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**AN EVALUATION OF EFFECTIVENESS ON CURRENT PRINCIPLES OF JUSTICE, SENTENCING AND REHABILITATION**

**Table of Contents**

[Introduction 3](#_Toc45110791)

[Assessment of types and principles of justice based on case study 3](#_Toc45110792)

[Case study analysis of the application of sentences on decision making for comparison 5](#_Toc45110793)

[Identification of rehabilitation options within the case 7](#_Toc45110794)

[Critical evaluation of the achievement of justice through the applied sentence 7](#_Toc45110795)

[Response of public services to current issues on effective sentencing and rehabilitation by analysing its change from the past to current issues 9](#_Toc45110796)

[Evaluating the effectiveness of public services 11](#_Toc45110797)

[Conclusion 11](#_Toc45110798)

[Reference List 13](#_Toc45110799)

# Introduction

Determination of the principles along with types of justice in the UK plays an integral role in determining their effectiveness in reducing crime. It is essential that the police and policymakers work collaboratively to ascertain the underlying causes leading to an increase in crimes for successfully managing the same. This essay focuses on evaluating the effectiveness of the justice and rehabilitation system in the UK along with responses taken by the public services. The study aims to evaluate the case of ***“Alexander Sutherland v. Her Majesty’s Advocate [2015] HCJAC 115”*** for ascertaining the types and principles of justice undertaken by the court of Law. This case has been selected as it focuses on the decisions and sentences provided to a supplier of the drug Diamorphine that is commonly known as “heroin”. Based on the case study analysis, the effectiveness of public services has been presented.

# Assessment of types and principles of justice based on case study

***Types of justice***

**Figure 1: Types of Justice**

(Source: Pereira *et al.* 2017)

Determination of the types of justice is essential for assessing its effectiveness and course of action undertaken by the justice system in the UK for making legal decisions. The predominant types of justice present in the UK include “distributive, restorative, retributive and procedural justice”. Pereira *et al.* (2017) identified that utilisation of ***distributive justice*** is effective for offering fair and equitable distribution of economic justice for all members of the society. Fair allocation of resources is considered to play an integral role in maintaining societal stability and promoting harmony within society. ***Retributive justice***, on the other hand, emphasises on the treatment of individuals based on their actions. It indicates that individuals deserve to be treated how they have treated others. According to Sumner (2017), retributive justice focuses on restoring the balance of justice by ensuring that the wrongdoer is punished for his actions. This form of justice hopes that the punishment for a crime is large enough to ensure that person does not engage in such behaviour later on.

***Restorative justice*** is considered a comparatively more effective form of justice instead of retributive justice as it sheds light on the need for healing the wounds suffered by the victims. Gavrielides (2016) asserted that restorative justice aims towards strengthening the community by preventing similar incidents from happening in the future. It offers greater involvement of the victims in defining the obligations along with the responsibilities of the offenders. ***Procedural justice*** emphasises on the need for developing along with implementing decisions based on processes that establish “fair treatment”. Creutzfeldt and Bradford (2016) identified that individuals carrying out the course of justice need to be unbiased and fair in their treatment of the law during the provision of procedural justice. Assessing the application of types of justice in the case of ***“Alexander Sutherland v. Her Majesty’s Advocate [2015] HCJAC 115”*** indicates that both procedural along with retributive justice have been utilised (Euanadowadvocate.co.uk, 2016). This is because the hearings took place complying with procedural justice forms wherein Alexander was tried by a fair and neutral judge and provided with the right to appeal. On the other hand, retributive justice has been provided as the person has been found guilty of drug supply and jailed for 13 and a half years.

