



Penalties and sentencing options

If you plead guilty or are found guilty of an offence in NSW, the Court must impose a sentence that is lawful and appropriate having regard to the seriousness of the offence, the maximum penalty, any plea of guilty, your personal circumstances, your criminal history, your prospects of rehabilitation, and any other relevant sentencing considerations.

The sentencing options available to the Court will depend on the offence, the court in which the matter is dealt with, and the particular facts of the case.

Section 10 - no conviction

Under section 10 of the Crimes (Sentencing Procedure) Act 1999 (NSW), the Court may find an offence proven but not record a conviction.

Depending on the circumstances, the Court may dismiss the charge without further penalty, discharge the offender under a Conditional Release Order without conviction, or discharge the offender on condition that they participate in an intervention program.

Fine

A fine is a monetary penalty. Some offences are punishable by fine only, while other offences allow a fine to be imposed instead of, or in addition to, another sentencing option.

When considering whether to impose a fine, the Court may take into account the seriousness of the offending, the maximum penalty, the offender's financial circumstances, and any other relevant matter.

Conditional Release Order

A Conditional Release Order, commonly referred to as a CRO, is a lower-level community-based sentencing option. A CRO may be imposed with or without a conviction.

Every CRO requires the offender not to commit any further offence and to appear before the Court if called upon to do so. The Court may also impose additional conditions, including supervision, treatment or rehabilitation, abstention from alcohol or drugs, non-association requirements, or restrictions about attending certain places.

Deferral of sentence for rehabilitation participation, intervention program or other purposes

The Court may defer sentence for up to 12 months for proper sentencing purposes, including to assess an offender's prospects of rehabilitation, allow participation in a rehabilitation or intervention program, or obtain further information relevant to sentence.

Community Correction Order

A Community Correction Order, commonly referred to as a CCO, is a community-based sentence imposed after conviction. It is more serious than a CRO but less serious than an Intensive Correction Order or full-time imprisonment.

A CCO may include conditions requiring supervision, community service work, treatment or rehabilitation, abstention from alcohol or drugs, non-association requirements, or restrictions about attending particular places.

Intensive Correction Order

An Intensive Correction Order, commonly referred to as an ICO, is a sentence of imprisonment served in the community under strict supervision.

An ICO is not a bond. It is available only where the Court has determined that a sentence of imprisonment should be imposed and the statutory requirements for an ICO are satisfied. An ICO may include conditions such as supervision, community service work, home detention, electronic monitoring, curfew, treatment or rehabilitation, abstention from alcohol or drugs, non-association requirements, and place restrictions.

An ICO is not available merely because an offender wishes to avoid full-time custody. It is only available where the Court has first determined that a sentence of imprisonment should be imposed, and then determines that the sentence may lawfully and appropriately be served by way of intensive correction in the community.

An ICO is not available for all offences. Certain serious offences are excluded, including murder, manslaughter, prescribed sexual offences, terrorism offences, certain firearm offences, and related offences involving an attempt, conspiracy or incitement to commit excluded offences.

There are also limits on the length of sentence that may be served by way of ICO. Generally, an ICO cannot be made for a single offence if the term of imprisonment exceeds 2 years. Where an aggregate sentence is imposed for multiple offences, an ICO cannot be made if the aggregate term exceeds 3 years.

An ICO may include strict conditions, including supervision, community service work, home detention, electronic monitoring, curfew, treatment or rehabilitation, abstention from alcohol or drugs, non-association requirements, and restrictions about attending particular places.

Full-time imprisonment

Full-time imprisonment is the most serious sentencing option. The Court will only impose imprisonment where no lesser sentencing option is appropriate.

The maximum term of imprisonment depends on the offence and whether the matter is dealt with in the Local Court, District Court or Supreme Court.

Where a sentence of full-time imprisonment is imposed, the Court will usually set a total term of imprisonment, often referred to as the head sentence, and a non-parole period. The non-parole period is the minimum period the offender must serve in custody before becoming eligible to be released on parole. The balance of the sentence is commonly referred to as the parole period.

Where there are multiple offences, the Court may impose separate sentences for each offence, some of which may be served concurrently or consecutively. Alternatively, the Court may impose an aggregate sentence of imprisonment for two or more offences. If an aggregate sentence is imposed, the Court must identify that it is imposing an aggregate sentence and must indicate the sentence that would have been imposed for each offence had separate sentences been imposed.

The maximum term of imprisonment depends on the particular offence, the jurisdiction in which the matter is dealt with, and any statutory limits applying to that Court.