

# Sentencing Council



**Sentencing Council**  
**Annual Report 2021/22**



# **Sentencing Council**

## **Annual Report 2021/22**

The Sentencing Council is an independent, non-departmental public body of the Ministry of Justice

This report is presented to Parliament pursuant to Section 119(2) of the Coroners and Justice Act 2009



© Crown copyright 2022

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.uk/official-documents](http://www.gov.uk/official-documents).

Any enquiries regarding this publication should be sent to us at [info@sentencingcouncil.gov.uk](mailto:info@sentencingcouncil.gov.uk)

ISBN 978-1-5286-3431-1

E02756573 07/22

Printed on paper containing 40 per cent recycled fibre content minimum

Printed in the UK by HH Associates Ltd on behalf of the Controller of Her Majesty's Stationery Office.

# Contents

<b>Foreword</b>	<b>1</b>
<b>Introduction</b>	<b>6</b>
<b>Key events 2021/22</b>	<b>7</b>
<b>Strategic objective 1:</b> Promoting consistency and transparency in sentencing through the development and revision of sentencing guidelines	<b>10</b>
Animal cruelty	12
Assault and attempted murder	12
Bladed articles and offensive weapons	13
Breach offences	13
Burglary	15
<i>Feature: Investigating the Sentencing Council's impact</i>	16
Firearms importation	18
Imposition of community and custodial sentences	19
Intimidatory offences	19
Miscellaneous amendments	19
Modern slavery	20
Motoring offences	21
Perverting the course of justice and witness intimidation	22
Sale of knives, etc to persons under 18	22
Sexual offences	23
Terrorism	24
Totality	26
Unauthorised use of a trade mark	26
Vehicle taking (aggravated)	27
<b>Strategic objective 2:</b> Ensuring that all our work is evidence-based, and working to enhance and strengthen the data and evidence that underpin it	<b>28</b>
Undertaking research and analysis to support the development of guidelines and other statutory duties	29
Assessing the resource implications of guidelines	30
Monitoring the operation and effect of guidelines and drawing conclusions	31
Publishing Sentencing Council research	31
<b>Strategic objective 3:</b> Exploring and considering issues of equality and diversity relevant to our work and taking any necessary action in response within our remit	<b>32</b>
Understanding the impact of sentencing guidelines	33
Learning from consultees' insight and experience	34
Guarding against potential causes of disparity	34

<b>Strategic objective 4:</b> Considering and collating evidence on effectiveness of sentencing and seeking to enhance the ways in which we raise awareness of the relevant issues	<b>36</b>
<b>Strategic objective 5:</b> Working to strengthen confidence in sentencing by improving public knowledge and understanding of sentencing	<b>40</b>
Understanding public attitudes	41
Making sentencing more accessible and easy to understand	41
<i>Feature: Building digital tools for sentencers</i>	44
Developing relationships with stakeholders and supporters	49
<b>Sentencing and non-sentencing factors reports</b>	<b>52</b>
Sentencing factors report	52
<i>Feature: Tailoring our bespoke data collections</i>	55
Non-sentencing factors report	59
<b>Budget</b>	<b>63</b>
<b>Appendix A: About the Sentencing Council</b>	<b>64</b>
<b>Appendix B: Membership of the Sentencing Council</b>	<b>70</b>
<b>Appendix C: Sentencing guidelines production stages</b>	<b>71</b>

# Foreword

## by the Chairman



I am pleased to introduce the Sentencing Council's annual report for 2021/22. It is the Council's 12th annual report and my fourth as Chairman.

This year has presented the Council with fresh challenges as we have begun to recover from the pandemic and settle into new, hybrid ways of working. I am proud to say that, pandemic notwithstanding, we have successfully navigated our way through another productive year in which we largely met the goals we set ourselves in our business plan and delivered a new strategy that will shape the Council's work in the years to come.

### Developing and revising guidelines

We opened the year with our revised drug offences guidelines coming into effect on 1 April 2021. These guidelines cover offences under the Misuse of Drugs Act 1971 and the Psychoactive Substances Act 2016 and bring clarity and transparency to the sentencing of modern drug offending.

On 27 May 2021 we reached a historic moment when we published revised guidelines for assault offences and attempted murder, replacing the original assault guidelines, which were the first guidelines ever produced by the Sentencing Council. Our aims were to bring the guidelines up to

date and into line with the Council's more recently developed step-by-step model; to provide guidance for the aggravated offence of common assault on an emergency worker; and to replace the attempted murder guideline produced by our predecessor body the Sentencing Guidelines Council (SGC). Sentencing the offence of attempted murder is a complex exercise. Such offences always involve the highest level of intent, but the circumstances of each case vary, and our guideline is intended to assist the courts in grading culpability in a context where the defendant will always have intended to kill. The guidelines came into effect on 1 July 2021.

In August 2021 we released guidelines for sentencing unauthorised use of a trademark. The previous SGC guideline applied only to individuals convicted of the offence in magistrates' courts. Our new guidelines, which came into effect on 1 October 2021, provide guidance for sentencing individuals and organisations in both magistrates' courts and the Crown Court. Also coming into effect on 1 October were the Council's first guidelines for sentencing offences under the Modern Slavery Act 2015. These guidelines recognise the devastating impact this type of offending can have on its victims and provide consistency of sentencing in an area where no guideline previously existed.

Our final definitive guideline of the year provides guidance for sentencing offenders convicted of importing prohibited or restricted firearms. The guideline, which came into effect on 1 January 2022, was developed in response to requests from, among others, the National Crime Agency and Crown

Prosecution Service for clarity around this infrequently sentenced but serious offence.

The Council ran six consultations during the year:

- Burglary
- Firearms importation
- Miscellaneous amendments
- Perverting the course of justice and witness intimidation
- Sexual offences
- Terrorism

Some of these consultations were to seek views on drafts of new guidelines and others were to help us revise existing guidelines. The development of sentencing guidelines is a continuous cycle, throughout which we consult on draft guidelines and proposed revisions, test draft guidelines with sentencers to learn about their potential application and, once guidelines have been in use for a while, evaluate their operation and effect and consider whether revisions are required.

We also keep a watching brief on the steady flow of criminal legislation affecting sentencing that comes into force and decide whether any changes ought to be made to guidelines or new guidelines developed. If work is necessary, the Council will consider how we should deploy our limited resources to meet these needs while maintaining the pace of our planned work programme.

The development of our terrorism offences guidelines demonstrates clearly why we must build flexibility into the Council's work programme. We began developing guidelines in 2016 to cover offences created in the Terrorism Acts 2000 and 2006. The Council considered that the increase in terrorism activity had created an urgent need for guidelines and expedited their production, consulting on and publishing the guidelines within a single year. The guidelines came into effect in April 2018. By April 2019, the Counter Terrorism and Border Security Act had come into force and, in response, we consulted on revisions in October 2019. When the Government then announced further legislation, we decided to delay publication until we were able to assess the full implications of that legislation and, in October last year, consulted on another tranche of revisions to reflect changes brought in by the Counter Terrorism and Sentencing Act 2021. Guidelines reflecting both the 2019 and 2021 Acts will be published in July 2022 and come into effect in October 2022.

### **A strategy for the future**

On 4 November 2021 the Council launched a new strategy identifying five priorities that will shape our work between now and 2026.<sup>1</sup> The strategy results from a public consultation we held in 2020 to mark the Council's 10th anniversary, and we are grateful to all the individuals and organisations who gave us their views on where we should focus the Council's efforts

---

<sup>1</sup> Sentencing Council strategic objectives 2021–2026, <https://www.sentencingcouncil.org.uk/sentencing-and-the-council/about-the-sentencing-council/strategic-objectives-2021-2026/>

and how we should balance our priorities against limited resources.

Producing and revising guidelines remains the Council's core focus, a position broadly supported by respondents to our consultation, and the first chapter of this report details the guideline development work we have completed in 2021/22. The Council has also made a commitment in the new strategy to enhance and strengthen the data and evidence upon which our guidelines are built. The progress we have made in this regard is detailed in chapter 2.

The strategy also sets an objective for the Council to explore issues of equality and diversity relevant to our work. Our action plan for meeting this objective extends the work we are already doing around equality and diversity, and this year included a project to examine the language, concepts and factors of guidelines for any potential impact that could unintentionally lead to disparities in sentencing. There is more on this project on page 34.

Our fourth strategic objective outlines the Council's commitment to considering and collating evidence on effectiveness of sentencing in preventing reoffending. Effectiveness is a complex concept, and our founding legislation does not specify how we should have regard to it. To help us meet this strategic objective, in February 2022 we commissioned a literature review that we hope will shine a light on existing evidence relating to effectiveness.

In our fifth strategic objective, the Council has made a commitment to improve confidence in sentencing among the public, including victims, witnesses and defendants. Our challenge here is not just to help people understand more about sentencing but to counter the steady stream of misunderstandings and common myths about sentencing that are repeated in the media. We have continued throughout the last year to use a wide range of approaches to reaching the public, and chapter 5 sets out the work we have done to provide information about sentencing in the media, use our website to show the public how sentencing works, produce materials for schools and develop the online sentencing tool, You be the Judge.

### **Digital by default**

Since November 2018, all sentencing guidelines for use in the magistrates' courts and the Crown Court have been published digitally on our website. The move to digital has revolutionised the way the Council manages the evolution of guidelines. It has enabled us to introduce expanded explanations to the offence-specific guidelines, providing sentencers and advocates with additional information and improving transparency for victims, defendants and the public. It has also allowed us to make minor changes to guidelines such as those we implemented in April 2022 following our first annual consultation on miscellaneous amendments and the widespread changes we made in 2020 to reflect the Sentencing Code in all offence-specific and overarching guidelines,

expanded explanations and explanatory materials. Before the development of the digital guidelines, any one of those exercises would have necessitated the reprinting and redistribution of the entire body of sentencing guidelines.

Our website also allows us to provide digital tools to support magistrates and judges. This year we added to our tools for magistrates with a drink-driving calculator in March 2021 and a pronouncement-card builder in January 2022 and, on 16 December 2021, we introduced SentencingACE to the Crown Court. While not a decision-making tool, SentencingACE allows judges to confirm that all elements of their intended sentence are correct in law and helps practitioners make sure they address the court on all matters relevant to sentencing. You will find more information about these digital tools on pages 44-60.

### **Understanding our impact**

On 11 August 2021, we published research that examined the Council's impact in three key areas: judicial attitudes to sentencing guidelines; changes in sentencing severity and requirements for prison places associated with our offence-specific guidelines; and a review of consistency in sentencing. The Council decided that, as part of the activities to mark our 10-year anniversary, we should take a closer look at what impact the Council and the guidelines had had over the past decade. While we have been aware anecdotally for some time that the guidelines have grown in popularity with judges and magistrates, we were pleased

to see evidence from this research of broad judicial support for the guidelines, and to find that judges and magistrates believe guidelines have improved over time and have had a positive impact on sentencing practice. The outcomes of these research projects, and what we plan to do as a result of the findings, are on pages 16-17.

### **In closing**

I will close by paying tribute to my colleagues on the Sentencing Council. As always, each of them has contributed their considerable experience and expertise to the work of developing guidelines with good grace and humour in sometimes very trying circumstances. I am most grateful to them all. I particularly want to thank His Honour Judge Michael Fanning for the contribution he has made to the Council since his appointment as the District Judge (Magistrates' Courts) member in September 2019. His well-earned promotion to Circuit Judge in September 2021 has sadly led to his departure from the Council.

I also want to commend the staff of the Office of the Sentencing Council, without whom none of the Council's work would be possible. They have worked steadfastly throughout the pandemic, maintaining the quality and quantity of their work, and continue to be a highly effective team. I welcome the new members who joined the team this last year. Despite, in some instances, not meeting their colleagues face to face for many weeks, they have moved quickly and seamlessly into our ways of working and are already making a valuable contribution.

This will be my last annual report as Chairman. It has been a great privilege for me to have held the post for four years, and I am very grateful to all the members of the Council and of the Office team who have made that period so enjoyable and productive. I am proud of all that has been achieved, and I am sure that the same high standard will be maintained in the future. I offer my best wishes to my successor.

A handwritten signature in black ink, reading "Tim Holroyde". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Tim Holroyde  
**Lord Justice Holroyde**  
July 2022

# Introduction

The Sentencing Council is an independent, non-departmental public body of the Ministry of Justice (MoJ). It was set up by Part 4 of the Coroners and Justice Act 2009 to promote greater transparency and consistency in sentencing, while maintaining the independence of the judiciary.

The aims of the Sentencing Council are to:

- promote a clear, fair and consistent approach to sentencing;
- produce analysis and research on sentencing; and
- work to improve public confidence in sentencing.

On 4 November 2021, the Council published a new five-year strategy and supporting work plan, which were developed following a public consultation held to mark the Council's 10th anniversary in 2020.<sup>2</sup> The strategy commits the Council to five objectives.

- To promote consistency and transparency in sentencing through the development and revision of sentencing guidelines.
- To ensure that all our work is evidence-based and to enhance and strengthen the data and evidence that underpins it.
- To explore and consider issues of equality and diversity relevant to our work and

take any necessary action in response within our remit.

- To consider and collate evidence on effectiveness of sentencing and seek to enhance the ways in which we raise awareness of the relevant issues.
- To work to strengthen confidence in sentencing by improving public knowledge and understanding of sentencing, including among victims, witnesses and offenders, as well as the general public.

This annual report documents the work undertaken by the Council between 1 April 2021 and 31 March 2022 in the context of the five strategic objectives.