***Principles of justice***

The principles of justice focus on outlining the moral obligations that individuals are required to account for before making any form of decisions. Miller and Diver (2016) noted that the principles of justice include equality, equity and fairness. The principle of ***equality*** encompasses the need for equal distribution of resources among members of the society and is popularly focused on by distributive justice. On the other hand, ***equity*** focuses on the distribution of resources based on the contribution made by an individual within the society and is another principle under the distributive form of justice. ***Procedural justice*** highlights ***fairness*** when individuals are tried based on fair and equal opportunity to present their side of the story. Retributive justice popularly uses the ***principle of “desert”***. It emphasises on the need for treating people the way they have treated others and places importance on proving serious punishment to a wrongdoer. The ***“Alexander Sutherland v. Her Majesty’s Advocate [2015] HCJAC 115”*** case highlights the principles of fairness and equality as the plaintiff is tried in a fair manner and punishment is provided based on the nature of the crime and its comparison with other sentences provided for similar crimes (Scotcourts.gov.uk, 2016). This indicates that the person has been tried in a fair and equal manner by accounting for his individual rights and providing a discount of 25% in his sentencing term due to the same.

# Case study analysis of the application of sentences on decision making for comparison

***Aims of sentencing***

**Figure 2: Aims of sentencing**

(Source: Sentencingcouncil.org.uk, 2020)

Sentencing is an indispensable part of providing judgement to someone convicted of a crime. The predominant aim of sentencing is to provide punishment for an offender. It is essential that accurate and just sentences be provided by the legal justice system to reduce the crime rates. According to van Ginneken (2019), although punishing an offender is the main aim of sentencing, it involves other purposes as well for reduction and prevention of such offences in the near future. In this context, sentencing aims to punish the offender, reduce crime, protect the public, reform and rehabilitate offenders as well as make the offender compensate for their actions. ***Punishing the offender*** involves ensuring that the offender goes to prison, pays a fine, and maintains a curfew and does unpaid work for the community based on the severity of the crime. On the other hand, the aim of ***reducing crime*** focuses on the prevention of the offender from engaging in such criminal activities as well as ensuring that other offenders do not commit such crimes (Sentencingcouncil.org.uk, 2020). ***Reform and rehabilitation of offenders*** is an integral purpose of sentencing. Farmer (2019) observed that through rehabilitation and reform programs, offenders' behaviour could be changed for preventing future crimes. For instance, provision of rehabilitation programs for drug addiction is beneficial for preventing crimes committed under the influence of drugs or for acquiring the same.

***Protection of the public*** is a crucial aim of sentencing as it leads to measures taken by the justice system to withdraw the offender from the public. This is done by sentencing the offender to prison for a long period as observed in ***“Alexander Sutherland v. Her Majesty’s Advocate [2015] HCJAC 115”***. The offender was prisoned for thirteen and a half years to ensure that he is unable to cause further harm to the public of the UK by supplying heroin. ***Ensuring that the offender gives back to society*** is another aim of sentencing. This is attained by ensuring that the offender compensated financially or through the course of restorative justice wherein he is required to apologise for his wrongdoings to his victims.

***Decision-making process for analysis of types of sentences***

The judge or magistrate holds the power to pass a sentence based on the nature, implications and seriousness of the crime. The major types of sentences provided by the courts in the UK include custodial or prison, community services, fines and discharges. Dhami *et al.* (2020) observed that fines and community service are sentences passed for lower-level offences. Consequently, serious crimes and offences receive up to life sentences in prison. The judge makes the decisions based on the individual facts presented by the case and the seriousness of the crimes committed by the offender. In the case of ***“Alexander Sutherland v. Her Majesty’s Advocate [2015] HCJAC 115”,*** The offender has been sentenced for thirteen and a half years of imprisonment due to the nature of his crime (Euanadowadvocate.co.uk, 2016). He was responsible for the large-scale sale of diamorphine that is considered as a “class A drug” due to its damages to a person and the society. Based on the “Sentencing Council Definitive Guidelines” the court made the decision of imposing him due to the implications of his crime indicating the course of procedural and retributive justice.

