

- (a) the sheriff—the powers may be delegated to an officer employed in the sheriff's office or Magistrates Court registry; or
- (b) the registrar—the powers may be delegated to an officer employed in the District Court registry or Magistrates Court registry; or
- (c) the clerk of the court—the powers may be delegated to an officer employed in the Magistrates Court registry.

Part 2 Governing principles

9 Sentencing guidelines

- (1) The only purposes for which sentences may be imposed on an offender are—
 - (a) to punish the offender to an extent or in a way that is just in all the circumstances; or
 - (b) to provide conditions in the court's order that the court considers will help the offender to be rehabilitated; or
 - (c) to deter the offender or other persons from committing the same or a similar offence; or
 - (d) to make it clear that the community, acting through the court, denounces the sort of conduct in which the offender was involved; or
 - (e) to protect the Queensland community from the offender; or
 - (f) a combination of 2 or more of the purposes mentioned in paragraphs (a) to (e).
- (2) In sentencing an offender, a court must have regard to—
 - (a) principles that—
 - (i) a sentence of imprisonment should only be imposed as a last resort; and

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- (ii) a sentence that allows the offender to stay in the community is preferable; and
 - (b) the maximum and any minimum penalty prescribed for the offence; and
 - (c) the nature of the offence and how serious the offence was, including—
 - (i) any physical, mental or emotional harm done to a victim, including harm mentioned in information relating to the victim given to the court under section 179K; and
 - (ii) the effect of the offence on any child under 16 years who may have been directly exposed to, or a witness to, the offence; and
 - (d) the extent to which the offender is to blame for the offence; and
 - (e) any damage, injury or loss caused by the offender; and
 - (f) the offender's character, age and intellectual capacity; and
 - (g) the presence of any aggravating or mitigating factor concerning the offender; and
 - (ga) without limiting paragraph (g), whether the offender was a participant in a criminal organisation—
 - (i) at the time the offence was committed; or
 - (ii) at any time during the course of the commission of the offence; and
 - (h) the prevalence of the offence; and
 - (i) how much assistance the offender gave to law enforcement agencies in the investigation of the offence or other offences; and
 - (j) time spent in custody by the offender for the offence before being sentenced; and
 - (k) sentences imposed on, and served by, the offender in another State or a Territory for an offence committed at,

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or about the same time, as the offence with which the court is dealing; and

- (l) sentences already imposed on the offender that have not been served; and
 - (m) sentences that the offender is liable to serve because of the revocation of orders made under this or another Act for contraventions of conditions by the offender; and
 - (n) if the offender is the subject of a community based order—the offender’s compliance with the order as disclosed in an oral or written report given by an authorised corrective services officer; and
 - (o) if the offender is on bail and is required under the offender’s undertaking to attend a rehabilitation, treatment or other intervention program or course—the offender’s successful completion of the program or course; and
 - (p) if the offender is an Aboriginal or Torres Strait Islander person—any submissions made by a representative of the community justice group in the offender’s community that are relevant to sentencing the offender, including, for example—
 - (i) the offender’s relationship to the offender’s community; or
 - (ii) any cultural considerations; or
 - (iii) any considerations relating to programs and services established for offenders in which the community justice group participates; and
 - (q) anything else prescribed by this Act to which the court must have regard; and
 - (r) any other relevant circumstance.
- (2A) However, the principles mentioned in subsection (2)(a) do not apply to the sentencing of an offender for any offence—

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- (a) that involved the use of, or counselling or procuring the use of, or attempting or conspiring to use, violence against another person; or
 - (b) that resulted in physical harm to another person.
- (3) In sentencing an offender to whom subsection (2A) applies, the court must have regard primarily to the following—
- (a) the risk of physical harm to any members of the community if a custodial sentence were not imposed;
 - (b) the need to protect any members of the community from that risk;
 - (c) the personal circumstances of any victim of the offence;
 - (d) the circumstances of the offence, including the death of or any injury to a member of the public or any loss or damage resulting from the offence;
 - (e) the nature or extent of the violence used, or intended to be used, in the commission of the offence;
 - (f) any disregard by the offender for the interests of public safety;
 - (g) the past record of the offender, including any attempted rehabilitation and the number of previous offences of any type committed;
 - (h) the antecedents, age and character of the offender;
 - (i) any remorse or lack of remorse of the offender;
 - (j) any medical, psychiatric, prison or other relevant report in relation to the offender;
 - (k) anything else about the safety of members of the community that the sentencing court considers relevant.
- (4) Also, in sentencing an offender for any offence of a sexual nature committed in relation to a child under 16 years—
- (a) the principles mentioned in subsection (2)(a) do not apply; and