Also included, in accordance with the Coroners and Justice Act 2009, are two reports considering the impact of sentencing factors (pages 52-7) and non-sentencing factors (pages 59-62) on the resources required in the prison, probation and youth justice services to give effect to sentences imposed by the courts in England and Wales.

For information on past Sentencing Council activity, please refer to our earlier annual reports, which are available on our website at: [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk)

---

<sup>2</sup> <https://www.sentencingcouncil.org.uk/publications/item/strategic-objectives-2021-2026/>

# Key events 2021/22

2021		
April	1	Drug offences revised guidelines come into effect
	7	Drink-driving calculator tool for magistrates' courts launched (see page 46)
May	12	Sexual offences statistical bulletin published
	13	Sexual offences guidelines consultation opened
	26	Assault offences data tables published
	27	Assault offences and attempted murder revised guidelines published
June	8	Burglary offences statistical bulletin published
	9	Burglary offences revised guidelines consultation opened
	16	Firearms importation offences statistical bulletin published
	17	Firearms importation offences guideline consultation opened
July	1	Assault offences and attempted murder revised guidelines come into effect
	21	Annual report 2020/21 laid in Parliament and published
August	4	Unauthorised use of a trade mark data tables published
	5	Unauthorised use of a trade mark offences guidelines published
	11	Modern slavery offences data tables published
		Research investigating the Sentencing Council's impact in three key areas published
12	Modern slavery offences guidelines published	
September	9	Miscellaneous amendments to sentencing guidelines consultation opened
	28	Research investigating the Totality guideline published

<b>2021</b>		
<b>October</b>	1	Unauthorised use of a trade mark guideline comes into effect
		Modern slavery offences guidelines come into effect
	19	Terrorism offences data tables published
	20	Terrorism offences consultation opened
<b>November</b>	4	Five-year strategy published
	23	Firearms importation offences data tables published
	24	Firearms importation offences guidelines published
<b>December</b>	16	SentencingACE tool for Crown Court launched (see page 45)
<b>2022</b>		
<b>January</b>	1	Firearms importation guidelines come into effect
	18	Pronouncement-card builder tool for magistrates' courts launched (see page 44)
<b>March</b>	11	Miscellaneous amendments response to consultation published
	29	Perverting the course of justice and witness intimidation statistical bulletin published
	30	Perverting the course of justice and witness intimidation consultation opened

“The sentencing guidelines we produce are followed by judges and magistrates in every criminal court across England and Wales every day. They play a significant role in the lives of thousands of people, not just those who are being sentenced but also the victims and witnesses of crime.

We need to get the balance right between developing new guidelines, revising existing guidelines, building up the evidence on which the guidelines are based, and fulfilling the Council’s many other duties.”

**Chairman Lord Justice Holroyde on the launch of the Sentencing Council strategic objectives 2021-2026, 4 November 2021**



## **Strategic objective 1:**

Promoting consistency and transparency in sentencing through the development and revision of sentencing guidelines

The purpose of the Sentencing Council for England and Wales is to promote a clear, fair and consistent approach to sentencing by issuing sentencing guidelines that provide clear structures and processes for judges and magistrates to use in court.

This purpose is underpinned by the statutory duties for the Council that are set out in the Coroners and Justice Act 2009.

Responses to the anniversary consultation held by the Council in 2020 provided broad support for our view that the production and revision of guidelines should remain our key focus.

The sentencing guidelines are intended to help ensure a consistent approach to sentencing, while preserving judicial discretion. Under the Sentencing Act 2020, a court must follow relevant sentencing guidelines unless satisfied in a particular case that it would be contrary to the interests of justice to do so.

When developing guidelines, the Council has a statutory duty to publish a draft for consultation. At the launch of a consultation, we will seek publicity via mainstream and specialist media, as well as promoting it via social media and on the Sentencing Council website. We make a particular effort to reach relevant professional organisations and representative bodies, especially those representing the judiciary and criminal justice professionals, but also others with an interest in a particular offence or group of offenders.

Many of the responses come from organisations representing large groups so the number of replies does not fully reflect the comprehensive nature of the contributions, all of which are given full consideration by the Council.

The work conducted on all guidelines during the period from 1 April 2021 to 31 March 2022 is set out in this chapter. To clarify what stage of production a guideline has reached, reports of our work fall under one or more of four key stages:

1. Development
2. Consultation
3. Post-consultation
4. Evaluation and monitoring

The table at Appendix C sets out the production stages of all sentencing guidelines.

## Animal cruelty

In 2021, Parliament passed and Royal Assent was given to the Animal Welfare (Sentencing) Act, which increased the maximum penalty from six months' to five years' imprisonment for a number of animal cruelty offences, including causing unnecessary suffering, tail docking and involvement in an animal fight.

### ***Development***

The Council agreed that the existing guideline for sentencing animal cruelty offences, which came into effect in April 2017, should be updated to reflect the change in maximum penalty. The Council also considered that guidance should be extended to include other offences affected by the 2021 Act and to update the existing guidance for breach of duty of person responsible for animal to ensure welfare, for which the maximum penalty has not changed.

### ***Consultation***

We opened a consultation on 10 May 2022 and will report on the outcome in next year's annual report. Alongside the consultation, the Council published a resource assessment and statistical bulletin covering the relevant offences.

## Assault and attempted murder

The assault offences guidelines, which were published in 2011, were the first guidelines issued by the Council. At the time, attempted murder offences were covered by a guideline issued by the Council's predecessor body, the Sentencing Guidelines Council (SGC), and that guideline was not revised. Following an evaluation in 2015, the Council held a consultation on revised guidelines for assault offences, updated to follow the Council's step-by-step model, and attempted murder, and new guidance for assault on emergency workers.

### ***Post-consultation***

There were 67 responses to the consultation and the Council considered amendments to the guidelines in the light of these, testing potential changes based both on responses and research findings with sentencers.

The definitive guidelines were published in May 2021, accompanied by a resource assessment and data tables covering the relevant offences. They came into effect on 1 July 2021.

We will be conducting a data collection exercise in autumn 2022 to allow us to evaluate the impact of changes made to the guidelines. This will supplement earlier data collected between January and May 2021.

**Media coverage**

We achieved widespread coverage of the launch of the assault guidelines. Reporting was accurate and picked up on a number of different angles, including the new culpability factor relating to 'disease transmission', the inclusion of spitting as an aggravating factor and sentencing assaults on emergency workers. Sky News, Times Radio and TalkRadio covered the launch, as well as national press including the Daily Mail, the Times, Daily Telegraph, Daily Express and Independent. We also received attention in regional titles such as the Manchester Evening News, Evening Chronicle, Lancashire Evening Post and Sheffield Star. Coverage in Ambulance Live and Police Professional featured the new guidance for assaults on emergency workers.

**Bladed articles and offensive weapons**

The guidelines for sentencing offenders convicted of possessing or threatening to use a bladed article or offensive weapon came into effect on 1 June 2018.

**Evaluation and monitoring**

In 2019, we collected data on how cases of possession of a bladed article or offensive weapon were being sentenced across all magistrates' courts. We are using these data to help us assess the impact and implementation of the bladed articles and offensive weapons

definitive guidelines and expect to publish our evaluation in October 2022.

**Breach offences**

In 2018, the Council issued guidelines to assist the courts in sentencing offenders who have not complied with 10 specific types of court order, including suspended sentence orders, community orders, restraining orders and sexual harm prevention orders. The guidelines came into effect on 1 October 2018.

**Monitoring and evaluation**

This year, we have been conducting an evaluation to help us assess the impact and implementation of the 10 sentencing guidelines for breach offences. For the evaluation, we have analysed the information we gathered from our 2019 data collection in magistrates' courts, as well as data from MoJ's court proceedings database, to observe any changes to the factors relevant to sentencing and in the type of disposals being imposed. We have conducted survey research with sentencers and probation practitioners to understand their experience of using the guidelines.

The evaluation will be published later in 2022.

“Assault is a traumatic offence and can cause great distress to the victim both physically and psychologically, and it is important that sentences reflect the harm and upset that can be caused to many people – both ordinary members of the public and professionals doing their work.

These guidelines provide updated guidance for sentencing a range of assault offences, from common assault to attempted murder, and include guidance for sentencing offences involving assaults on emergency workers. The guidelines will ensure appropriate and proportionate sentences are imposed for these offences that fully recognise the level of harm caused to the victim.”

**Council member Her Honour Judge Dean on the launch of definitive guidelines for assault and attempted murder, 27 May 2021**

## Burglary

The definitive guidelines for sentencing burglary offences came into effect in January 2012. Following an evaluation exercise, which we completed in July 2017, and to bring the guidelines into line with the Council's step-by-step model, the Council decided to revise the burglary guidelines.

### ***Consultation***

We consulted on draft revised guidelines between 9 June and 1 September 2021. To support the consultation, we tested the guidelines with sentencers, completing qualitative interviews with nine magistrates and 12 Crown Court judges. Sentencers found the guidelines clear and useable.

The Council supported the consultation with a draft resource assessment and statistical bulletin.

### ***Post-consultation***

The 32 responses we received were broadly supportive of the revised guidelines, with some making suggestions for amendments. As a result, the Council made a number of changes to the harm factors because some respondents felt that, as drafted, they were too subjective and therefore difficult to apply consistently. The changes were also designed to make sure that the harm factors fully reflect the distress suffered by burglary victims. The revised guidelines have also been set out in line with the Council's more recently developed stepped model of sentencing. The guidance around 'weapon carried' within aggravated burglary was also revised.

The definitive guideline was published on 19 May 2022 and came into effect on 1 July 2022. We will be conducting a data collection exercise in autumn 2022 to allow us to evaluate the impact of changes made to the guidelines.

### ***Media coverage***

The launch of the consultation in June 2021 was covered in the Daily Telegraph, Daily Mail, Liverpool Echo, Sheffield Star and the specialist publication, Police Oracle. Coverage was factual and, in particular, picked up on the extent to which the revised guidelines recognise the harm caused by these offences to victims.

## Investigating the Sentencing Council's impact

The Council decided that, as part of the activities we undertook to mark our 10th anniversary in 2020, we should take a closer look at what impact the Council and the sentencing guidelines have had over the past decade. We published the outcomes of this research in August 2021.<sup>3</sup>

We wanted to explore the views of sentencers – the principal users of the guidelines – so that we could gain insight into their experience of using sentencing guidelines, as well as their perceptions of the impact of guidelines on aspects such as fairness, transparency and consistency. We also wanted to explore impacts on two areas related to sentencing outcomes, which would feed into work to address some of the Council's statutory duties under the Coroners and Justice Act 2009.

The Council carried out research in three separate areas:

- judicial attitudes to sentencing guidelines;
- changes in sentencing severity and requirements for prison places associated with offence-specific guidelines; and
- consistency in sentencing, with additional analysis investigating the impact of three specific guidelines on consistency of approach to sentencing.

We completed the work using a combination of research and analysis carried out by the Council's statisticians and social researchers, and through commissioning work from external academics and organisations. Our methods included surveying sentencers, analysing court data and reviewing relevant research evidence.

### What were the findings on the Council's impact?

#### Judicial attitudes

Our survey research told us that sentencers have a positive attitude towards sentencing guidelines, both in relation to the introduction of guidelines in 2004 and to the Sentencing Council guidelines that started to come into force from 2011. Overall, the research suggests there is broad judicial support for the guidelines, they have improved over time and they have had a positive impact on sentencing practice.

#### Sentencing severity

For most offences evaluated to date the guidelines appear to have had the impact that the Council expected. However, for some offences, sentencing outcomes differed from what was expected at the time the guideline was published. The analysis showed that, for 31 of 76 offences, both anticipated and unanticipated changes could be seen, 21 of which related to

<sup>3</sup> <https://www.sentencingcouncil.org.uk/publications/item/investigating-the-sentencing-councils-impact-in-three-key-areas/>

increases in sentencing severity. In total, there were 10 offences where changes in sentencing following the introduction of the relevant guideline were related in some way to immediate custody: seven increases in severity and three decreases. Analysis for nine of the 10 offences estimated that these guidelines were associated with a need for a total of around 900 additional prison places per year by 2018, with a range of between 0 and 1,700. Around three quarters of these estimated prison places were associated with the guidelines for two offences: causing grievous bodily harm with intent to do grievous bodily harm, and robbery.

### **Consistency**

The research into consistency showed mixed results, with some positive findings relating to the possible impact of the Council's guidelines on consistency of approach. In some areas there seem to have been smaller gains but this should be seen in the context of the fact that, where we have evidence, sentencing already seems to be relatively consistent, meaning that there may only be narrow room for improvement.

### **Have any changes to guidelines been made as a result of the research?**

The Council considered whether any specific guidelines needed to be revised. Some, such as the assault guidelines, have already been revised, and the Council has committed to revisiting a number of other guidelines in time to consider whether they may require revision or amendment. Where our evaluation findings have been tentative, we will continue to monitor sentencing data before making any decision as to whether guidelines need to be revisited.

### **What further work does the Council intend to do in these areas?**

The Council is committed to continuing to explore the impacts of the guidelines. We do this through our research work, both while guidelines are in development and after they have been implemented. Our research will include examining whether any changes to sentencing have occurred since a guideline has been implemented, considering the ways in which consistency can be monitored and measured over time, and identifying improvements to data sources that could help to support our work.

Future work in these specific areas will supplement the research actions outlined in the strategic objectives document we published in November 2021. In addition, the Council has a programme of work on diversity and inclusion to be applied across the whole range of our guideline development and evaluation activities. This will include considering ways in which we can examine the impact of guidelines on people with protected characteristics under the public sector equality duty.<sup>4</sup> The Council will also continue to capture sentencers' views of the guidelines through research and consultation.