# Identification of rehabilitation options within the case

Provision of rehabilitation opportunities for criminal offenders is essential to prevent them from repeating their crimes. It is essential for ensuring that they are offered opportunities to improve themselves and work towards becoming upholding members of the community. According to Bullock and Bunce (2020), prison rehabilitation programs are effective for addressing social and psychological issues faced by offenders. Apart from this drug and alcohol rehabilitation, programs are effective and easily accessible to offenders within the prison as well as outside for improving themselves. Offender behaviour programs and interventions aim to change the thought processes, attitudes and morals of prisoners to prevent the commitment of same crimes (Gov.uk, 2020). In the case of ***“Alexander Sutherland v. Her Majesty’s Advocate [2015] HCJAC 115”,*** it was noted that the offender belonged to a criminal family (Euanadowadvocate.co.uk, 2016). This indicated that his culpability was reduced morally as criminal activities were considered normal for his family members. However, these implications were outweighed as they held a stronger ground for more severe criminal offences that may lead to damaging after-effects. Moreover, the appellant was a first-time offender and had been supplying diamorphine for a period of over 18 months against the “Drugs Act 1971 (c. 4(3) (b)”. It can thereby be established that Alexander would benefit from individual rehabilitation programs provided by the prison counsellor to develop his moral reasoning and societal judgement abilities. Chalfin and McCrary (2017) ascertained that a lack of moral understanding regarding the seriousness of committing crimes is a major factor leading to an increase in crimes. Alexander would significantly benefit from the same to develop sound moral judgement as he has been exposed to crime and criminal activities as a part of his family’s actions. Apart from this group rehabilitation programs for drug and substance abuse would enable Alexander to gain a better understanding of the long-term implications that the sale of such drugs have on the lives of others leading to a change in his perception.

# Critical evaluation of the achievement of justice through the applied sentence

Imprisonment is considered as one of the most severe forms of punishment provided to offenders. Based on the “Criminal Justice Act 2003 (c. 152(2)), custodial sentences are provided to serious offenders whose actions cannot be retribution through fine or community services. Apart from this, a custodial sentence is imposed by the court when it feels that the offender may be a threat to society. Hester *et al.* (2018) observed that the length of a custodial sentence depends on the severity of the offence along with the maximum penalty that can be provided to the person. The Parliament outlines minimal sentences for imprisonment for serious offences including the trafficking of “Class A drug”, domestic burglary, firearm use or to use someone for minding a weapon. A minimum period of seven years of a custodial sentence is mandated by the Parliament of UK for offences of trafficking drugs belonging to the “Class A drug category” (Sentencingcouncil.org.uk, 2020). On the other hand, five years is mandated as the minimum imprisonment-sentencing period for offences using firearms and for using others to mind a weapon. It is thereby evident that the nature and severity of the crime play a significant role in the course of the decision made by the court.

The case of ***“Alexander Sutherland v. Her Majesty’s Advocate [2015] HCJAC 115”*** sheds light on the minimum and maximum periods within which the court can sentence imprisonment to the offender. It has been observed that Alexander was responsible for trafficking a “Class A drug” namely Diamorphine. As per the “Misuse of Drugs Act 1971 (c. 4(3) (b)”, Alexander violated the law for trafficking the drug. The initial sentencing decision indicated imprisonment for 18 years that was appealed by him as it was an unnecessarily long-term punishment. Based on the “Definitive Guideline of the Sentencing Council of England and Wales” serious offences of trafficking of “Class A drugs” suggested a range of 12-16 years (Scotcourts.gov.uk, 2016). However, the initial decision in the case ***“Alexander Sutherland v. Her Majesty’s Advocate [2015] HCJAC 115”*** failed to acknowledge the same and offered 18 years of imprisonment. After the review of the case, it was noted that the judge found the custodial sentence to be unfair and consequently reduced the same by 25% to thirteen and a half years instead. It is thereby evident that through the process of procedural justice, fair, neutral and just decisions were made by the court to ensure that Alexander is reprimanded for this criminal behaviour suitably. It has further been established that justice was achieved by the court in protecting the community from a drug trafficker while ensuring that the offender receives fair and equal punishment for his crimes.

