

A Short Guide

Sentencing for offences taken into consideration (TICs)

- This guide describes how the courts decide what the sentence should be when an offender admits further offences during the criminal process and asks the court to take these into account when sentencing.
- The guide has been designed to complement the Sentencing Council's consultation on a draft guideline on Offences Taken Into Consideration (15 September 2011 to 8 December 2011) and provides a more general explanation of the issue.

What are Offences Taken Into Consideration and why are they used?

A defendant who has been arrested on suspicion of an offence may admit that offence to the police. The police may then invite him to confess to similar offences on the provisional understanding that these additional offences will not be prosecuted separately but will instead be brought to the attention of the court when sentencing for the main offence. The court can then decide whether to take these additional offences into account. These additional offences are known as offences taken into consideration and are commonly referred to as TICs. The court will generally increase the sentence because of the TICs, as these show that the offender has committed multiple offences.

e.g. an offender is charged with shoplifting on four occasions. They also admit to police that they have committed three further offences of shoplifting and ask the court to take these into consideration.

There are several benefits of the TIC practice:

- It can allow offences to be brought to justice that might otherwise remain unsolved because there is not enough evidence to prosecute;
- Victims may have the closure that follows from an offender having been brought to justice. In some cases the use of the TIC procedure may allow the court to make a compensation order to victims who otherwise would not have been compensated;
- The court has a clearer picture of a person's offending and can see whether there is a pattern of behaviour. They can then give the offender a sentence that reflects their full criminality;
- The approach also saves police, prosecution and court time and resources, as offences can be dealt with promptly without additional investigations and hearings;
- Offenders have the opportunity to 'clean the slate' so that at the end of their sentence, having admitted their offences, they can put their past behind them. This can play a role in supporting their rehabilitation. Although the offender may receive an increased sentence because of the TICs, the additional penalty will usually be less severe than if these offences had been prosecuted separately.

What happens when a court takes an offence into consideration?

The court will consider the main offence and will decide how serious this offence is by looking at the harm caused and the culpability of the offender in committing the offence. Culpability means the extent to which an offender is to blame for committing an offence. The court will then form an initial view as to the appropriate level of sentence - known as the "starting point". The court will then go on to consider the wider circumstances of the case and can increase or decrease the sentence from the starting point. It is at this stage that the court will consider the TICs.

Normally TICs are treated as an aggravating factor because they show that the offender committed more than one offence and the offending is more serious. The court will therefore generally increase the length of the sentence. But the increase should be just and proportionate and should generally stay within the range of sentences for the main offence. Where the offences are taken into consideration, the offender won't go to court again for these offences.

e.g. continuing our example above, a court may decide the four shoplifting offences deserve a starting-point of a medium level community order with 150 hours of unpaid work. The court will then take into account the three TICs. The court may decide to increase the sentence to 200 hours of unpaid work and may also require the offender to attend a rehabilitation course if their offending has been caused by some form of addiction.

How does the court decide whether to take offences into consideration?

The court can only take offences into consideration if the police and prosecution agree that the offences should be dealt with in this way. The offender must also admit the TICs in court and request that they are taken into consideration.

The court can choose whether or not it will take an offence into consideration. Normally a court will **not** take offences into consideration where:

- The TIC is likely to attract a greater sentence than the main offence (for example, if a court is sentencing for a shoplifting offence, it is unlikely to take into account a domestic burglary);
- Where it is in the public interest that the TIC should be prosecuted separately (for example, if the TIC offence caused greater harm to a victim than the main offence being prosecuted);
- Where the offender would avoid a prohibition, a court order or similar consequence which it would have been desirable to impose on conviction (for example, where the TIC is a driving offence that would result in the offender being disqualified, but the main offence would not lead to disqualification the court may think that it would be more just to see the TIC prosecuted for all offences so that they could disqualify the offender);
- If the TIC occurred when the offender was already subject to a sentence (for example, if the offender committed a shoplifting offence when they were already subject to a community order. The court may think that the shoplifting offence should be prosecuted, because the offence requires a separate punishment to mark the fact that the offender failed to comply with the existing sentence);
- Where the TIC is unrelated or not similar to the main offence (for example, if a court is sentencing for a credit card fraud it is unlikely to take a drugs offence into consideration).

More information

The Sentencing Council is currently consulting on a draft guideline on the sentencing of offences taken into consideration. The consultation document contains further detail on the topic and responses are welcome from all. The documents can be found at:

www.sentencingcouncil.org.uk

This Sentencing Council website also contains a range of information about sentencing. Alternatively, you may wish to visit the sentencing area on the Directgov website, which can be accessed at:

www.sentencing.cjsonline.gov.uk

The Ministry of Justice publishes both a quarterly and annual statistical publication on sentencing data which focuses on national level trends in sentencing for all offences. Publications can be accessed via the Ministry of Justice statistics homepage at:

www.justice.gov.uk/publications/statistics-and-data/index.htm

About the Sentencing Council

The Sentencing Council for England and Wales aims to:

- promote a clear, fair and consistent approach to sentencing;
- produce analysis and research on sentencing; and
- work to improve public confidence in sentencing.

One of its main functions is to produce sentencing guidelines. The courts have a duty to follow the Sentencing Council's guidelines unless it is in the interests of justice not to do so.

The Sentencing Council is an independent, non-departmental public body of the Ministry of Justice and replaced the Sentencing Guidelines Council and the Sentencing Advisory Panel.

You can find out more about the Sentencing Council, the guidelines it produces and sentencing more generally on the Sentencing Council's website:

www.sentencingcouncil.org.uk