---

<sup>4</sup> <https://www.sentencingcouncil.org.uk/research-and-resources/public-sector-equality-duty/>

## Firearms importation

On 1 January 2022 our new guideline for sentencing offenders convicted of importing prohibited or restricted firearms came into effect.

### ***Development***

During a 2019 consultation on draft guidelines for firearms offences, the Council received requests from several respondents including the National Crime Agency and the Crown Prosecution Service to develop guidelines for firearms importation offences.

Having also received similar feedback from judges, the Council agreed to develop a single guideline covering two offences under the Customs and Excise Management Act 1979: sections 50 (improper importation of goods) and 170 (fraudulent evasion of prohibition/restriction on importation).

### ***Consultation***

From 17 June 2021 to 8 September 2021 we consulted on the draft guideline. During this time, the National Crime Agency held a meeting to discuss their response to the consultation, which was attended by representatives of the Council.

We received 14 responses, including one from the Justice Committee.

Alongside the consultation, the Council also published a resource assessment and statistical bulletin showing current sentencing practices for the offences included.

### ***Post-consultation***

Several issues were raised in consultation responses relating to whether some wording in the proposed guideline would be understood or implemented consistently. To address this, we conducted a short survey with 16 Crown Court judges in September 2021. We asked the judges about their experiences of sentencing using the existing prohibited weapons guideline and tested the new draft guideline for assessing culpability and harm.

Findings from this survey, alongside the consultation responses, fed into the further development and refinement of the proposed guideline for consistency and clarity.

The definitive guideline was published on 24 November 2021 alongside a resource assessment and data tables.

### ***Media coverage***

The launch of the definitive guidelines was covered by the Daily Telegraph and the Times, as well as Police Professional, Police Oracle and the New Law Journal.

## Imposition of community and custodial sentences

The Council's aim in producing the imposition guideline was to provide guidance to the courts about the process that should be followed when deciding whether offenders should be given community or custodial sentences, so as to ensure that the appropriate type of sentence was imposed to reflect the seriousness of their offending.

### ***Evaluation and monitoring***

The guideline has been in operation since it came into effect on 1 February 2017. This year, the Council began a process of analysis to look at trends over time for these types of sentences and evaluate whether the guideline has had its intended impact. We expect this work to be published in autumn 2022.

## Intimidatory offences

The Council's definitive guidelines for sentencing intimidatory offences came into effect on 1 October 2018. The guidelines cover offences of harassment, stalking, disclosing private sexual images, controlling or coercive behaviour, and threats to kill.

### ***Evaluating and monitoring***

Following a 2019 data-collection exercise in magistrates' courts, we have been working this year to evaluate the impact of the intimidatory offences guidelines and will publish our findings in due course.

## Miscellaneous amendments

The Sentencing Council has published over 180 sentencing guidelines that are in use in courts throughout England and Wales. In order to address any issues that arise with guidelines, the Council decided to hold an annual consultation on miscellaneous amendments to guidelines.

### ***Development***

We began work on compiling the first miscellaneous amendments consultation in April 2021. The issues covered were drawn from case law, commentary on sentencing and feedback from guideline users, as well as from work the Council has done on other guidelines.

### ***Consultation***

We held the consultation between 9 September 2021 and 2 December 2021, asking consultees for views on the following proposals:

- breach of a sexual harm prevention order adding a note to this guideline to make clear that, when dealing with a breach, the court does not have a standalone power to vary the sexual harm prevention order or make a fresh order;
- compensation: in all relevant guidelines, adding wording relating to giving reasons if compensation is not awarded;
- confiscation: providing fuller information on confiscation in all relevant guidelines;

- racially or religiously aggravated offences: making the uplift for racial or religious aggravation a separate step in the guidelines for criminal damage (under £5,000) and criminal damage (over £5,000); section 4, section 4A and section 5 Public Order Act offences; and harassment/ stalking and harassment/ stalking (with fear of violence); and
- domestic abuse overarching guideline: revising the definition of domestic abuse to include the definition in the Domestic Abuse Act 2021 and expanding it to include a wider range of relationships.

### ***Post-consultation***

There were 20 responses to the consultation. Some of the responses were from groups or organisations, and some from individuals. Most responses were broadly in support of the proposals but some respondents disagreed with individual proposals or suggested where the changes could go further.

The Council published a response to the consultation on 11 March 2022. The amended versions of the guidelines were published on the Council's website on 1 April 2022 and came into force on publication.

The consultation included a general question inviting comment on the proposals. Some respondents used this to make suggestions for future changes to guidelines, which we welcome and will consider alongside other matters as part of the next annual miscellaneous amendments consultation, expected in autumn 2022.

## **Modern slavery**

Between October 2020 and January 2021, the Council consulted on draft guidelines for sentencing offences under the Modern Slavery Act 2015, including: slavery, servitude and forced or compulsory labour; human trafficking; committing an offence with intent to commit an offence under section 2 of the Act; and breach of a slavery and trafficking prevention order or a slavery and trafficking risk order.

### ***Post-consultation***

The definitive guidelines for sentencing modern slavery offences, which we published on 12 August 2021, were informed by the 44 responses we received to the consultation. We made more explicit the guidance about how being a victim of modern slavery might affect an offender's culpability; amended culpability factors to allow for a wider range of advantages and threats to be taken into account; and extended harm factors to include the particular harm of victims being deceived or coerced into sexual activity, among other changes.

A resource assessment and data tables were published alongside the definitive guidelines on 12 August 2021. The guidelines came into effect on 1 October 2021, and we will monitor their impact.

**Media coverage**

The launch of the definitive guidelines was featured in the Daily Telegraph, Law Society Gazette and New Law Journal, all of which noted that these are the first sentencing guidelines for modern slavery offences. There was also coverage on Sky News, Times Radio and BBC Radio Humberside.

**Motoring offences**

The existing sentencing guidelines for offences under the Road Traffic Act 1988 were published in 2008 by the SGC. The guidelines cover:

- causing death by dangerous driving (section 1);
- dangerous driving (section 2);
- causing death by careless driving (section 2B),
- causing death by careless driving whilst under the influence of drink or drugs (section 3A); and
- causing death by driving whilst unlicensed, disqualified or uninsured (section 3ZB).

The motoring offences guidelines are the last of the SGC offence-specific guidelines for the Council to revise and, while we have been conscious of the need for these guidelines to be revised and brought up to date, we also felt it would be prudent to wait until the outcome of a 2016 Government consultation were known and the terms of the resulting legislation became clear.

**Development**

In 2016 the government consulted on proposals to raise the maximum penalties for section 1 and section 3A offences from 14 years' imprisonment to life imprisonment, and on creating a new offence of causing serious injury by careless driving. The Police, Crime, Sentencing and Courts Act 2022, which received Royal Assent on 28 April 2022, brought those proposals into effect.

The Council agreed to revise the existing guidelines and develop new guidelines to reflect those legislative and other changes and take into account developments in sentencing trends. As well as applying the new penalties and offences under the 2022 Act, the draft guidelines cover among other offences:

- causing serious injury by driving whilst disqualified (section 3ZD of the 1988 Act);
- wanton or furious driving (section 35 of the Offences Against the Person Act 1861), which is commonly used where someone has been injured as a result of a cycling incident; and
- offences related to drug driving.

**Consultation**

The consultation on our draft motoring offences guidelines opened in July 2022 accompanied by a resource assessment and statistical bulletin, and we will report on the outcome in next year's annual report.

## **Perverting the course of justice and witness intimidation**

### ***Development***

Perverting the course of justice offences are serious offences with a maximum of life imprisonment. There is currently no guideline for this range of offences and limited guidance for witness intimidation offences only in the magistrates' court.

The Council agreed to develop new guidelines for perverting the course of justice offences and to revise the guideline for witness intimidation offences for use in all courts.

### ***Consultation***

We opened a consultation on the draft guidelines on 30 March 2022. Alongside the consultation, we published a resource assessment and statistical bulletin covering the relevant offences. During the course of the consultation we conducted qualitative interviews with judges to gauge their views of both draft guidelines.

We will report on the outcome of the consultation in next year's annual report.

## **Sale of knives, etc to persons under 18**

### ***Development***

The Council received a submission on behalf of the London Borough of Barking and Dagenham regarding the need for a sentencing guideline for the offence of selling knives and certain articles with a blade or point to persons under the age of 18, contrary to section 141A of the Criminal Justice Act 1988.

In response to the submission, the Council agreed to develop two guidelines for this single offence: one for sentencing individuals and one for sentencing organisations.

This offence is prosecuted by trading standards departments of local authorities, and the Council was greatly assisted in the development of the guidelines by information from trading standards officers on how the offence is investigated and prosecuted in practice.

### ***Consultation***

We opened a consultation on the guidelines on 1 June 2022, publishing a supporting resource assessment and statistical bulletin. During the consultation we will be conducting qualitative interviews with magistrates to gauge their views of both draft guidelines. We will report on the outcome of the consultation in next year's annual report.

## Sexual offences

The Council published our first guidelines for sentencing sexual offences in 2013. The guidelines covered more than 50 offences including rape, child sex offences, indecent images of children, trafficking and voyeurism.

In 2020, the case of *R v Privett and others* [2020] EWCA Crim 557 set out the approach the courts should take for sentencing offences under section 14 of the Sexual Offences Act 2003 (arranging or facilitating the commission of a child sex offence) when no real child victim exists.

In response, the Council agreed to review elements of the 2013 sexual offences guidelines.

### **Consultation**

Between May and August 2021 we consulted on new and revised guidelines covering offences under the 2003 Act:

- arranging or facilitating the commission of a child sex offence (section 14), even where no sexual activity takes place or no child victim exists;
- causing or inciting a child to engage in sexual activity (section 10), and other similar offences, even where activity is incited but does not take place or no child victim exists; and
- sexual communication with a child (section 15A), a relatively new offence created by the Serious Crime Act 2015 and in force since 2017.

We also consulted on minor amendments proposed for several other guidelines, including changes to guidance on the approach when offending is conducted remotely and victims are overseas.

Alongside the consultation, the Council published a resource assessment and statistical bulletin showing current sentencing practices for the offences included.

During the consultation period, to support the development of the guideline, we carried out research with Crown Court judges, district judges and magistrates to explore how the draft guidelines might work in practice.

### **Post-consultation**

Our consultation received 34 responses, which helped to inform the development of the definitive guidelines. We made a number of revisions to the draft, which were designed, for example, to clarify:

- the steps the court should take where no sexual activity has taken place;
- the approach to take in assessing psychological harm;
- the application of the guidance to offences committed remotely/ online; and
- the guidance on sentencing historical sexual offences.

The Council also made various changes to the draft sexual communication with a child guideline, including providing for a broader range of digital content to be taken into account in assessing harm, and better providing for the situation where no real child victim exists.

The definitive guidelines were published on 17 May 2022, accompanied by a resource assessment and data tables. The revisions to existing guidelines came into force on 31 May 2022, and the new guideline for sexual communication with a child came into force on 1 July 2022.

### ***Media coverage***

We achieved coverage for the consultation launch in the New Law Journal and on the BBC Today programme, BBC Radio 2, BBC Radio 5 Live, the BBC News website and across the BBC regional radio stations. There was also coverage on Sky News, LBC, TalkRadio and Times Radio, and stories in the Daily Mail, the Times, the Daily Express and a number of regional titles. The coverage was factual and focused on sentencing offenders based on intent rather than harm.

## **Terrorism**

The Council first published guidelines for sentencing terrorism offences in March 2018. The Counter Terrorism and Sentencing Act 2021, which received Royal Assent on 29 April 2021, made it necessary for the Council to make changes to these guidelines.

The Council had already drafted, and consulted on, changes to the guidelines arising from the Counter-Terrorism and Border Security Act 2019, and took the decision to make any additional revisions to the guidelines before publishing both sets of changes at the same time.

Ahead of consultation, to support the proposed changes to the guidelines, we carried out analysis of court transcripts as well as conducting qualitative interviews with a small number of judges who sentence terrorism offences, to explore how proposed changes might work in practice.

### ***Consultation***

The consultation ran from 20 October 2021 to 11 January 2022. Alongside the consultation, the Council also published a resource assessment and data tables for the offences included.

### ***Post-consultation***

There were 14 responses to the consultation, including from the Justice Committee. Modifications to the guidelines will be considered by the Council in the light of the consultation responses and the research with judges.

The changes resulting from both consultations will be published in mid-2022.

### ***Media coverage***

There was coverage on Sky News, BBC Today and Times Radio. Print coverage appeared in the Daily Mail, the Times, the Daily Telegraph, the Sun, the Daily Express, Wales Online, Manchester Evening News, the Daily Star, Staffordshire Live, Shropshire Star and many other regional titles. Other coverage appeared in the New Law Journal, Counter Terror Business and Tech Register.

“Terrorism offences are serious criminal acts that are constantly evolving, and the law is regularly updated in line with the changing nature of the offences, requiring a new approach to sentencing.

The Council is proposing revisions to existing sentencing guidelines to reflect the new legislation and ensure that the courts have comprehensive and up-to-date guidance for dealing with these extremely serious cases.”

**Council member Mrs Justice McGowan on the launch of the consultation on revised guidelines for sentencing terrorism offences, 20 October 2021**

## Totality

The Council's Totality guideline came into effect on 11 June 2012. The guideline provides the courts with guidance on what the total sentence should be when an offender has been convicted of more than one offence and is being sentenced for those offences at the same time.

