

A Short Guide

Sentencing for multiple offences (Totality)

- This guide describes how the courts decide what the total sentence should be when an offender has been convicted of more than one offence and is being sentenced for these offences at the same time.
- The guide has been designed to complement to the Sentencing Council's consultation on a draft guideline on sentencing for multiple offences (15 September 2011 to 8 December 2011) and provides a more general explanation of the issue.

Why do offenders sometimes get sentenced for more than one offence at the same time?

Offenders can be sentenced for more than one offence at the same time in particular circumstances, generally where these offences are linked. For example:

- Someone driving while disqualified means the offender will also be committing an offence of driving without insurance (as you can't get insurance when you are disqualified).
- Committing a series of offences against the same victim and once one of these was revealed the series was revealed, such as a series of thefts over a number of months from an employer.

This is because it is important that the sentence reflects the overall behaviour of the offender rather than to treat each offence in isolation.

How does the court approach these cases?

When sentencing for more than one offence, the court is seeking to ensure that the total sentence reflects **all** the offending behaviour and is therefore just and proportionate. This is referred to as the principle of **totality**. A just and proportionate sentence is one which:

- Reflects the overall seriousness of the criminality when all the offences are considered together.
 - This requires the court to consider the overall sentence (the individual sentences added together) in relation to the overall criminality of the offending. This is because if the individual sentences were simply added together it could lead to a disproportionately high total sentence – for example, resulting in sentences for multiple thefts being the same as those for more serious offences such as assault.
- Takes into account the overall effect of the sentence on the offender. This will involve consideration of factors personal to the offender.
 - This requires the court to consider whether in some circumstances, particularly where the offender may be young, the sentence is not so severe as to have a crushing effect on their future life.

How can the sentences be served?

The court considers whether the sentences should be served either:

- at the same time as each other - this is called a **concurrent** sentence; or
- one after the other - this is called a **consecutive** sentence.

What steps does the court take?

STEP ONE

The court will consider the sentence for each of the individual offences that the offender has been convicted of. It does this by referring to the sentencing guidelines that have been issued for each offence.



STEP TWO

The court will consider whether the sentences should be served concurrently (at the same time) or consecutively (one after the other).

Sentences are generally served **concurrently** when:

- the offences arise out of the same incident;
- there is a series of offences of the same or similar kind, especially when committed against the same person

Sentences are generally served **consecutively** when:

- the offences arise out of different incidents;
- there are a combination of offences where it is important that each is separately recorded;
- it needs to be ensured that all the offences are appropriately punished, for example where one of the offences has a minimum sentence.



If the court has determined that the sentences should be served **concurrently**, it will ensure the sentence to be served reflects the overall criminality. This can mean that the sentences for each individual offence are increased to reflect the presence of the other offences.



If the court has determined that the sentences should be served **consecutively** it will consider if the total, once the sentences have been added up, is just and proportionate (see previous page). If it concludes that the total sentence is not just and proportionate it will adjust each of the sentences.



STEP THREE

The court will then consider whether the overall sentence(s) is just and proportionate and consider if people will understand it.

The judge or magistrate will explain in court the approach they have taken.

Frequently asked questions

How many offenders are sentenced for more than one offence?

Overall, about 24 per cent of offenders sentenced by the courts are sentenced for more than one offence.

Do other countries sentence in the same way?

Yes, many countries have approaches where they look at ways to ensure that the total sentence for an offender being sentenced for more than one offence is just and proportionate and structure it accordingly. The approaches in countries such as Canada, Australia and New Zealand are very similar to ours.

Why don't you just add all the sentences together?

It is usually impossible to arrive at a just and proportionate sentence for multiple offending simply by adding together hypothetical single sentences. It is necessary to address the offending behaviour as a whole, together with the factors personal to the offender.

What is the point of having concurrent sentences - surely if an offender has committed a number of crimes they should get a sentence for each one?

Concurrent sentences are sometimes thought to mean that an offender is getting away with some offences without punishment. This is not so. The overall sentence will reflect everything that he or she has done. The sentences for each of the offences to be served concurrently will be appropriately aggravated by the presence of the associated offences – so the offender is serving a sentence that reflects everything that they have done.

More information

The Sentencing Council is currently consulting on a draft guideline on sentencing of multiple offences (totality). 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