supervision of prison reintegration officers.

- The total period of detention and supervision must not exceed 54 months.
- Reformative training is a more severe form of punishment than probation.

²³ The legal criteria for reformative training are set out in section 305 CPC.

III. KEY SENTENCING PRINCIPLES

The courts are guided by four key sentencing principles in deciding the appropriate sentence:

1. Retribution (which refers to proportionate punishment)

- The sentence should be proportionate to the offender's culpability and the seriousness of the crime.

2. Deterrence

- This principle comprises general deterrence and specific deterrence. *General deterrence* aims to discourage others from engaging in similar behaviour through the sentence meted out on a particular offender. *Specific deterrence* seeks to discourage the particular offender from re-offending. This is particularly relevant when the offender is a repeat offender.

3. Rehabilitation

- The sentence should promote the rehabilitation of the offender so that he is reformed and does not commit further crimes in the future. This principle is aimed at addressing the underlying causes of the offending behaviour though compulsory rehabilitative measures.

4. Prevention and public protection

- The sentence aims to prevent the offender from reoffending by incapacitating him or placing him under restrictions. This principle is a key consideration for offenders who pose a threat to public safety and is generally reflected in longer periods of incarceration to prevent the offender from further harming society.

The court will decide how much weight to place on each principle based on the facts of the specific case. For instance:

- General deterrence and retribution will usually be given greater weight in cases involving offences committed against vulnerable victims such as children²⁴ and migrant domestic workers,²⁵ as well as offences committed as a result of premeditation and planning.
- Specific deterrence is generally given greater weight for offenders who reoffend despite having been punished for similar offences in the past.²⁶
- Rehabilitation may assume greater importance for young offenders under 21 years of age as: (a) they may not have the full cognitive maturity of adults at the time of offending; and (b) they are still in their formative years and are generally more receptive towards a sentencing regime that guides them on the right path.²⁷

²⁴ *Public Prosecutor v BDB* [2018] 1 SLR 127.

²⁵ *Janardana Jayasankarr v Public Prosecutor* [2016] 4 SLR 1288.

²⁶ *Public Prosecutor v Low Ji Qing* [2019] 5 SLR 769.

²⁷ *A Karthik v Public Prosecutor* [2018] 5 SLR 1289.

IV. HARM AND CULPABILITY

In general, the courts consider two key factors in determining the appropriate sentence: (a) the degree of harm caused or risked by the offence; and (b) the offender's culpability in committing the offence.

A. Harm caused or risked by the offence

Harm is generally measured by looking at the consequences of the offence on the victim(s).

- Depending on the offence, the victim(s) may include one or more individuals, a specific group or community, the general public, the state, animals, or the environment.
- An assessment of harm should take into account the overall impact of the offence upon the victim(s) and may include physical injury, psychological harm, financial loss and damage to property. For example:
 - For violent offences, the harm can be determined by reference to the severity of the victim's physical injuries and any psychological harm resulting from the offender's act of violence.
 - For property offences, the value of the property involved would be an important factor in calibrating harm, although it is not the sole measure.²⁸
 - For drug offences, the quantity of the drugs has a direct correlation with the degree of harm caused to society.²⁹
- Besides the actual harm that was caused, the court may also consider the *potential harm* that was risked by the offender's actions.³⁰ This involves consideration of the likelihood of harm occurring, and the severity of the harm if it occurs.

²⁸ *Logachev Vladislav v Public Prosecutor* [2018] 4 SLR 609 at [43]-[50].

²⁹ *Vasentha d/o Joseph v Public Prosecutor* [2015] 5 SLR 122.

³⁰ *Ng Soon Kim v Public Prosecutor* [2020] 3 SLR 1097 at [12]; *Mao Xuezhong v Public Prosecutor* [2020] 5 SLR 580 at [64].

B. Offender's culpability

Culpability refers to the offender's level of blameworthiness and is generally assessed by looking at the offender's manner of offending and state of mind when committing the offence. For example, an offender who commits the offence with premeditation would be more culpable, compared to one who committed the offence without premeditation.

Offences which require a specific state of mind

- There are some offences which can only be committed if the offender had a certain state of mind (such as intention, rashness, knowledge, negligence or dishonesty). The mere presence of this state of mind would generally not enhance the offender's level of culpability for the purposes of sentencing.
- For such offences, the court will consider factors such as:
 - Motive, which refers to the offender's underlying reasons for committing the offence.
 - Premeditation, which refers to the offender deliberately considering and planning the offence before committing it.
 - Degree of planning and sophistication.
 - Role in the offence (for group offences), such as whether the offender played a leading role or a minor role.

Offences which do not require any specific state of mind

- For offences which do not require any specific state of mind, such as certain regulatory offences, the offender's level of culpability would generally be assessed by reference to the factors listed in the above section on offences which require a specific state of mind, as well as whether the offence was committed:
 - Intentionally (more culpable).
 - Rashly, which refers to a situation where the offender acted despite being aware of the risk, even if no harm was intended.
 - Negligently, which refers to a situation where the offender failed to take reasonable care to avoid the offence (less culpable).