### *Evaluation and monitoring*

In September 2021, the Council published a report exploring sentencers' views of the Totality guideline. We carried out a survey and a series of interviews to understand how sentencers use the guideline, explore sentencers' attitudes towards the guideline and identify any potential problems or issues.

The research found that the guideline was considered to be clear and useful. Most sentencers we surveyed agreed with the current content in each section of the guideline and agreed that it provides practical help in sentencing, though some requested improvements to its format. We showed interviewees ideas for improving the format of the guideline and most were positive about the proposals.

Having considered the findings of the research, the Council has taken the decision to review the Totality guideline and will consult on proposed changes in 2022.

## Unauthorised use of a trade mark

Draft guidelines for sentencing individuals or companies that sell or possess counterfeit goods intended for sale were published for consultation on 8 July 2020, following the Council's decision to replace and update a guideline produced by the SGC in 2008.

### *Post-consultation*

In the light of responses to the consultation and research carried out with sentencers, the Council made a number of changes to the draft guidelines to aid clarity. In particular, the Council considered that sentencers would benefit from having some non-exhaustive examples of the behaviour that could come within the different levels of culpability for an offence that sentencers see only rarely.

The definitive versions of the guidelines were published on 5 August 2021, alongside a final resource assessment, and came into effect on 1 October 2021.

### *Media coverage*

The Law Society Gazette reported on the launch of the definitive guidelines.

## Vehicle taking (aggravated)

Aggravated vehicle taking falls under section 12A of the Theft Act 1968 and is currently covered by sentencing guidelines for magistrates' courts that were produced by the SGC in 2008.

### ***Development***

As part of a commitment to update and replace all SGC guidelines, the Council decided to revise and replace guidelines for aggravated vehicle taking, and we are in the process of developing new guidelines that will provide comprehensive guidance to sentencers in both magistrates' courts and the Crown Court.

## **Strategic objective 2:**

Ensuring that all our work is evidence-based, and working to enhance and strengthen the data and evidence that underpin it

The Council carries out analysis and research into sentencing in order to enable us to meet the statutory duties set out in the Coroners and Justice Act 2009. Our analysis and research work is integral to ensuring the Council develops guidelines that meet our aims and objectives, and the work contributes to all stages of the guideline development process. We draw upon a range of different data sources, as well as undertaking our own research to inform our work, both quantitative and qualitative.

The high volume and range of responses to the Council's anniversary consultation that related directly to our analytical work indicate how important our stakeholders consider this area to be in terms of the overall functioning of the Council. It is a reflection of the importance placed on this work by our respondents that the Council has committed to prioritising analysis and research and has dedicated to it one of the five strategic objectives.

## Undertaking research and analysis to support the development of guidelines and other statutory duties

The Council regularly carries out social research and analysis that aims to augment the evidence base underpinning guidelines ensuring, in particular, that guidelines are informed by the views and experiences of those who sentence. We conduct primary research, using a range of methods, with users of the guidelines: primarily Crown Court judges, district judges and magistrates. Our

methods include surveys, interviews and group discussions. Our researchers also review sentencing literature and analyse transcripts of Crown Court sentencing remarks. This work helps to inform the content of the guidelines at an early stage of development and explore any behavioural implications. At times, and where relevant, we also conduct research with victims, offenders and members of the public.

During the development of draft guidelines, where it is available, we also draw on a range of data sources to produce statistical information about current sentencing practice, including offence volumes, average custodial sentence lengths and breakdowns by age, gender and ethnicity. We use this information to understand the parameters of current sentencing practice and to fulfil the Council's public sector equality duty (see also pages 66-7).<sup>5</sup> In some instances, however, data are not available so there are limits to the analysis we can undertake.

When required, the Council also undertakes research and analysis to support some of our wider statutory duties, to provide further information in specific areas or to fill gaps in existing data. We are also continuing to seek opportunities to collaborate with academics and external organisations. During 2021/22, this work has included research to support our public confidence duties (see page 41); examine issues related to effectiveness in sentencing (page 37), consistency in sentencing and judicial attitudes to guidelines (see pages 16-17); and consider equality and diversity in the work of the Sentencing Council (see pages 33-4).

<sup>5</sup> The public sector equality duty, s.149 of the Equality Act 2010, applies to the public bodies listed in schedule 19 <https://www.gov.uk/government/publications/equality-act-2010-schedule-19-consolidated-april-2011>

“The changes we are proposing today will make sure the courts give the proper weight to the harm intended by those who commit offences against children. When an offender intends sexual activity with a child, that must be reflected in the sentence imposed, even where that activity does not ultimately take place.

We are asking judges, magistrates and other interested parties for their views on the proposed guidelines to help us protect children from people planning to cause them sexual harm or inciting sexual activity with them.”

**Council member Lord Justice Fulford on the launch of the consultation on revised guidelines for sentencing child sexual offences, 17 May 2021**

## Assessing the resource implications of guidelines

The Council has a statutory duty to produce a resource assessment to accompany each sentencing guideline that estimates the effects of the guideline on the resource requirements of the prison, probation and youth justice services. This assessment enables the Council and our stakeholders to understand better the consequences of the guidelines in terms of impact on correctional resources. The work that goes into resource assessments also results in wider benefits for the Council.

The process involves close scrutiny of current sentencing practice, including consideration of the factors that influence sentences. This analysis provides a 'point of departure' for the Council when we are considering the appropriate sentencing ranges for a guideline.

Where the Council intends a guideline to improve consistency, while causing no change to the overall severity of sentencing, the guideline sentencing ranges will aim to reflect current sentencing practice, as identified from the analysis. Where we intend a guideline to effect changes in the severity of sentencing for an offence, the Council may set sentencing ranges higher or lower than those indicated by current sentencing practice.

We publish resource assessments to accompany our consultations and our definitive guidelines. Alongside our draft guidelines for consultation we also publish a statistical bulletin summarising the statistical information that has helped inform their development.

## **Monitoring the operation and effect of guidelines and drawing conclusions**

The real impact of a guideline on sentencing and, consequently, on resources is assessed through monitoring and evaluation after the guideline has been implemented. To achieve this, we use a range of different approaches and types of analysis. These include bespoke, targeted data collections in courts, where we collect information on a range of factors relevant to the sentencing decision, including harm and culpability factors, aggravating and mitigating factors, guilty plea reductions and sentence outcomes. We also conduct qualitative interviews with sentencers, analyse sentencing transcripts and undertake statistical analysis of administrative data.

We have published data from the Crown Court Sentencing Survey on our website, as well as more recent data collected from magistrates' courts on theft from a shop or stall. We will be publishing data from other data-collection exercises looking at drug and robbery offences in due course.<sup>6</sup>

## **Publishing Sentencing Council research**

We publish our research and statistical outputs on the analysis and research pages of our website.<sup>7</sup> More information about the analysis and research we have undertaken to support the development of new guidelines or evaluate existing guidelines is included throughout chapter 1 of this report (see pages 11-27).

## **Reporting on sentencing and non-sentencing factors**

The Council has a statutory duty to produce sentencing factors and non-sentencing factors reports. These reports can be found on pages 52-62.

---

<sup>6</sup> Data collections on the Council website: <https://www.sentencingcouncil.org.uk/research-and-resources/data-collections/>

<sup>7</sup> <https://www.sentencingcouncil.org.uk/research-and-resources/sentencing-council-research-and-analysis>

## **Strategic objective 3:**

Exploring and considering issues of equality and diversity relevant to our work and taking any necessary action in response within our remit

Over half the responses to the Council's 10th anniversary consultation, 'What next for the Sentencing Council?', emphasised the importance of considering equality and diversity in the development of sentencing guidelines. These responses confirmed the Council's long-held view that equality and diversity should be a priority for the Council, which is reflected in our establishment of a dedicated working group to increase our existing focus on equality and diversity issues.

The group advises the Council on matters relating to equality and diversity and makes sure that the full range of protected characteristics are considered in our work. Members also consider ways in which the Council could engage more effectively with, and take account of the views and perspectives of, representatives of people with protected characteristics, and with offenders and victims.

## Understanding the impact of sentencing guidelines

The Council's commitment to ensuring that sentencing guidelines apply fairly across all groups of offenders and do not cause or contribute to any potential disparity of outcome for different demographic groups is reflected throughout the development process.

In August 2021, the Council agreed and published revised criteria by which we decide whether to develop or revise a guideline.

The revised criteria include factors designed specifically to ensure that any evidence of disparity in sentencing outcomes is taken into account as part of our decision-making.

We review any available evidence on disparity in sentencing for each guideline we develop or revise and, if the evidence suggests disparity, we highlight this as part of the consultation process. We place wording in the draft guideline to draw sentencers' attention to the disparities and, when we have examined the data for the offence and reviewed the consultation responses, the Council will then consider whether similar wording should be retained in the published definitive guideline. We include in all definitive guidelines signposts to important information in the Equal Treatment Bench Book and remind sentencers of the need to apply guidelines fairly across all groups of offenders.<sup>8</sup>

To enable the Council to fully explore the potential impact of sentencing guidelines on different demographic groups and groups with protected characteristics, we collect and analyse data where available, and undertake in-depth analytical work. We now routinely publish sentencing breakdowns by age, sex and ethnicity alongside definitive guidelines and draft guidelines for consultation.

The Council uses sentencing data from MoJ's court proceedings database, which contains information on offenders' demographics and includes two variables identifying ethnicity: 'officer-identified ethnicity' and 'self-identified ethnicity'.

<sup>8</sup> <https://www.judiciary.uk/announcements/equal-treatment-bench-book-new-edition/>

In April 2021, the Council decided to move away from 'officer-identified ethnicity' and instead use 'self-identified ethnicity'. The former relates to ethnicity as recorded by a police officer or administrator, based on their assessment of the offender's visual appearance. The latter refers to the offender's ethnicity as defined by themselves and provides the Council with a more accurate representation of offenders' ethnicity.

## Learning from consultees' insight and experience

The potential for disparities in sentencing to arise from aspects of sentencing guidelines may not be obvious. In 2021/22 we implemented changes in our consultation documents to seek views from as wide an audience as possible on whether such potential exists, specifically asking consultees to consider the following.

- Are there any aspects of the draft guidelines that you feel may cause or increase disparity in sentencing?
- Are there any existing disparities in sentencing of the offences covered in this guideline that you are aware of, which the draft guideline could and should address?
- Are there any other matters relating to equality and diversity that you consider we ought to be aware of and/ or that we could and should address in the guideline?

## Guarding against potential causes of disparity

When agreeing the five strategic objectives for 2021-2026, the Council made a commitment to examine whether there is any potential for our work, or the way in which we carry it out, inadvertently to cause disparity in sentencing across demographic groups.

In autumn 2021, we commissioned the University of Hertfordshire to look at equality and diversity in the work of the Council. The aims of the research are to identify and analyse any such potential and to recommend actions we might take to guard against it.

The researchers used textual analysis of a small sample of guidelines and quantitative analysis of sentencing outcomes for those guidelines. They also reviewed the Council's guideline development process and the ways in which we engage stakeholders at all stages. Throughout the project, the researchers engaged sentencers, defence lawyers and representatives from the civil society sector, following the principles of co-production, a research methodology designed to encourage knowledge exchange and equal contribution between all partners. We expect to publish the final report later in 2022.

“Modern slavery targets vulnerable people who are exploited for financial gain by the offenders and can cause serious physical and psychological harm. Offending can take place over a long period of time, sometimes for years, and these new guidelines take account not only of the actions by the offender, but the impact on the victim.

Offending can range from large-scale operations with substantial financial gain, to offences carried out by offenders who are themselves victims either through coercion and intimidation, and the sentencing range has been developed to reflect this.”

**Council member Rosina Cottage QC on the launch of definitive guidelines for sentencing modern slavery offences, 12 August 2021**

## **Strategic objective 4:**

Considering and collating evidence on effectiveness of sentencing and seeking to enhance the ways in which we raise awareness of the relevant issues

The Council's duty in relation to cost and effectiveness appears in two sections of the Coroners and Justice Act 2009. Section 120 states that the Council should have regard to the cost of different sentences and their relative effectiveness in preventing reoffending when preparing guidelines. Section 129 states that the Council may also promote awareness of these issues.

The approach previously taken to discharging this duty involves the consideration by Council members of an annual internal digest/ review of current research and evidence of effectiveness. This supplements Council members' significant existing expertise and experience in sentencing matters and is brought to bear in Council discussions when considering the development of guidelines.

When publishing our strategic objectives in November 2021, the Council responded to the views of respondents to our anniversary consultation that the annual digest should be publicly available. We agreed to publish a review every two years that will outline the latest research evidence and how the Council has considered this in developing guidelines. The review will allow the Council to be more transparent about the evidence we consider and help us promote knowledge and understanding of effectiveness among sentencers.

To meet this commitment, in February 2022 the Council commissioned a team of academics led by Dr Jay Gormley of the University of Strathclyde to conduct a literature review of evidence relating to effectiveness of sentencing. Although the statute gives particular weight to the need for the Council to have regard to the effectiveness of sentences in preventing reoffending, the review also considers evidence on overlapping and related areas: for example, on the impact of sentencing on long-term desistance from offending and on deterrence, as well as on the cost-effectiveness of different sentences.

We expect to publish the review later in 2022.

“Perverting the course of justice and witness intimidation are serious offences that strike at the heart of justice: they can delay or even derail criminal investigations; they can cast suspicion on innocent people; and victims and witnesses can feel too scared to make a complaint about a crime they have suffered or have witnessed.