# Response of public services to current issues on effective sentencing and rehabilitation by analysing its change from the past to current issues

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**Figure 3: Class A Drugs Seizure**

(Source: Assets.publishing.service.gov.uk, 2019)

The government plays an indispensable role in protecting the rights and ensuring that the public is safe from criminal offenders. Public services focus on studying and developing effective rehabilitation and prevention programs for criminal offenders to reduce and prevent the occurrence of such crimes in the future. Public service agencies like the National Crime Agency and UK Government have been taking initiatives for studying the threats of crimes related to drug trafficking to develop effective sentencing and rehabilitation efforts. Studying patterns and identifying the routes taken for trafficking of “Class A drugs” have been fruitful for the public services to increase seizure of the same by 13% in 2019 (Assets.publishing.service.gov.uk, 2019). This indicates the effectiveness attained by the public service agencies in tracking and seizing large quantities of illicit drugs. As per the views of Goodman *et al.* (2017), the presence of a structural system of justice in the UK has aided in the equitable and equal treatment of all offenders. It has focused on the protection of individual human rights as per the “Human Rights Act 1998 (c.42)” by acknowledging the need for rehabilitation of their behaviour instead of solely using punitive measures. The UK justice system has taken an initiative of rehabilitating offenders through their prison and community programs designed to reform their character and prevent the likelihood of offences (Politics.co.uk, 2020). This has ensured that reoffending rates are reduced in the UK. However, for serious offences like drug trafficking, rehabilitation alone is ineffective in reducing such activities.

In this context, the use of strict sentencing regulations has been deemed effective for removing such offenders from society to prevent them from causing further harm. However, rehabilitation programs for prisoners have received criticism due to lack of funding and prison overcrowding (Politics.co.uk, 2020). As evident from ***“Alexander Sutherland v. Her Majesty’s Advocate [2015] HCJAC 115”,*** provision of long-term custodial sentencing as a form of punishment alone has been undertaken. It can thereby be asserted that there is a need for developing tailored rehabilitation programs for drug traffickers or modify their behaviour to effectively run an attempt to address the issue of the same in the UK.

# Evaluating the effectiveness of public services

Tackling a complex and intricate web of issues that arise as a result of drug trafficking requires collaborative efforts from public service agencies. Diamorphine is considered to be one of the most dangerous drugs that have been a major concern for the Britain Government since the mid-1960s. The effectiveness of applying “Misuse of Drugs Act 1971 (c.38)” has enabled law enforcement agencies to punish a growing number of illicit drug dealers and users (Legislation.gov.uk, 2020). However, the act has been criticised for being ineffective in balancing the determination of the implications of each type of drug use with responses taken for managing the same among different ethnic groups. The policymakers are required to define risk and the harm caused by each type of drug in an elaborate manner in order to determine the extent of the seriousness of punishment that can be catered for the illicit sale of the same.

Public service agencies are required to comply with the “UK Drug Strategy 2017” for the utilization of evidence-based policy formulation. This plays a pivotal role in ensuring that public service agencies are held accountable for the delivery of the strategy effectively (Assets.publishing.service.gov.uk, 2017). The strategy further assured that resources would be allocated towards proactive prevention of the sale and use of illicit substances in the UK. Asset confiscation and improvements have been used as the most effective measures for tackling the growing issue of substance abuse in the UK. It can thereby be ascertained that although the public service agencies have taken proactive measures to prevent and reduce the availability of illicit “Class A Drugs” in the UK, there is still scope for better monitoring and implementation of justice.

# Conclusion

From this essay, it has been identified that the UK has an elaborate justice system that adheres multiple types of justice and principles for assessing criminal offending. It can be concluded that the provision of a type of justice depends on nature, severity and implications on the victim and the community. Therefore, it is essential that the UK legal system focus on ascertaining the most suitable sentencing methods for each offence committed by an offender to reduce the likelihood of re-offense and prevention of similar crimes. This study focused on the use of the case ***“Alexander Sutherland v. Her Majesty’s Advocate [2015] HCJAC 115”***, to assess and evaluate the present scenario of the public service agencies in the delivery of justice. Although the UK has taken elaborate measures along with strategies for the prevention of sale of illicit drugs including Diamorphine, it is required to ensure that it focuses on developing suitable rehabilitation programs for the traffickers. This would enable the UK government to reduce the likelihood of re-offense by such traffickers. The study concludes that despite the effectiveness of long-term imprisonment sentences in reducing and removing the offender from society, there is a need for addressing the modification of morals and social understanding for such individuals.

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