

SENTENCING FOR MANSLAUGHTER

The offence of manslaughter

Manslaughter is a crime that can be broken down into two groups. These are described as:

- voluntary manslaughter - where the offender **intended** to kill or cause really serious harm but is not guilty of murder due to provocation or mental incapacity (described as diminished responsibility); and
- involuntary manslaughter - where the offender **did not intend** to kill or cause really serious harm but where death results from an unlawful act or from gross negligence.

An offender is sentenced after he or she has either pleaded guilty to the offence or been found guilty following a trial. The judge may sentence immediately or may adjourn the case to obtain reports on the offender (for example medical reports).

Sentencing for manslaughter

The harm caused by any offence that results in a death is immeasurable. The sentence is not a measure of the value put on the life of the victim.

The maximum sentence a judge can impose for manslaughter is imprisonment for life.

The judge may impose other sentences, including a prison sentence to be served immediately, suspended imprisonment or a community sentence.

If the offender is assessed as dangerous the judge may pass either a life sentence or an extended sentence of imprisonment to protect the public.

If the offender pleads guilty the judge will reduce the sentence by up to one third depending on how early the plea was made.

In the case of **corporate manslaughter** (where an organisation is convicted of causing the death) the penalty will be a fine. This fine is a punishment for the offence and does not represent the value of a human life in money.

What do the sentences actually mean?

It is the law that for prison sentences **other than life sentences** offenders serve half their sentence in prison and half on licence in the community and subject to recall to prison.

If a life sentence is imposed the judge will set the **minimum** term the offender will have to serve before applying to the Parole Board for release on licence. The offender is only released if no longer considered to be a risk to the public and would be subject to certain conditions. If the conditions are broken or if the offender is considered to be a risk to the public he or she will be sent back to prison.

If an extended sentence of imprisonment to protect the public is imposed the offender will serve at least two-thirds of the sentence in prison, the remainder on licence in the community, plus an additional period on licence and subject to recall to prison.

How are sentences decided?

The judge will decide the appropriate sentence by taking into account a number of factors including the facts of the case, the maximum penalty set by law and sentencing guidelines.

In the case of offences causing death the judge particularly considers:

- any relevant sentencing guidelines (if no guidelines are available the judge will refer to how cases have been sentenced in the past);
- the sentence the law allows (criminal offences have a maximum sentence and the sentence for murder is laid down by law);
- how responsible the offender was for what happened, for example whether death was caused intentionally;
- the serious harm caused by the offence including the impact of the offence on the family of the victim and others; and
- the circumstances and history of the offender, such as previous convictions, or previous good character.

What about the impact of the crime?

In any case resulting in a death the impact of the offence will, of course, be assessed as very serious. If the victim's family has chosen to make a victim personal statement the judge will use the information it contains when assessing the impact of the crime.

Decisions about prisoner release

The Parole Board makes decisions about the early release of certain prisoners, including many who have committed violent offences; most offenders who have been recalled to prison; and anyone sentenced to life imprisonment or indeterminate sentence for public protection. When making these decisions the Parole Board acts as a court, but does not hold public hearings. Some decisions are made on paper, others at oral hearings held at the prison.

The Parole Board has specific duties that are set out in the Code of Practice for Victims of Crime.

Useful sources of information

www.gov.uk

The Code of Practice for Victims of Crime provides information for victims of crime and bereaved close relatives of a victim who has died as a result of a crime.

www.sentencingcouncil.org.uk

Find out about sentencing guidelines and how they help judges decide on sentences. Judges must follow guidelines unless there are very good reasons - in the interests of justice - not to. In such a case, the judge has to give reasons.

www.gov.uk/government/organisations/parole-board

Find out more about how the Parole Board works to protect the public by risk assessing prisoners to decide whether they can be safely released into the community.

www.legislation.gov.uk

Here you will find the law that sets out examples of the different types of cases and the usual starting points for setting minimum sentences for the offence of murder.

This leaflet is one of a series of leaflets developed by the Office of the Sentencing Council in partnership with the Family Liaison and Disaster Management Team at the Metropolitan Police. It is intended to be used by Family Liaison Officers to help explain to families of victims how certain serious offences are sentenced.

Please contact: info@sentencingcouncil.gsi.gov.uk for further information.