These offences can waste police and courts’ time and cause people wrongly accused of crimes to potentially lose their freedom or suffer reputational damage. In cases of witness intimidation, witnesses can be so terrified that they withdraw from proceedings and criminality goes unpunished.”

**Council member Mrs Justice May on the launch of the consultation on draft guidelines for sentencing perverting the course of justice and witness intimidation, 30 March 2022**



58

THAMES  
MAGISTRATES  
COURT

## **Strategic objective 5:**

Working to strengthen confidence in sentencing by improving public knowledge and understanding of sentencing

The Sentencing Council has a statutory duty to have regard to the need to promote public confidence in the criminal justice system when developing sentencing guidelines and monitoring their impact. The Council has interpreted this duty more widely and, in November 2021, we set ourselves a specific objective to take direct steps to improve public confidence in sentencing.

## Understanding public attitudes

To meet our statutory duty and our strategic objective to improve public confidence, the Council must have a clear and detailed picture of current levels of understanding of sentencing among the public. In 2019, we published a report of research that explored the public's knowledge of, and attitudes towards, the criminal justice system, sentencing and sentencing guidelines, and identified key audiences for the Council to engage with its communications.<sup>9</sup>

In January 2022, we commissioned independent researchers Savanta ComRes to conduct further survey research to give up-to-date insight into public confidence in the criminal justice system and its drivers, and explore whether there have been any changes over time. To give us a clear picture of where there have been changes, we re-ran some of the questions from the 2019 survey alongside a number of new questions.

We expect to report on this work later in 2022. In the meantime, the Council's communication activities are informed by the findings of the 2019 research.

## Making sentencing more accessible and easy to understand

### Sentencing Council website

For many people, our website is their first encounter with the Sentencing Council.<sup>10</sup> It is designed specifically to promote a greater understanding of sentencing among our public and other non-specialist audiences, while continuing to provide access to sentencing guidelines for criminal justice professionals.

The site explains how sentencing works in plain, easy-to-understand language. It gives broad information on some often-sentenced offences and debunks common sentencing myths. The public-facing pages provide clear, helpful context to the sentencing guidelines, which aims to improve the transparency of sentencing and make it more accessible to the public. During the year we introduced a series of eight short videos designed to illustrate the website content and make it more easily accessible. The videos explain in an engaging way what judges and magistrates do and how sentencing decisions are made.

<sup>9</sup> ComRes (2019) Public Knowledge of and Confidence in the Criminal Justice System and Sentencing, Sentencing Council: <https://www.sentencingcouncil.org.uk/publications/item/public-confidence-in-sentencing-and-the-criminal-justice-system/>

<sup>10</sup> [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk)

We have also been making good use of the new blog pages on our website to improve public understanding of how the sentencing decision-making process works and the array of factors that are taken into account. We use these pages to publish articles explaining various aspects of sentencing, which we promote via our Twitter account. The blogs we have published this year include articles explaining how the guidelines recognise the impact of crime on victims, how harm is assessed in child sexual offences where there is no victim and how the Council reflects sentencers' voices in our guideline research.

The website has continued to be a source of information for sentencers and others in the criminal justice system, as well as for victims, witnesses and journalists, and this year has seen an increase in the number of visits. In 2021/22 the site was visited 1,958,664 times and individual pages were viewed 11,356,190 times. This compares with 2020/21, which saw 1,586,551 visits and 6,689,357 pageviews.

### **Using the media**

The Council publicises its work via general and specialist media. Our aim is to make sure that sentencers and criminal justice practitioners are aware of what work the Council is undertaking and are kept informed about the publication of new guidelines.

We also make sure that practitioners and stakeholders with an interest in specialist topic areas are aware of our consultations so that they are able to respond and share their knowledge and expertise with the Council.

Achieving media coverage for the publication of new guidelines or consultations also provides us with opportunities to inform the wider public about how sentencing works and the role played by the Council and the guidelines in enabling the courts to take a consistent, fair and transparent approach to sentencing.

The definitive guidelines and consultations published over the period of this annual report were supported by a programme of communication activities targeting the media, including criminal justice publications, national and regional print and broadcast channels and other specialist titles where relevant. Council members undertook a number of interviews, including on high-profile, national programmes such as Sky News, BBC News, the Today programme on BBC Radio 4, BBC Radio 2 and BBC Radio 5 Live, as well as Times Radio and regional radio. We also achieved coverage across a wide range of print and online outlets, including the Times, Daily Telegraph, Daily Mail, Independent and leading regional titles such as Manchester Evening News, Lancashire Evening Post and the Liverpool Echo.

In November 2021, to support the launch of the Council's five-year strategy, the Times featured an interview with our Chairman. In the interview, Lord Justice Holroyde set out our new strategy and what we aim to achieve in the next five years focusing, in particular, on our objective to improve public understanding of sentencing and how sentences are decided.

On 29 March 2022 Her Honour Judge Rosa Dean was interviewed by BBC Politics Wales for the Sunday Politics programme. Her contribution covered the factors that judges and magistrates use when sentencing women who are sole or primary carers of dependant relatives. The interview was broadcast on Sunday 3 April 2022.

The work of the Council remained of significant interest to the media. Over the course of the year, there were 131 mentions of the Council in print media, 311 broadcast mentions and 303 mentions in online publications.

Our press office routinely answers media enquiries about sentencing issues, provides background for sentencing-related articles and puts forward spokespeople, where appropriate. The office also handles many calls and emails from members of the public enquiring about sentencing and the guidelines. While we are not able to provide advice or comment on individual cases, we provide information and alternative sources where we can.

### **Working with and through partners**

To assist us in improving understanding of sentencing, particularly among victims and witnesses, the Council continues to nurture our relationships with partner organisations who have direct contact with the public.

We focus on our communication with the police service, aiming to reach the officers who most often engage with the public. We ensure that the leading publications that serve the police receive all Council announcements. This year, Nick Ephgrave,

Council member and Assistant Commissioner for Frontline Policing in the Metropolitan Police, gave an interview to Police Oracle. In the interview, he explained his role on the Council, which is to bring his senior policing expertise to the development of sentencing guidelines, and set out the benefits to both the Council and the Metropolitan Police of his participation. We expect the interview to be published in early summer 2022.

Throughout the year, the Witness Service continued to use our information leaflet about sentencing to support and reassure victims and witnesses. The leaflet is written specifically for victims and witnesses and explains the different types of sentences there are and what judges and magistrates take into account when making sentencing decisions.

We have also been working in partnership with the Judicial Office, the independent body that supports the judiciary across the courts of England and Wales, to develop a new version of the online sentencing tool 'You be the Judge'. This tool uses dramatised stories to show the public how sentencing decisions are made in magistrates' courts, youth courts and the Crown Court. It is designed to engage audiences of all ages, in particular school-age children and young adults. We expect the tool to go online later in 2022.

## Building digital tools for sentencers

### Making pronouncements

On 18 January 2022 the Council launched a pronouncement-card builder, a new digital tool for magistrates' courts. Pronouncement cards apply to both the adult and youth courts and are produced in English and Welsh. The cards are compiled to help magistrates explain the court's decision fully and clearly to defendants, victims, the public and all court users.

The new pronouncement-card builder, which has been developed in partnership with the Judicial College, is designed to help magistrates pull together all the pronouncements they need to make into one text. This allows them to read out complex pronouncements compiled from multiple cards while being able to keep their focus on the court.

The screenshot shows the 'Judicial College pronouncement cards - builder' interface. At the top, there are navigation links for 'Sentencing Guidelines: Magistrates' and 'Crown Court'. The main header includes the 'Sentencing Council' logo and a search bar. Below the header, there are navigation links for 'Offences', 'Sentencing and the Council', 'Going to court', 'News and articles', and 'Research and resources'. The main content area features the title 'Judicial College pronouncement cards - builder' and a brief description of the tool. A search bar for 'Search adult pronouncement cards' is present. Below this, there is a table with two columns: 'Adult' and 'Youth'. The 'Adult' column lists four cards: 'Adjournment for medical reports', 'Adjournment for pre-sentence reports', 'Alcohol abstinence and monitoring requirement (community order/suspended sentence order)', and 'Alcohol treatment requirement (community order/suspended sentence order)'. The 'Youth' column lists two cards: 'Community order' and 'Unpaid work requirement (community order/ suspended sentence order)'. Each card has a plus sign icon to its right. At the top of the table, there are buttons for 'Clear Pronouncement' and 'Create Pronouncement'.

Adult	Youth
<p><b>Adjournment for medical reports</b> Adjournments</p>	<p><b>Community order</b> Sentencing</p>
<p><b>Adjournment for pre-sentence reports</b> Adjournments</p>	<p><b>Unpaid work requirement (community order/ suspended sentence order)</b> Sentencing</p>
<p><b>Alcohol abstinence and monitoring requirement (community order/suspended sentence order)</b> Sentencing</p>	
<p><b>Alcohol treatment requirement (community order/suspended sentence order)</b> Sentencing</p>	

## SentencingACE

SentencingACE is a digital tool that allows judges sentencing in the Crown Court to make a quick, ready-reckoner-style check of the sentence they intend to impose and to confirm that all the elements of their sentence are correct in law.

The Council launched SentencingACE on our website on 16 December 2021. The tool, which was developed by a High Court judge and tested by Crown Court judges, covers more than 800 offences, including the most commonly sentenced. It is designed to provide support to sentencers and to defence and prosecution practitioners who have a duty to draw the court's attention to all relevant sentencing issues.

SentencingACE does not have the same status as sentencing guidelines. It is not a decision-making tool and its use by judges is entirely voluntary.

Sentencing Council

[Feedback](#)  
[About the tool](#)  
[Copyright and Disclaimer](#)

Sentencing ACE Tool

Last updated: 28/02/2022

### Dates

Clear Sentence

For example, day/month/year

Birth:	<input type="text" value="19/04/1971"/>				
Offence:	<input type="text" value="17/08/2021"/>	Age at offence:	<input type="text" value="50"/>		
Conviction:	<input type="text" value="17/05/2022"/>	Age at conviction:	<input type="text" value="51"/>		
Sentence:	<input type="text" value="17/05/2022"/>	Age at sentence:	<input type="text" value="51"/>		

### Offence

Count:

Arson and criminal damage offence

Criminal Damage Act 1971 s. 1: Criminal damag

Plea:

- Not Guilty
- Guilty plea indicated at the first stage of the proceedings
- Guilty plea indicated after the first stage of the proceedings but before trial
- Guilty plea entered on the first day of the trial
- Guilty plea entered after the first day of the trial

## Drink-driving calculator

We have also launched this year a new drink-driving calculator for magistrates' courts. The calculator is designed to help magistrates work out:

- by how long a driver's disqualification period will be reduced if they complete an approved rehabilitation course;
- the length of any extension, if custody is imposed;
- the date by which the course must be completed; and
- the date on which they can drive again.

We published a pilot version of the calculator on the website in April 2021 and asked magistrates to try it out in court and send us feedback and ideas for improvements. As a result of their feedback, we made some further developments and published a revised calculator on the website and the Sentencing Council iPad app.

Sentencing Guidelines: Magistrates Crown Court

Sentencing Council Search site

Offences | Sentencing and the Council | Going to court | News and articles | Research and resources

Home > Drink-driving calculator

### Drink-driving calculator

**Date disqualification imposed**  
4 April 2022

**Period of disqualification**  
Months 12

**Was a custodial sentence imposed?**  
Yes No

**Length of custodial sentence:**  
Days 0 Weeks 0

**Length of reduction (1 week/month, minimum 3 months)**  
3 months

**Course to be completed by**  
03 November 2022

**Disqualification end date with course reduction**  
03 January 2023

**Disqualification end date with no reduction**  
03 April 2023

“We wanted our consideration of the Council’s future to be informed by the same degree of expertise and experience that informs our guidelines. When we develop or revise a sentencing guideline, we always consult the people who work with the guidelines or whose lives may be affected by them. So we called on others involved in the criminal justice system, and on the Council’s supporters, our critical friends and members of the public, and asked them to tell us where they thought we should focus our energies over the next few years.”

**Chairman Lord Justice Holroyde on the launch of the Sentencing Council strategic objectives 2021-2026, 4 November 2021**



## Reaching young people

The public confidence research we published in 2019 told us that young people between school-leaving age and early 30s have greater confidence in the effectiveness and fairness of the criminal justice system than older people, and most say that hearing about the sentencing guidelines increases their levels of confidence.<sup>11</sup> However, young people are less likely than any other age group to know about the guidelines.

To mitigate this lack of knowledge among the next generation of young adults, the Council has identified young people of secondary-school age as a priority audience.

Our aim is to equip them with a knowledge and understanding of sentencing that will improve their confidence in the criminal justice system, whether they encounter it as victims, witnesses or defendants, and enable them to become critical readers of the media's reporting of sentencing.

To help us educate young people, the Council aims to contribute to teaching activities that are run by our partners in the criminal justice system and other organisations who have far greater reach into schools than the Council could achieve alone.

In 2021/22 we continued our work with Young Citizens, an education charity that works in primary and secondary schools to help educate, inspire and motivate young people. We developed content for the charity's key

stage 1 and 2 (primary) teaching resource, 'What happens when laws are broken?'. The resource supports both citizenship and PHSE (personal, health, social and economic) education and has the potential to reach more than 48,000 children.

