

SAFETY LESSON PLAN: What part should victims play in the sentencing of offenders?

Learning objectives

- To encourage students to think about the role that the victim should play in the sentencing of an offender.
- To develop students' understanding of some of the underlying principles of sentencing.

Learning outcomes

All students should know that victims of crime have a right, before their case goes to court, to make a victim personal statement which, if the defendant is convicted, can be read out in court and taken into account in the sentencing decision.

Most students will be able to suggest a number of the factors that magistrates and judges use in deciding on how an offender will be sentenced.

Some students will be able to describe some of the difficulties faced by magistrates and judges in ensuring that sentences given to offenders are fair and consistent.

Resources

- **YCP** – pages 20–24
- **Starter** (p.4) – Making the sentence fit the crime, cut into slips
- **Main 1** (p.5) – The victim personal statement
- **Main 2** (p.6) – Strengths and weaknesses, cut into slips

Curriculum references

England: Citizenship: **KS3**, the roles of the law and the justice system; **KS4**, the roles and operation of civil and criminal law and the justice system, how laws are made and shaped by people and processes, including the work of parliament, government and the courts.

Wales: PSE Framework, 7 to 19-year-olds: **KS3**, key aspects of the justice system; **Post 16**, the moral and ethical problems faced by society and individuals and reflect upon how such issues may be resolved.

Activities

Starter

- Explain to students that, in this session, they'll be looking at a number of questions surrounding the sentencing of people who have

pleaded guilty, or been found guilty, of committing a crime.

- With students in twos or threes, give each pair or small group a set of slips, comprising brief descriptions of five offences and the sentences passed by the courts. All the cases are real. Ask students to match the sentences with the crimes. Each crime and sentence can only be used once.
- When students are ready, ask a number of groups to reveal their pairings. Make a note of these on the board, and ask a few students – particularly where there are differing answers – to explain why they made particular matches.

Try to draw out some of their explanatory factors – and again make a note of these on the board: for example, *the severity or impact of the crime, the need to protect the public, to punish the offender, to discourage the offender and others from committing similar offences, or perhaps, because a higher (or lower) sentence would not be fair.*

Point out that, in drawing up this list, students are indicating the kind of thinking that they feel should accompany sentencing. Ask if there is anything else that they would like to add to the list.

Further suggestions might include the need for sentences to be *consistent*, the need to take note of the *circumstances surrounding the offence*, and other mitigating factors such as the *age or capability of the offender or victim*.

You may find the following further information useful:

- Parliament attaches a maximum penalty for each criminal offence, and usually leaves it up to the court to select a sentence up to this limit.
- Courts are required to link the sentence with the severity of the offence, and to ensure that it is proportionate.
- Custodial offences should be imposed only where the offence is so serious that neither a fine alone nor a community sentence can be justified.
- The law sets out five aims, or purposes, of sentencing. These are: punishment, crime reduction, reform and rehabilitation of the offender, public protection, and reparation.

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- Courts must consider which of these aims are most appropriate, given the nature of the offence and the circumstances of the offender, and how they might be achieved.
- Guidelines to help magistrates and judges decide on an appropriate sentence are published by an independent public body called the Sentencing Council, www.sentencingcouncil.org.uk

- Now explain to students what actually happened. The pairings are as follows: 1 C, 2 D, 3 A, 4 B, and 5 E.

Give students an opportunity to compare these with their own answers and to comment. Do any of the sentences seem to be excessively lenient or severe?

Main

- Point out to students that each of the cases they have been discussing has involved a victim of some kind: the woman who was assaulted, the man who was abused etc.

Ask students to refer back to each case and to identify the victims and their likely losses. Suggestions may include the following:

- The footballer's girlfriend is most likely to have been left with short-term physical injuries, and possibly a permanent mark on her face, where she received the cut.
- The local fish and chip shop owner suffered abuse and harassment and probably feared for his own and his family's safety. There may also have been economic losses.
- There were short-term economic losses for the DIY store, and possibly damage to its property, again with economic implications.
- The woman who went to the aid of the landlord suffered serious injuries, with widespread implications for her long-term health.
- The victims in the final case include the man who was murdered and his surviving friends and family, who will have suffered great feelings of loss and bereavement.

Now refer students to pages 20–24 in the *YCP*, and ask them to identify what provision is available for victims of this kind.

- Explain to students that there has, for some time, been criticism of the tendency for victims

of crimes to be sidelined by the judicial process, which focuses on the apprehension and conviction of the offender.

One way of addressing this was the introduction, in 2001, of **victim personal statements**, through which victims or their families are able to tell everyone involved in the case how they have been affected by the crime.

The police officer dealing with the case should ask the victim if he or she wants to make a personal statement. If they do, the statement becomes part of the paperwork of the case. If the accused is found guilty, the magistrate or judge will take the impact of the offence into account, along with the sentencing guidelines and other evidence, to reach a decision about the sentence. (Any views expressed by the victim or their family about what may or may not be an appropriate sentence must be ignored.)

Anyone convicted of a crime, including those who are sent to prison, have to pay a victim surcharge. The money paid goes towards improving services for victims of crimes.

- Now direct students' attention back to **slip no. 5** in the starter activity, which describes the murder of a man in London.

This case was reported extensively in newspapers and on radio and television. After the two men accused of the crime had been found guilty, and before they had been sentenced, a victim personal statement, written by the victim's fiancée, was read to the court.

A summary of this statement is given on page 5.

- Either read to students or distribute copies of **The victim personal statement**. Ask students to give their response to what they have heard or read.

Do they think it is a good idea to hear in this way how the crime has affected the victim or their family? If so, why? If not, why not? Point out to students that there was some opposition to the introduction of victim personal statements. What do they feel? Take (and record) a vote on this – those *in favour*, *against*, and *undecided*.