V. AGGRAVATING FACTORS

Aggravating factors are factors which indicate that a more severe sentence should be imposed.

Aggravating factors may relate to the nature of the offence, such as the manner in which the crime was committed (known as *offence-specific* aggravating factors); they may also concern the circumstances of the offender, such as his criminal history, age and mental condition (known as *offender-specific* aggravating factors).

A non-exhaustive list of facts that may, depending on the circumstances, be treated as aggravating factors is set out below.

- Offence committed while on bail
- Offence committed while under the influence of alcohol or drugs
- Offence committed as part of a group
- Involvement of a criminal syndicate
- Cross-border nature of the crime
- Offence involved the use of a weapon
- Offence involved planning and/or premeditation
- Commission of the offence for financial gain
- Abuse of trust or dominant position
- Degradation or humiliation of the victim
- Offence against a vulnerable victim
- Victim was providing a public service or performing a public duty at the time of the offence
- Attempts to cover up the offence or conceal evidence
- Pattern of repeated offending
- Previous convictions (also known as *antecedents*)
 - The court will have regard to the relationship (if any) between the previous convictions and the current offence, and the time that has elapsed since the previous convictions.
 - Generally, recent and similar antecedents are likely to result in a greater enhancement in sentence. On the other hand, antecedents which are dated and/or dissimilar to the current offence may not necessarily result in an enhancement in sentence.

VI. MITIGATING FACTORS

Mitigating factors are factors which indicate that a less severe sentence should be imposed. As with aggravating factors, mitigating factors may relate to the nature of the offence or the circumstances of the offender. The weight to be given to mitigating factors in sentencing will depend on the facts of each case, and be balanced against the aggravating factors.

A non-exhaustive list of facts that may, depending on the circumstances, be treated as mitigating factors is set out below.

- Offence was committed due to provocation
- Offender was pressured into committing the offence
- Offender had a minor role in the offence (for group offences)
- Young offender (offenders below 21 years of age are more likely to receive alternative sentences such as probation or reformatory training, instead of imprisonment)
- Cooperation during investigations and an early plea of guilt
- Mental disorder which contributed to the offence, although the manner and extent of its relevance depends on the circumstances of each case, in particular the nature and severity of the mental disorder.³¹ For instance, general deterrence may still be accorded full weight in some circumstances, such as where the mental disorder is not serious or is not causally related to the commission of the offence, and the offence is a serious one³²
- Self-reporting of the crime by the offender
- Voluntary restitution or compensation made to the victim for the harm/damage caused

³¹ *Lim Ghim Peow v Public Prosecutor* [2014] 4 SLR 1287 at [25]; *Public Prosecutor v Kong Peng Yee* [2018] 2 SLR 295 at [59].

³² *Lim Ghim Peow v Public Prosecutor* [2014] 4 SLR 1287 at [28].

VII. FACTORS WHICH DO NOT AFFECT THE SENTENCE

The following non-exhaustive factors are generally not mitigating factors and thus do not affect the sentence.

- Family or financial hardship resulting from incarceration (unless there are exceptional circumstances)³³
- Victim's forgiveness³⁴
- Elderly offender³⁵
- Offender's medical conditions or ill health (unless there are compelling grounds to exercise judicial mercy, or where imprisonment has a markedly disproportionate impact on the offender)³⁶
- Offender's educational background and performance³⁷
- Offender's socio-economic status³⁸

³³ *Lai Oei Jenny v Public Prosecutor* [1993] 2 SLR(R) 406 at [10]; *CCG v Public Prosecutor* [2022] SGCA 19 at [6].

³⁴ *Public Prosecutor v UI* [2008] 4 SLR(R) 500 at [56]; *Public Prosecutor v Tan Jia Jun Shawn* [2022] SGHC 76 at [38]–[43].

³⁵ *Yap Ah Lai v Public Prosecutor* [2014] 3 SLR 180 at [89]; *CCG v Public Prosecutor* [2022] SGCA 19 at [8].

³⁶ *Chew Soo Chun v Public Prosecutor and another appeal* [2016] 2 SLR 78 at [38]–[40].

³⁷ *Public Prosecutor v Siew Kai Yuan Terence* [2020] 4 SLR 1412 at [59]:

"[R]eference to an offender's scholastic excellence would, in and of itself, be irrelevant, unless a *link* can be drawn between the offender's scholastic excellence and the offender's rehabilitative capacity"; and

Praveen s/o Krishnan v Public Prosecutor [2018] 3 SLR 1300 at [45]:

"[T]he quest for academic qualifications is merely one indicator of rehabilitative capacity. Although it usually helps that young offenders are good students as it stands them in better stead and fortifies their chances of reform ... the issue is *not* ultimately whether the offender is academically promising. Rather, the relevant question is whether he has demonstrated a positive desire to change and whether there were conditions in his life that were conducive to helping him turn over a new leaf. In this regard ... scholastic mediocrity or the fact that the offender is no longer in school should not be reasons by themselves to conclude that the offender is incapable of rehabilitation. Other avenues, such as vocational training or employment, would also be pertinent in assessing the offender's prospect for reform."

