

SENTENCING SPOTLIGHT ON... TRAFFICKING IN DANGEROUS DRUGS

RESOURCE 1

Unlike most criminal offences, drug offences are not found in the *Criminal Code 1899* (Qld), but are located in *Drugs Misuse Act 1986* (Qld). Trafficking in dangerous drugs is one of the most serious types of drug offence.

- sentence
- supplying dangerous drugs
- trafficking in dangerous drugs.

Curriculum links

This learning resource has been developed for students studying Legal Studies 2019 (General Senior Syllabus) in Year 11 and 12, specifically the core area of criminal law. It ties in with Unit 1: Beyond reasonable doubt, Topic 4: Punishment and sentencing.

Learning outcomes

Students will:

- identify the legislation relevant to the criminal offence of trafficking in dangerous drugs
- explain what constitutes the act of trafficking in dangerous drugs
- compare the criminal offences of trafficking and supplying dangerous drugs
- locate legislation.

Getting started

1. Initiate a whole class discussion by asking students to explain what they believe trafficking in dangerous drugs involves.
2. Between 2005–06 and 2015–16, 2596 offenders were found guilty of trafficking in dangerous drugs. Ask:
 - *Does this figure surprise you? If not, why not?*
 - *Did you think more or less people commit this offence? Why?*
 - *Where do you get most of your information about crime from?*

Focus questions

- What is trafficking in dangerous drugs?
- What law is relevant to the criminal offence of trafficking in dangerous drugs?
- What different factors influence the sentencing of a convicted drug trafficker?

Key concepts

- case law
- dangerous drugs
- legislation
- principles of sentencing
- prosecution

Further resources

The following websites may further enhance the learning outcomes associated with this resource:

- Office of the Queensland Parliamentary Counsel
www.legislation.qld.gov.au
- Queensland Sentencing Advisory Council
www.sentencingcouncil.qld.gov.au
- Supreme Court Library Queensland
www.sciqld.org.au/caselaw

LEARNING RESOURCE

The *Drugs Misuse Act 1986 (Qld)* (DMA) refers to 'a person who carries on the business of unlawfully trafficking' as being guilty of a crime.

The term 'trafficking' is not defined in legislation under the DMA, but rather by case law. If dealing with dangerous drugs does not meet the case law definition of trafficking, it will usually constitute the separate offence of supplying dangerous drugs.

While trafficking typically involves selling, it has a wider meaning of 'knowingly engaging in the movement of drugs from source to ultimate user'.

A single sale made as part of carrying on a business could be trafficking, if it was the first sale of expected continuing activity.

Occasional sales across limited isolated transactions are not sufficient. The prosecution is required to demonstrate several transactions were conducted for gain over more than a brief interval.

However, the trade does not have to last indefinitely, generate profit, service more than one customer, or include payment in money (for instance, someone addicted to drugs could traffic to obtain drugs for personal consumption).

Carrying on the business of unlawfully trafficking goes beyond sales and usually involves other activities including product advertising or promotion, negotiating prices and terms, taking orders and arranging delivery.

Different offences of drug trafficking receive different sentences because factors vary across individual cases.

These include the application of general sentencing principles in section 9 of the Penalties and Sentences Act 1992 (Qld) and other considerations such as the type, quantity and value of drugs supplied, the nature of the trafficking, and whether the offender's motivation was financial profit or to feed their own personal use.

Your turn

1. State which Act contains the criminal offence trafficking in dangerous drugs.
2. Identify which source of law contains the definition of 'trafficking'. What are the advantages and disadvantages of this source of law?
3. Compare and contrast the criminal offences 'trafficking' and 'supplying' in dangerous drugs.
4. Explain what the prosecution is required to demonstrate to prove the criminal offence trafficking in dangerous drugs.
5. Locate *Drugs Misuse Act 1986 (Qld)*. State the maximum penalty for trafficking in dangerous drugs.
6. Identify the different factors a judge may take into consideration when deciding a sentence for trafficking in dangerous drugs.
7. Do you agree or disagree that different drug traffickers should receive different sentences? Justify your point of view with legal reasoning.