Our new website features a page of resources for teachers. The page currently hosts the teaching pack we have developed for schools to deliver as part of the citizenship curriculum for key stage 3 and 4 pupils. These resources help pupils in England and Wales develop an understanding of how criminal sentencing works and give them the opportunity to try sentencing for themselves through interactive scenarios. As well as being published on our website, the pack is also available through Young Citizens, the Association for Citizenship Teaching, and the Times and Guardian educational pages. The page also includes links to the teaching materials provided by Young Citizens to which we have contributed.

In the first three months of 2021, 642 visits were made to the Council's teaching resources webpage (compared with 572 in 2020/21), 304 of which were by new users.

---

<sup>11</sup> ComRes (2019) Public Knowledge of and Confidence in the Criminal Justice System and Sentencing, Sentencing Council: <https://www.sentencingcouncil.org.uk/publications/item/public-confidence-in-sentencing-and-the-criminal-justice-system/>

As well as providing education resources for school-age young people, the Council is also keen to reach older students, particularly those who are studying to become the next generation of legal professionals. On 24 February 2022, Mrs Justice May was interviewed about sentencing guidelines by students of the new criminal sentencing module at Queen Mary School of Law, University of London. The interview was made available to all students of the module in a podcast.

## Developing relationships with stakeholders and supporters

To further our work to engage stakeholders and build relationships across the criminal justice system, Council members and staff from the Office of the Sentencing Council (OSC) often give speeches and presentations covering all aspects of sentencing and developing guidelines. Our ability to do this has inevitably been significantly curtailed by the COVID-19 pandemic but we have nonetheless contributed to a number of events during the year.

The Chairman presented at the sentencing and confiscation seminar in July 2021 and the murder continuation course in September 2021, both of which are provided by the Judicial College. In November 2021, he spoke about the Council and the sentencing guidelines to an audience of bar pupils and young barristers of the Northern and North-Eastern Circuits and gave an introduction to the sentencing guidelines to the staff of the

Judicial Office, the independent body that supports the judiciary across the courts of England and Wales. Also in November 2021, he gave a presentation to an audience of senior members of the police service at the National Criminal Justice Conference in Manchester.

On 15 April 2021, Her Honour Judge Dean contributed to a webinar for members of the Criminal Appeals Lawyers Association, giving a presentation on the Council's guideline for sentencing offenders with mental disorders, developmental disorders, or neurological impairments. The webinar was hosted by the Criminal Appeals Lawyers Association and Garden Court Chambers in association with Crime in Mind, a charity concerned with the psychological and medical roots of crime.

On 22 June 2021 Mrs Justice McGowan gave a presentation to the Crown Prosecution Service Sikh Society at the society's hate-crime awareness event. Her presentation outlined how the courts consider hate crime when imposing sentence and explained the ways in which sentencing guidelines reflect various legislative provisions that aggravate offences where racial or religious hostility or motivation is demonstrated in offending.

On 20 October 2021, Council member Jo King JP and the head of our analysis and research team met members of the Dorset Magistrates' Association in Blandford Forum and, on 23 March 2022, staff from the OSC spoke to members of the Birmingham Magistrates' Association about the guidelines and how the views of sentencers help to shape sentencing guidelines.

On 6 December 2021, the Chairman attended a closed meeting of the Justice Committee where he briefed the Committee about the work of the Council and the role of the guidelines in sentencing and answered members' questions about a wide range of sentencing-related subjects.

In March 2022, Mrs Justice McGowan gave a virtual presentation to members of the Scottish judiciary attending a sentencing course provided by the Judicial Institute of Scotland. Her presentation, 'The Sentencing Council of England and Wales: has it helped or hindered?', outlined the stepped model we follow in our guidelines and the approach we take to assessing harm and culpability.

The Council often hosts and meets visitors from overseas seeking to learn more about the Sentencing Council and understand how the guidelines are developed and used. These events allow us in turn to learn about the criminal justice systems of other nations and discover whether and how sentencing guidelines are used in other jurisdictions. In the last few years our international engagements have been conducted online but we hope to be able to host visitors in person in the years ahead.

On 24 May 2021, the Chairman gave a virtual presentation to a delegation of Malaysian judiciary. His presentation provided an introduction to the criminal justice system of England and Wales and outlined the role of the Sentencing Council and sentencing guidelines.

Early in 2022, Mrs Justice McGowan prepared a recorded talk on the role of the Council and the sentencing guidelines for presentation at the High-Level Judicial Symposium in Dodoma, Tanzania. The symposium, which ran between 23 January and 3 February 2022, was organised by the Slynn Foundation, a UK-based charity that works internationally with senior judges and justice institutions to enhance the rule of law. More than 70 delegates attended, including Chief Justice Ibrahim Hamis Juma, justices of the Court of Appeal and the High Court, the Director of Public Prosecutions, the Principal Secretary to the Minister of Constitutional and Legal Affairs and the Chairperson of the Law Reform Commission of Tanzania.

In March 2022, the Chairman delivered another virtual seminar on the Sentencing Council, this time to the Chief Justice of the Supreme Court of Brunei Darussalam, and other justices, judges and judicial officers, at an event organised by the Slynn Foundation and hosted by the British Deputy High Commissioner to Brunei Darussalam, Catherine Pochkhanavala-Cleeve.

Also in March 2022, Mrs Justice McGowan gave a virtual presentation on the importance and use of sentencing guidelines to senior members of the judiciary of Sierra Leone at a judicial roundtable organised by the Judicial and Legal Training Institute of Sierra Leone and the UK Sierra Leone Pro Bono Network.

“Sentencing is a complex procedure, and sentencers must bear in mind a great many matters. SentencingACE will allow Crown Court judges to confirm quickly and easily that the sentence they have decided upon is lawful in all respects.

SentencingACE should reduce the number of appeals that stem from technical sentencing errors. And, by allowing the Court of Appeal to deal more efficiently with other, more complex cases, this new tool will help to improve public confidence in the criminal justice system.”

**Chairman Lord Justice Holroyde on the launch of SentencingACE,  
16 December 2021**



# Sentencing and non-sentencing factors reports

## Sentencing factors report

In accordance with section 130 of the Coroners and Justice Act 2009, the Sentencing Council's annual report must contain a sentencing factors report. This report considers changes in the sentencing practice of courts and their possible effects on the resources required in the prison, probation and youth justice services.

Sentencing guidelines are a key driver of change in sentencing practice. Some guidelines aim to increase the consistency of approach to sentencing while maintaining the average severity of sentencing. Other guidelines explicitly aim to cause changes to the severity of sentencing.

Changes in sentencing practice can also occur in the absence of new sentencing guidelines and could be the result of many factors such as Court of Appeal guideline judgments, legislation and changing attitudes towards different offences.

This report considers only changes in sentencing practice caused by changes in sentencing guidelines.

## Sentencing guidelines

Between 1 April 2021 and 31 March 2022, the Council published definitive guidelines for sentencing:

- assault offences and attempted murder;
- trade mark offences;
- modern slavery offences; and
- unlawful importation of firearms.

## Assault offences and attempted murder

The assault guidelines cover a range of offences. Therefore, resource impacts have been calculated separately, using a variety of offence-specific evidence, including Crown Court sentencing transcripts, bespoke data collections and administrative data.

For common assault, it remains difficult to estimate the impact of the revised guideline. However, analysis of an early extract of data from a bespoke magistrates' court data collection suggests that for common assaults of the lowest severity, there may be increases in the level of fines imposed and a potential shift from fines to community orders. For cases of average/ middling

seriousness and the most serious common assault cases, it is anticipated that sentences will remain broadly similar to current sentencing practice but that the introduction of the middle harm category will allow for a wider range of offending to be appropriately captured, therefore increasing consistency in sentencing and encouraging proportionate harm assessments.

For assaults on emergency workers, limited data are currently available to understand current sentencing practice and how the guideline may impact sentence outcomes, as this is a relatively new offence. Analysis of an early extract of data from a bespoke magistrates' court data collection suggests that there may be some increase in the use of custodial sentences. However, it is not possible to quantify the impact of this shift because of the limited data available.

For assault with intent to resist arrest, there may also be increases in sentence levels. However, this is a low volume offence, and statistics indicate that even if sentences increased more than expected, fewer than 10 additional prison places would be required. Therefore, the actual impact of the guideline is likely to be minimal.

For assault occasioning actual bodily harm, inflicting grievous bodily harm/ unlawful wounding (grievous bodily harm section 20), and causing grievous bodily harm with intent (grievous bodily harm section 18), the revised guidelines have been produced to address some of the issues that had been raised in the evaluation of the existing guideline. The description and placement

of some guideline factors that were found to have had an inflationary impact upon offence categorisation have been revised. The Council's analysis suggests that this could lead to decreases in sentence outcomes for these offences (compared with current levels), with reductions in average custodial sentence lengths (for all three offences), and reductions in the use of immediate custody and suspended sentence orders with consequent increases in the use of community orders (for actual bodily harm). In total across the three offences, a central estimate suggests that these changes could lead to a need for around 500 fewer prison places per year.

For racially or religiously aggravated common assault, because of the limited amount of data available, it is not possible to estimate the impact of the new guideline on sentencing practice. However, it should encourage consistency of approach and ensure an appropriate uplift is being applied to account for the level of aggravation. For racially or religiously aggravated assault occasioning actual bodily harm, and racially or religiously aggravated grievous bodily harm/ unlawful wounding, it is expected that the uplift approach for the racial or religious aggravation may cause increases to sentences. This may partially offset some of the expected decreases for the basic offences of actual bodily harm and grievous bodily harm section 20. However, it has not been possible to assess the impact for these offences robustly.

For attempted murder, it is expected that there will be increases in sentence levels, with a requirement for around 300 additional prison places.

## Trade mark offences

Overall, the definitive guidelines for sentencing both individuals and organisations for trade mark offences are intended to encourage consistency of sentencing and, in the vast majority of cases, will not change average sentencing severity. There may be some increases in custodial sentence lengths for individuals sentenced for the most serious types of cases and some increase in the use of custody for cases of low value but high risk of serious harm. It has been hard to estimate the precise resource impact of the increase in severity of sentence outcomes. However, given the small volumes of custodial outcomes currently, and high proportion of custodial sentences suspended, the guideline for individuals is estimated to result in the need for between 0 and 20 additional prison places per year.

For organisations, there cannot be any impact on prison or probation resources because organisations cannot receive custodial or community sentences, but there may be some increases in fine levels. However, step five of the guideline asks sentencers to ‘step back’ and consider the overall impact of all financial penalties and the means of the offending organisation. They may then adjust the sentence to account for this, reducing the fine level. It is anticipated that fine values may therefore not increase considerably in the majority of cases, if at all.

## Modern slavery offences

The definitive guidelines for sentencing modern slavery offences aim to encourage consistency of sentencing in an area where no guidelines currently exist, while taking into account the serious and often long-lasting impact that this offending has on victims.

It is anticipated that the guidelines may result in a requirement for up to 40 additional prison places per year. Analysis of transcripts of Crown Court judges’ sentencing remarks indicated that this is driven by longer custodial sentences under the guidelines and, to a lesser extent, by a decreased use of suspended sentence orders and an associated increased use of immediate custody.

Given the limited data available to analyse at the date of publication and, in particular, the low proportion of cases in the transcript sample with a suspended sentence order outcome, it was acknowledged that the guidelines may have an additional increased impact on these types of cases than it was possible to estimate. Furthermore, there are known data issues with recording modern slavery offences, which means the actual magnitude of the impact on prison and probation resources may be greater than it has been possible to estimate.

## Tailoring our bespoke data collections

Between January and May 2021, we asked sentencers in all magistrates' courts to tell us how they were sentencing assault offences. We wanted to collect this information to help us with our revision of the assault offences guidelines.

The Council conducts targeted and bespoke data collections in both the magistrates' court and the Crown Court to enable us to meet our statutory duty to monitor and evaluate our guidelines.

Data collections, as an evaluation activity, help us answer questions such as:

- are the guidelines having any impact on sentencing outcomes;
- have there been any unanticipated effects since the guidelines came into effect;
- have sentencers encountered any problems with implementing the guidelines; and
- what have been the resource implications, for example on prison places and the probation service?

We collect data both before and after a guideline has been implemented so that, when we evaluate a guideline, we are able to compare the two sets of data. Only by assessing the guidelines in this way can the Council make any changes or improvements to them.

While preparing the revised guidelines for assault offences in 2021, we used an early extract from the assault data collection to compile a resource assessment. This work provided us with information on how offenders were being sentenced for common assault and assaults on emergency workers and insight into how offenders might be sentenced under the revised guidelines.

The data enabled the Council to investigate the different factors taken into account and the starting point selected by sentencers to make assumptions about where the offence category they used might fall under the new guideline.

The data also allowed the Council to gain an insight into overarching themes such as how the COVID-19 pandemic might have affected sentencing practice or whether the offence was committed in a domestic context. We are able to examine specific aspects of sentencing such as these only because our collections are bespoke and provide us with data that would otherwise not be available.

We published the resource assessment alongside the definitive assault guidelines, which came into effect July 2021.<sup>12</sup>

<sup>12</sup> <https://www.sentencingcouncil.org.uk/publications/item/assault-offences-final-resource-assessment/>

### **Why do we need our own data?**

For the Council to be able to complete the accurate and reliable statistical analysis required to assess guidelines, we must be able to collect a high volume of data. To do this, we draw on a range of sources, including MoJ's court proceedings database, and the data we obtain through our own collections.

While data from MoJ's court proceedings database provide us with information on defendants and sentence outcomes, they do not provide us with insight into the reasons behind sentencing decisions. That insight can be provided only by data obtained directly from sentencers.