³⁸ *Public Prosecutor v Siew Kai Yuan Terence* [2020] 4 SLR 1412 at [1].

VIII. OFFENCES TAKEN INTO CONSIDERATION

After the offender has been convicted of an offence, the court may, in determining the sentence to be imposed, take into consideration ("TIC") any other outstanding offences that the offender admits to, with the consent of the prosecution and the accused.³⁹ These outstanding offences are referred to as *TIC offences*.

The offender is not sentenced for any TIC offences. Nevertheless, the effect of TIC offences is generally to enhance the overall sentence imposed for the offences for which the offender was convicted, especially if the TIC offences are similar in nature to the offences for which the offender was convicted.⁴⁰ The sentence imposed for each offence cannot exceed the statutory maximum provided for the offence.

After the offender is sentenced, he may not be charged or tried for the TIC offences, unless his conviction is set aside.

³⁹ Section 148 CPC. For example, an offender may admit to the remaining charges, after he has been convicted of some charges at trial.

⁴⁰ *Public Prosecutor v UI* [2008] 4 SLR(R) 500 at [38].

IX. SENTENCING FOR MULTIPLE OFFENCES

Where the offender is sentenced to imprisonment for multiple offences at the same time, the court must decide what the total sentence should be. This generally involves two steps:⁴¹

Step 1

First, the court must reach a provisional view of the sentence for each offence ("the individual sentence").



Step 2

Second, the court must determine the overall sentence to be imposed. This requires the court to consider whether the individual sentences should be served:

- At the same time as each other, i.e. concurrently; or
- One after the other, i.e. consecutively.

See the note on [Sentencing for Multiple Offences](#) for the principles which the court will apply in deciding the overall sentence.

⁴¹ *Public Prosecutor v Azlin Binte Arjunah and other appeals* [2022] SGCA 52 at [199].

X. OTHER ISSUES

A. Parity of sentencing between accomplices or co-offenders

The principle of parity applies in cases where there are accomplices, or co-offenders, who were involved in the same criminal enterprise. In such cases, the parity principle urges that the sentences imposed on the accomplices or co-offenders should not be unduly disparate from each other.⁴² This means that generally, offenders of similar culpability should receive similar sentences, while those of greater culpability should be more severely punished.

However, where such accomplices or co-offenders are charged with different offences in the exercise of prosecutorial discretion, the principle of parity generally does not apply.

B. Enhanced sentence for breach of remission order

Persons who are released from prison on a remission order before the expiry of their sentence are subject to a condition that they should not be sentenced to imprisonment (excluding a default sentence), corrective training, reformative training or preventive detention, for an offence committed during the period when the remission order is in effect, which is known as the *remission period*.⁴³

If this condition is breached, the court may, in addition to imposing any sentence on the offender for the fresh offence, impose an enhanced sentence of imprisonment of up to the remaining remission period at the date of the fresh offence.⁴⁴ The enhanced sentence must run consecutively to the sentence imposed by the court for the fresh offence.

C. Driving disqualification orders

An offender who commits certain offences involving the use of a motor vehicle may be disqualified from holding a driving licence for a period of time.

For example, the offence of drink-driving carries a minimum disqualification period of 2 years for a first offender, unless the court finds that there are special reasons not to make the order.⁴⁵

⁴² *Chong Han Rui v Public Prosecutor* [2016] SGHC 25 at [1].

⁴³ Section 50S Prisons Act.

⁴⁴ Section 50T Prisons Act; *Abdul Mutualib bin Aziman v Public Prosecutor and other appeals* [2021] 4 SLR 1220.

⁴⁵ Section 67(2) Road Traffic Act.

D. Date when sentence commences

If the offender is sentenced to imprisonment, corrective training or preventive detention, the sentence generally takes effect on the date the sentence is passed by the court.⁴⁶ However, the court may defer the commencement of the sentence to a later date if there are valid reasons for the deferment.

The court also has a discretion to backdate sentences. For example, for offenders who were not released on bail after their arrest and remained in custody, the court may backdate their imprisonment sentence to the date of arrest.⁴⁷ The court may also take into account any time spent in remand, when deciding whether to backdate or reduce the sentence imposed.⁴⁸

If the offender is already serving an imprisonment term for another offence at the time of sentencing, the court will decide whether any fresh sentence of imprisonment imposed is to run from the date of sentencing (i.e. concurrently with the existing imprisonment sentence), or only upon expiration of the existing imprisonment sentence.

⁴⁶ Section 318 CPC.

⁴⁷ *BWM v Public Prosecutor* [2021] SGCA 83 at [25].

⁴⁸ *Vasentha d/o Joseph v Public Prosecutor* [2015] 5 SLR 122 at [44] and [85].