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- ❑ If you wish to develop or support this discussion, page 6, **Strengths and weaknesses**, gives a number of arguments in favour of, and against the current use of victims' statements.

These slips can be:

- separated into those that are 'for' and 'against';
 - sorted on the basis of agreement or disagreement; or
 - ranked in terms of their significance or weight.
- ❑ You may like to conclude this section by asking if, in their statement, the victim forgives the offender (as she did in Case 1), should the magistrate or judge award a lighter sentence?

Plenary

- ❑ Draw together the key points of the lesson. These are likely to include:
 - the tendency of the trial process to overlook the needs of witnesses and the impact of the crime;
 - the right of victims to make a personal statement detailing the impact of the crime;
 - the importance of consistency and fairness in sentencing.
- ❑ Point out to students that, like many areas of law, letting victims explain how they have been affected by the crime is controversial. Some people believe that it should be discontinued, and others that it should be extended.

Ask for their reaction to these proposals:

- Let the judge or magistrate decide whether the victim should be allowed to make a personal statement.
- Hear the victim's statement *after* sentencing, not before.
- Ask the victim directly what sentence they feel should be given.

Further resources

- ❑ If you would like to do further work on sentencing, *You be the judge* enables students to hear the case and decide on the sentence, <http://ybtj.justice.gov.uk>
- ❑ The Sentencing Council website gives further guidance on the process of sentencing and some interesting statistics on the sentences that courts are giving, www.sentencingcouncil.org.uk

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Starter

Making the sentence fit the crime

<p>1 Argument</p> <p>A professional footballer got into an argument with his girlfriend in a restaurant when they started talking about past relationships. The woman deliberately said a number of cruel things and a row developed. The argument continued outside, the man lost control, and punched and head-butted his girlfriend, who fell to the ground with a cut to her eye.</p>	<p>A</p> <p>Four months in prison.</p>
<p>2 Racial harassment</p> <p>A 24-year-old man was found guilty of three charges of racial harassment after repeatedly insulting, spitting at, and racially abusing the owner of a local fish and chip shop, who was originally from Turkey.</p>	<p>B</p> <p>Three years and nine months in prison.</p>
<p>3 Burglary</p> <p>A 42-year-old man, with 51 previous convictions, was found guilty of burglary after breaking into a DIY store, taking goods to the value of more than £200. All the goods were later recovered by the police.</p>	<p>C</p> <p>£200 fine and 150 hours' unpaid work in the community.</p>
<p>4 Violent disorder</p> <p>A 25-year-old man was one of six people found guilty of violent disorder after a major pub brawl which began after the six men were repeatedly rude and insulting to regulars in a pub close to where they were staying. A 46-year-old woman was seriously injured after going to the aid of the landlord. She suffered severe injuries to her head, which permanently affected her sight, her hearing, and her ability to walk.</p>	<p>D</p> <p>Twelve-month community order and a three-month curfew between 7pm and 7am.</p>
<p>5 Murder</p> <p>Two men, aged 17 and 18, were both found guilty of murder after they attacked and robbed a 31-year-old man as he left an underground station in London, on his way home. The attackers left with the victim's mobile phone, Oyster Card, and some cash.</p>	<p>E</p> <p>Life imprisonment.</p>

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Main 1

The victim personal statement

Before the two offenders were sentenced by the judge, a **victim personal statement** was read out in court. It had been written by the victim's fiancée.

Her statement described the devastation caused by the murder of her partner. She said that her sense of pain and horror was indescribable: 'I have found it almost impossible even to try to put it into words.'

However, she was able to explain how her fiancé had worked incredibly hard, and tried to make the most of every opportunity that he had. He was described as supremely talented, but very modest: 'He was the most humble person I have ever known.'

The couple had been together for four years and were planning to marry very soon. When she heard of his death, his fiancée said, 'In a matter of seconds wedding plans and a future together had changed to funeral plans and a lifetime apart.'

The statement went on to say, 'I feel as though [the murderers] have ripped out my heart with their bare hands and torn it, very slowly, to pieces.'

In the second half of her statement, the victim's fiancée wrote of her despair at the murderers' merciless attack and why they had become such cruel and hurtful people, showing no sadness or remorse for what they had done.

This **victim personal statement** was seen at the time to have been very powerful and effective and exceptionally well written. It was reproduced word-for-word in most newspapers on the day after the two offenders were sentenced to life imprisonment.

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Main 2

Strengths and weaknesses

<p>Understanding the harm caused</p> <p>Details of the how the victim or their family have been affected by a crime do not always come out in the trial. A personal statement by the victim makes sure that the court and the offender are aware of the damage caused.</p>	<p>No place for emotion</p> <p>Magistrates and judges should decide on a sentence on the facts of the case, not the feelings of those most seriously affected.</p>
<p>Letting the victim express their pain</p> <p>Writing a victim personal statement can help the victim come to terms with the crime. A personal statement lets them express their pain or anger.</p>	<p>Impossible not to be affected</p> <p>Although victim personal statements are not supposed to influence a magistrate's or judge's decision, they must do – it's common sense.</p>
<p>Making sure the victim is heard</p> <p>When a criminal case is heard in court, most of the attention is focused on whether the accused is innocent or guilty. Victim personal statements give the victim a voice.</p>	<p>Not fair</p> <p>The use of victim statements creates the possibility that the killer of a tramp or drug addict will receive a lighter sentence than the murder of someone who was everyone's favourite friend.</p>
<p>Penalising those who are not good with words</p> <p>Victim personal statements tend to favour those who are literate and educated and work against those without these qualities.</p>	<p>Open to abuse</p> <p>There is no guarantee that the victim statement is accurate. Some of the claims could be untrue.</p>