### **How do we capture the data?**

Our data collections focus on the principal offence being sentenced. We ask sentencers to give us information that is crucial to understanding their decision-making around sentencing. This includes information on relevant culpability and harm factors in different cases, aggravating and mitigating factors, the sentence starting point, the presence and number of previous relevant convictions, the presence of a guilty plea and the stage at which it was entered and the final sentence outcome.

Sentencers are asked to complete a form every time they sentence a relevant offence. To ease the burden on them and improve efficiency, the Council now runs data collections via online survey, rather than on paper. The forms usually take no longer than eight minutes to complete and are easily accessible to sentencers via our website.

### **Who provides the data?**

The Council is extremely grateful to all the magistrates and judges who take part in our data-collection exercises, despite the many pressures they face and the demands on their time. The contribution they make is invaluable to the development and continuing improvement of sentencing guidelines.

## **Unlawful importation of firearms offences**

The definitive guideline for the unlawful importation of firearms covers both offences under section 50(3),(4),(5A)(a) and offences of fraudulent evasion under section 170(1)(b) and (3), 170(2),(3), and (4A)(a) of the Customs and Excise Management Act 1979. The guideline was produced with current sentencing practices in mind and it is expected that the guideline will improve consistency of sentencing for these offences, but it is not anticipated that it will lead to any notable changes in sentencing.

Analysis of transcripts of Crown Court judges' sentencing remarks was conducted to assess how sentences might change under the new guideline. The analysis suggests that for the most serious offences (generally those sentenced to immediate custody), sentences under the new guideline will remain broadly similar to current sentencing practice. For less serious offences (typically involving non-lethal weapons), the analysis suggested that some offenders previously sentenced to suspended sentence orders may receive community orders under the guideline, but it is anticipated that this change would have minimal impact on prison and probation services. However, it should be noted that offences contrary to sections 50 and 170 of the Customs and Excise Management Act relate to more than just firearms and ammunition, and there is a lack of information on the type of weapon involved in the offence. This means it is possible that the guideline may have a greater or lesser impact than expected because it is unclear how many offenders are sentenced for these offences specifically relating to firearms.

Research with sentencers was also conducted to support the development of the guideline and mitigate the risk of the guideline having an unintended effect. As a result of this work, some minor amendments were made to the draft guideline to ensure that the definitive guideline is interpreted as expected. Therefore, it is not anticipated that these changes will alter the expected impact on resources, rather that they will ensure a consistent interpretation of the guidelines and thereby a consistent approach to sentencing.

Overall, because of a lack of available data, the small number of offenders sentenced for this offence and the current varied sentencing practice, it is not possible to say whether the guideline for these offences will have an impact on prison and probation resources but, if there were to be an impact, it would be small and sentencing will become more consistent following the introduction of the guideline.

“Selling counterfeit goods may appear to be a victimless crime, but it harms not only the owner of the trade mark but also legitimate traders and – in some cases – can put the people who buy them at risk of serious harm.

The new guidelines, which will for the first time apply to organisations, will enable courts to impose sentences that are consistent and proportionate in these cases which can be complicated and, by reason of the relative infrequency with which they come before the courts, unfamiliar to many sentencers.”

**Council member District Judge (Magistrates' Courts) Fanning on the launch of the definitive guidelines for sentencing trade mark offences, 5 August 2021**

## Non-sentencing factors report

The Council is required under the Coroners and Justice Act 2009 to prepare a report identifying the quantitative effect that non-sentencing factors are having, or are likely to have, on the resources needed or available to give effect to sentences imposed by courts in England and Wales.

We begin this report by defining non-sentencing factors and explaining their importance to resource requirements in the criminal justice system. We then signpost the most recently published evidence on these factors.

### Definition of non-sentencing factors and their significance

The approach taken by the courts to sentencing offenders is a primary driver of requirements for correctional resources in the criminal justice system. We discuss this in our report on sentencing factors (see pages 52-8). However, non-sentencing factors also exert an important influence on requirements for correctional resources.

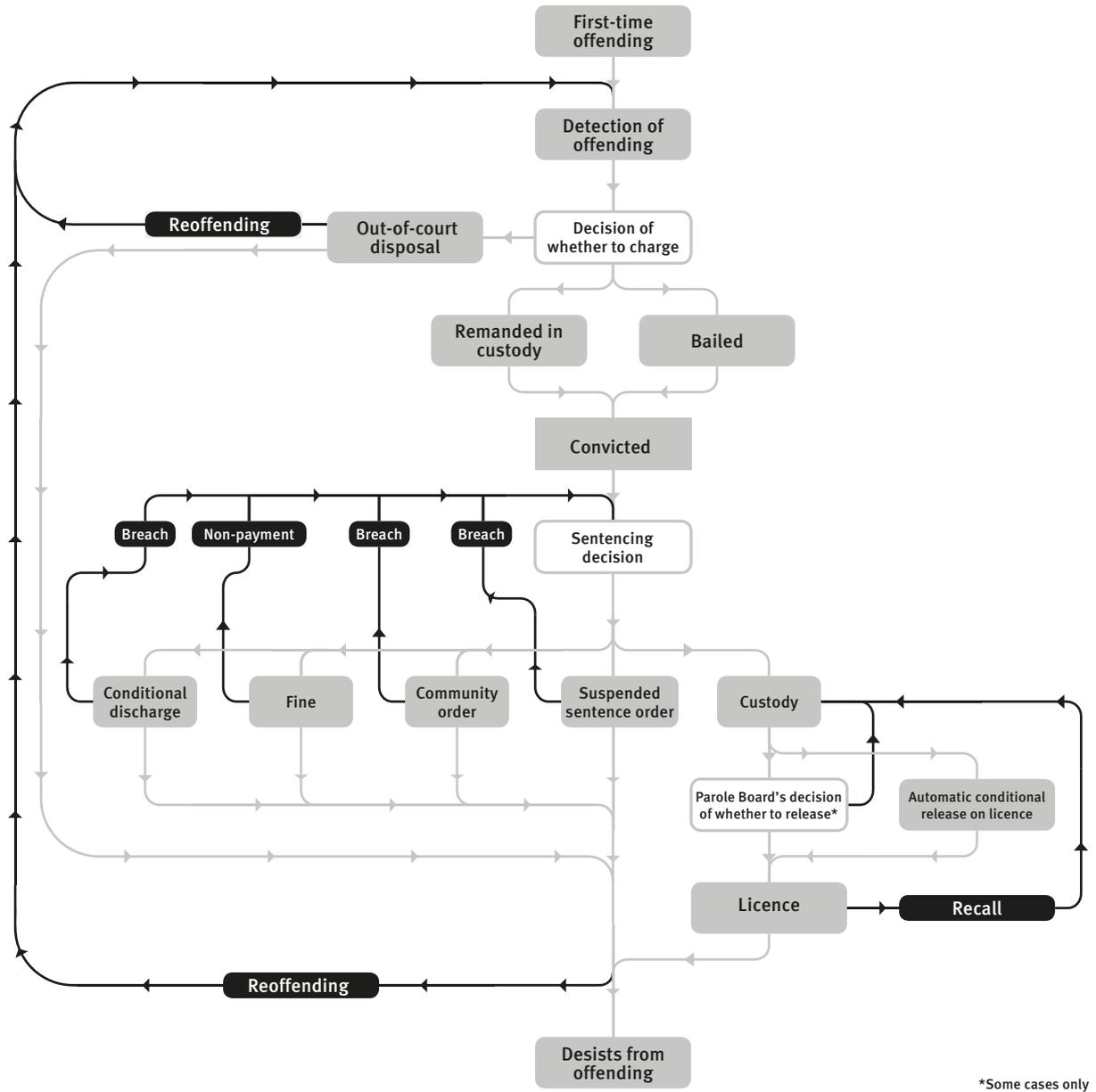
Non-sentencing factors are factors that do not relate to the sentencing practice of the courts but which may affect the resources required to give effect to sentences. For example, the volume of offenders coming before the courts is a non-sentencing factor: greater sentencing volumes lead to greater pressure on correctional resources, even if the courts' treatment of individual cases does not change. Release provisions are another example: changes in the length of time spent in prison for a given custodial sentence have obvious resource consequences.

### Statistics on the effect of non-sentencing factors on resource requirements

It is relatively straightforward to analyse the available data on non-sentencing factors. However, it is extremely difficult to identify why changes have occurred and to isolate the resource effect of any individual change to the system. This is because the criminal justice system is dynamic and its processes are interconnected.

Figure 1 (page 60) shows a stylised representation of the flow of offenders through the criminal justice system. This figure demonstrates the interdependence of the system and how changes to any one aspect will have knock-on effects in many other parts.

Figure 1



## Volume of sentences and composition of offences coming before the courts

MoJ publishes 'Criminal justice system statistics quarterly' on GOV.UK, which reports on the volume of sentences and the offence types for which offenders are sentenced.<sup>13</sup>

For the most detailed information on sentencing outcomes, follow the link on GOV.UK for 'Criminal justice system statistics quarterly: December 2021' to use the sentencing tool. The tool provides statistics on the total number of sentences passed and how this has changed through time. The statistics can be broken down by sex, age group, ethnicity, court type and offence group.

## The rate of recall from licence

An offender is recalled to custody by the Secretary of State if they have been released from custody but then breach the conditions of their licence or appear to be at risk of doing so. Because time served in custody is considerably more costly than time spent on licence, recall decisions have a substantial resource cost. Statistics on recall from licence can be found in the MoJ publication, 'Offender management statistics quarterly'.<sup>14</sup> The tables concerning licence recalls, Table 5.1 to Table 5.12, can be found via the link on GOV.UK for 'Offender management statistics quarterly: October to December 2021'. For example, Table 5.1 contains a summary of the number of licence recalls since April 1999.

## Post-sentence supervision

The Offender Rehabilitation Act 2014 expanded licence supervision, which means that since 1 February 2015, all offenders who receive a custodial sentence of less than two years are subject to compulsory post-sentence supervision on their release for 12 months. MoJ publishes statistics on the number of offenders under post-sentence supervision in 'Offender management statistics quarterly'.<sup>15</sup> Follow the link for 'Probation: October to December 2021' and see Table 4.6.

## The rate at which court orders are breached

If an offender breaches a court order, additional requirements may be made to their order or they may face resentencing that could involve custody. Breaches can therefore have significant resource implications.

Statistics on breaches can also be found in 'Offender management statistics quarterly'. Follow the link for 'Probation: October to December 2021' and see Table 4.9 for a breakdown of terminations of court orders by reason.<sup>16</sup>

<sup>13</sup> <https://www.gov.uk/government/collections/criminal-justice-statistics-quarterly>

<sup>14</sup> <https://www.gov.uk/government/collections/offender-management-statistics-quarterly>

<sup>15</sup> Ibid

<sup>16</sup> Ibid

## Patterns of reoffending

MoJ publishes reoffending statistics in 'Proven reoffending statistics'.<sup>17</sup>

The frequency and severity of reoffending is an important driver of changes in requirements for criminal justice resources. Detailed statistics of how reoffending rates are changing through time can be found in the report. Additional statistics can be found in supplementary tables.

## Release decisions by the Parole Board

Many offenders are released from prison automatically under release provisions that are set by Parliament and MoJ (with any change to the point at which those provisions apply being in itself a factor which has an effect on the prison population). However, in a minority of cases, which are usually those of very high severity, the Parole Board makes release decisions.

Statistics on release rates for these cases can be found in the annual reports of the Parole Board for England and Wales.<sup>18</sup>

## Remand

Decisions to hold suspected offenders on remand in custody are a significant contributor to the prison population. The remand population can be broken down into the untried population and the convicted but yet to be sentenced population.

Statistics on the number of offenders in prison on remand can be found in MoJ's 'Offender management statistics quarterly'.<sup>19</sup> The prison population tables can be found via the link for 'Offender management statistics quarterly: October to December 2021'. For example, Table 1.1 contains data on how the remand population has changed each month over the past year.

---

<sup>17</sup> <https://www.gov.uk/government/collections/proven-reoffending-statistics>

<sup>18</sup> <https://www.gov.uk/government/publications/the-parole-board-for-england-wales-annual-report-and-accounts-202021>

<sup>19</sup> <https://www.gov.uk/government/collections/offender-management-statistics-quarterly>

# Budget

## Financial report

### The cost of the Sentencing Council

The Sentencing Council's resources are made available through MoJ, and the Council is not required to produce its own audited accounts. However, the Council's expenditure is an integral part of MoJ's resource account, which is subject to audit. The summary below reflects expenses directly incurred by the Council and is shown on an accrual basis.

	2021/22 (actual) £000s <sup>20</sup>
<b>Total funding allocation</b>	1,745
Staff costs	1,369
Non-staff costs	176
<b>Total expenditure</b>	<b>1,546</b>

<sup>20</sup> The total expenditure has been rounded to the nearest £1,000 independently from the constituent parts. Therefore, summing the parts may not equal the rounded total.

# Appendix A: About the Sentencing Council

The primary function of the Sentencing Council is to prepare sentencing guidelines, which the courts must follow unless it is contrary to the interests of justice to do so.<sup>21, 22</sup>

The Council also fulfils other statutory functions:

- Publishing the resource implications in respect of draft guidelines<sup>23</sup>
- Preparing a resource assessment to accompany new guidelines<sup>24</sup>
- Monitoring the operation and effect of our sentencing guidelines, and drawing conclusions<sup>25</sup>
- Consulting when preparing guidelines<sup>26</sup>
- Promoting awareness of sentencing and sentencing practice<sup>27</sup>
- Publishing a sentencing factors report<sup>28</sup>
- Publishing a non-sentencing factors report<sup>29</sup>
- Publishing an annual report<sup>30</sup>

## Governance

The Sentencing Council is an advisory non-departmental public body of MoJ. Unlike most advisory non-departmental public bodies, however, the Council's primary role is not to advise government ministers but to provide guidance to sentencers.