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- (b) the offender must serve an actual term of imprisonment, unless there are exceptional circumstances.
- (5) For subsection (4)(b), in deciding whether there are exceptional circumstances, a court may have regard to the closeness in age between the offender and the child.
- (6) In sentencing an offender to whom subsection (4) applies, the court must have regard primarily to—
 - (a) the effect of the offence on the child; and
 - (b) the age of the child; and
 - (c) the nature of the offence, including, for example, any physical harm or the threat of physical harm to the child or another; and
 - (d) the need to protect the child, or other children, from the risk of the offender reoffending; and
 - (e) the need to deter similar behaviour by other offenders to protect children; and
 - (f) the prospects of rehabilitation including the availability of any medical or psychiatric treatment to cause the offender to behave in a way acceptable to the community; and
 - (g) the offender's antecedents, age and character; and
 - (h) any remorse or lack of remorse of the offender; and
 - (i) any medical, psychiatric, prison or other relevant report relating to the offender; and
 - (j) anything else about the safety of children under 16 the sentencing court considers relevant.
- (6A) Also, the principles mentioned in subsection (2)(a) do not apply to the sentencing of an offender for the following offences—
 - (a) an offence against the *Classification of Computer Games and Images Act 1995*, section 28 if the objectionable computer game is a child abuse computer game under the Act;

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- (b) an offence against any of the following provisions of the *Classification of Films Act 1991*—
 - (i) section 41(3) or 42(3) or (4);
 - (ii) section 43 if the offence involves a child abuse film under the Act;
 - (c) an offence against any of the following provisions of the *Classification of Publications Act 1991*
 - (i) section 14;
 - (ii) section 12, 13, 15, 16 or 17 if the offence involves a child abuse publication under the Act;
 - (d) an offence against the Criminal Code, section 228A, 228B, 228C, 228D, 228DA, 228DB or 228DC.
- (7) In sentencing an offender to whom subsection (6A) applies, the court must have regard primarily to—
- (a) the nature of any image of a child that the offence involved, including the apparent age of the child and the activity shown; and
 - (b) the need to deter similar behaviour by other offenders to protect children; and
 - (c) the prospects of rehabilitation including the availability of any medical or psychiatric treatment to cause the offender to behave in a way acceptable to the community; and
 - (d) the offender’s antecedents, age and character; and
 - (e) any remorse or lack of remorse of the offender; and
 - (f) any medical, psychiatric, prison or other relevant report relating to the offender; and
 - (g) anything else about the safety of children under 16 the sentencing court considers relevant.
- (7A) Also, the principles mentioned in subsection (2)(a) do not apply to the sentencing of an offender under part 9D, division 2.

- (8) If required by the court for subsection (2)(p), the representative must advise the court whether—
 - (a) any member of the community justice group that is responsible for the submission is related to the offender or the victim; or
 - (b) there are any circumstances that give rise to a conflict of interest between any member of the community justice group that is responsible for the submission and the offender or victim.
- (9) In sentencing an offender, a court must not have regard to the following—
 - (a) the offender levy imposed under section 179C;
 - (b) whether or not the offender—
 - (i) may become, or is, the subject of a dangerous prisoners application; or
 - (ii) may become subject to an order because of a dangerous prisoners application.
- (9A) Voluntary intoxication of an offender by alcohol or drugs is not a mitigating factor for a court to have regard to in sentencing the offender.
- (9B) In determining the appropriate sentence for an offender convicted of the manslaughter of a child under 12 years, the court must treat the child's defencelessness and vulnerability, having regard to the child's age, as an aggravating factor.
- (10) In determining the appropriate sentence for an offender who has 1 or more previous convictions, the court must treat each previous conviction as an aggravating factor if the court considers that it can reasonably be treated as such having regard to—
 - (a) the nature of the previous conviction and its relevance to the current offence; and
 - (b) the time that has elapsed since the conviction.
- (10A) In determining the appropriate sentence for an offender convicted of a domestic violence offence, the court must treat

the fact that it is a domestic violence offence as an aggravating factor, unless the court considers it is not reasonable because of the exceptional circumstances of the case.

Examples of exceptional circumstances—

- 1 the victim of the offence has previously committed an act of serious domestic violence, or several acts of domestic violence, against the offender
 - 2 the offence is manslaughter under the Criminal Code, section 304B
- (11) Despite subsection (10), the sentence imposed must not be disproportionate to the gravity of the current offence.
- (12) In this section—

actual term of imprisonment means a term of imprisonment served wholly or partly in a corrective services facility.

10 Court's reasons to be stated and recorded

- (1) If a court imposes a sentence of imprisonment, including a suspended sentence of imprisonment, it must—
 - (a) state in open court its reasons for the sentence; and
 - (b) cause the reasons to be—
 - (i) recorded in the transcript that is to be kept in the registry with the indictment; or
 - (ii) recorded in writing and kept in the office of the clerk of the court with the charge sheet; and
 - (c) cause a copy of the reasons to be forwarded to the chief executive (corrective services).
- (2) A sentence is not invalid merely because of the failure of the court to state its reasons as required by subsection (1)(a), but its failure to do so may be considered by an appeal court if an appeal against sentence is made.