The Council is independent of the government and the judiciary with regard to the guidelines we issue to courts, our resource assessments, our publications, how we promote awareness of sentencing and our approach to delivering these duties.

The Council is accountable to Parliament for the delivery of our statutory remit set out in the Coroners and Justice Act 2009. Under section 119 of the Act, the Council must make an annual report to the Lord Chancellor on how we have exercised our functions.

---

21 s.120 Coroners and Justice Act 2009.

22 s.59(1) Sentencing Code.

23 s.127 Coroners and Justice Act 2009.

24 s.127 *ibid.*

25 s.128 *ibid.*

26 s.120(6) *ibid.*

27 s.129 *ibid.*

28 s.130 *ibid.*

29 s.131 *ibid.*

30 s.119 *ibid.*

The Lord Chancellor will lay a copy of the report before Parliament, and the Council will publish the report.

Ministers are ultimately accountable to Parliament for the Council's effectiveness and efficiency, for our use of public funds and for protecting our independence.

Section 133 of the 2009 Act states that the Lord Chancellor may provide the Council with such assistance as we request in connection with the performance of our functions.

The Council is accountable to the Permanent Secretary at MoJ as Accounting Officer and to ministers for the efficient and proper use of public funds delegated to the Council, in accordance with MoJ systems and with the principles of governance and finance set out in *Managing Public Money*, and other relevant HM Treasury instructions and guidance.

The budget is delegated to the Head of the OSC from the Chief Finance Officer of MoJ. The Head of the OSC is responsible for the management and proper use of the budget.

The Chief Operating Officer of MoJ is accountable for ensuring that there are effective arrangements for oversight of the Council in its statutory functions and as one of MoJ's arm's-length bodies.

## How the Council operates

The Council is outward-facing, responsive and consultative. We draw on expertise from relevant fields where necessary while ensuring the legal sustainability of our work. The Council aims to bring clarity in sentencing matters, in a legally and politically complex environment.

The Council aims to foster close working relationships with judicial, governmental and non-governmental organisations and individuals while retaining our independence. These include: the Attorney General's Office, the College of Policing, the Council of Her Majesty's Circuit Judges, the Council of Her Majesty's District Judges (Magistrates' Courts), the Criminal Procedure Rules Committee, the Crown Prosecution Service, the Home Office, the Judicial Office, the Justices' Legal Advisers and Court Officers Service, the Magistrates' Association, MoJ, the Magistrates' Leadership Executive, the National Police Chiefs' Council and many academics in related fields.

The Council engages with the public on sentencing, providing information and improving understanding.

The Council meets 10 times a year to discuss current work and agree how it should be progressed. The minutes of these meetings are published on our website.<sup>31</sup>

The Council has sub-groups to enable detailed work on three key areas of activity.

<sup>31</sup> <https://www.sentencingcouncil.org.uk/research-and-resources/publications/>

**Analysis and research** – to advise and steer the analysis and research strategy, including identifying research priorities so that it aligns with the Council’s statutory commitments and work plan. Chaired by: Dr Alpa Parmar.

**Confidence and communication** – to advise on and steer the work programme for the communication team so that it aligns with the Council’s statutory commitments and work plan. Chaired by: Her Honour Judge Dean.

**Governance** – to support the Council in responsibilities for issues of risk, control and governance, by reviewing the comprehensiveness and reliability of assurances on governance, risk management, the control environment and the integrity of financial statements. The sub-group comments on and recommends the business plan to Council for approval. Independent member: Elaine Lorimer, Chief Executive, Revenue Scotland. Chaired by: Beverley Thompson OBE.

The sub-groups’ roles are mandated by the Council, and all key decisions are escalated to the full membership.

### **Equality and diversity working group**

At the Sentencing Council meeting on 20 November 2020 the decision was made to establish a working group to advise the Council on matters relating to equality and diversity and make sure that the full range of protected characteristics are considered in our work: age, disability, gender reassignment, pregnancy and maternity,

race, religion or belief, sex and sexual orientation. The group also considers ways in which the Council could engage more effectively with, and take account of the views and perspectives of, representatives of people with protected characteristics, and with offenders and victims. The group held its first meeting in February 2021.

### **Ad hoc working groups and contributions**

Where necessary, the Council sets up working groups to consider particular aspects of the development of a guideline or specific areas of business. We also sometimes invite contributions from people who are not members of the Council but who have particular experience and expertise in fields of relevance to the guidelines.

### **Public sector equality duty**

The Council is committed to meeting its obligations under the public sector equality duty.<sup>32</sup> This is a legal duty that requires public authorities, when considering a new policy or operational proposal, to have due regard to three needs:

- to eliminate discrimination, harassment, victimisation and any other conduct prohibited under the 2010 Act;
- to advance equality of opportunity between those who share a protected characteristic and those who do not; and

---

<sup>32</sup> s.149 Equality Act 2010.

- to foster good relations between those who share a protected characteristic and those who do not.<sup>33</sup>

In developing guidelines, the Council considers the public sector equality duty in the context of the individual offence(s). Where there are offences that are aggravated by reasons of being related to a protected characteristic, this will be of particular relevance. Most guidelines include statutory aggravating factors at step two, relating to offences motivated by, or demonstrating hostility based on, protected characteristics. In addition, to assist sentencers in employing the principles of fair treatment and equality, we have placed links in all the guidelines to the Equal Treatment Bench Book.<sup>34</sup>

The Council also considers data in relation to offenders sentenced for individual offence(s), including data on volumes of offenders sentenced grouped by gender, ethnicity and age, and this is published alongside the draft and definitive guidelines. Consultations include a consideration of the issues raised by the data and seek views as to whether there are any other equality or diversity implications that the guideline has not considered. In all our communications, we actively seek to engage diverse audiences and ensure multiple voices and interests are represented, particularly in our consultations.

## Relationship with Parliament

The Council has a statutory requirement to consult Parliament, specifically the Justice Committee, which is the House of Commons select committee that examines the expenditure, administration and policy of MoJ and associated public bodies.

The Council informs all organisations and individuals who respond to our consultations that their responses may be shared with the Committee in order to facilitate its work.

## The Office of the Sentencing Council

The Council is supported in its work by the OSC, in particular in:

- preparing draft guidelines for consultation and publication, subject to approval from the Council;
- ensuring that the analytical obligations under the Act are met;
- providing legal advice to ensure that the Council exercises its functions in a legally sound manner;
- delivering communication activity to support the Council's business; and
- providing efficient and accurate budget management, with an emphasis on value for money.

<sup>33</sup> Protected characteristics under the public sector equality duty are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

<sup>34</sup> Judicial College, Equal Treatment Bench Book: <https://www.judiciary.uk/announcements/equal-treatment-bench-book-new-edition/>.

At 31 March 2022 there were 19 members of staff, including the Head of the OSC.

In the 2021 Civil Service People Survey, the OSC recorded a staff engagement index of 82 per cent. This places the Office 15 percentage points ahead of other MoJ arm's-length bodies and 12 percentage points ahead of other high-performing units across the Civil Service.

Asked whether they understood the Sentencing Council's objectives and how their work contributes to those objectives, 97 per cent of OSC staff agreed, placing the Office 10 percentage points ahead of other MoJ arm's-length bodies.

### **Senior management team**

The work of the OSC is overseen by a senior management team comprising the Head of Office and senior staff. The role of the team is to:

- monitor and evaluate progress of the Council's workplan, as published in the business plan;
- monitor and evaluate budget expenditure, and make decisions regarding budget allocation;
- undertake regular review of the risk register on behalf of the governance sub-group, with a view to ensuring that all information regarding delivery of the Sentencing Council's objectives and mitigation of risks is current and updated; and
- consider and make decisions on any other issues relating to the work of the OSC as may be relevant.

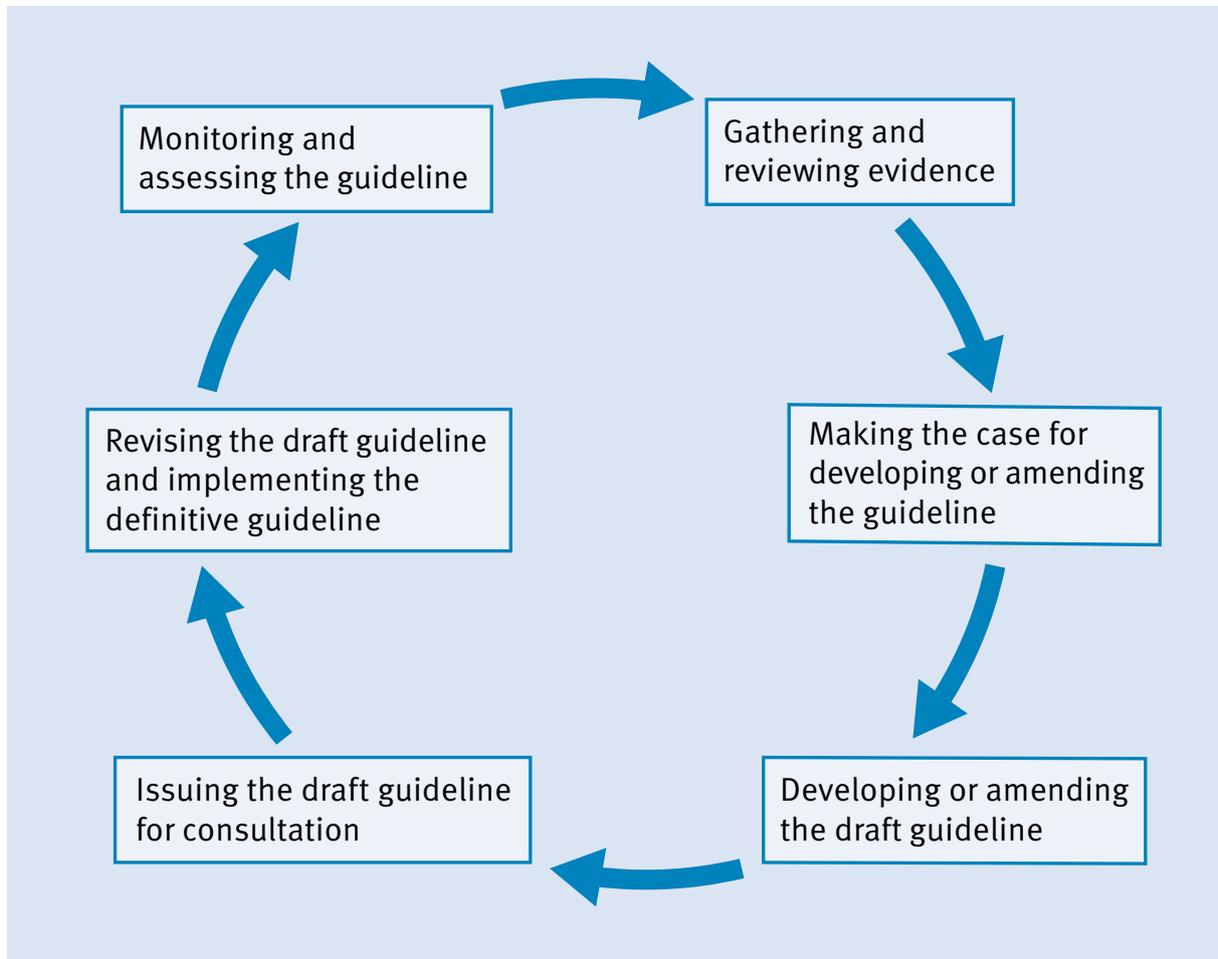
### **Guideline development**

The Council approaches the delivery of its objectives by adopting a guideline delivery cycle that is based on the policy cycle set out by HM Treasury in the Green Book: Central Government Guidance on Appraisal and Evaluation (2018) and allows a culture of continuous improvement to be embedded within the development process.

The process, from first consideration by the Council to publication of a definitive guideline, can extend to 18 months or more. However, if the Council believes there to be a pressing need, it can be expedited. During this period, the Council will examine and discuss in fine detail all factors of the guidelines. The guidelines for assault and attempted murder offences, for example, were discussed at 19 separate meetings of the Council before the definitive guidelines were approved for publication in May 2021.

Figure 2 illustrates the guideline development cycle.

Figure 2



# Appendix B: Membership of the Sentencing Council

The Lord Chief Justice of England and Wales, the Right Honourable the Lord Burnett of Maldon, is President of the Council. In this role he oversees Council business and appoints judicial members, with the agreement of the Lord Chancellor.

The Lord Chancellor and Secretary of State for Justice appoints non-judicial members, with the agreement of the Lord Chief Justice.

## Membership of the Council at 31 March 2022

### *Judicial members*

Chairman: the Right Honourable Lord Justice Tim Holroyde, appointed 6 April 2015, appointed as Chairman 1 August 2018.

In order of appointment:

- The Honourable Mrs Justice Maura McGowan, 2 January 2017
- Her Honour Judge Rebecca Crane, 1 April 2017
- Her Honour Judge Rosa Dean, 6 April 2018
- The Right Honourable Lord Justice Adrian Fulford, 1 September 2019
- District Judge (Magistrates' Courts) Mike Fanning, 1 September 2019

- The Honourable Mrs Justice Juliet May, 8 October 2020
- Jo King JP, 8 October 2020

### *Non-judicial members*

In order of appointment:

- Rosina Cottage QC, barrister, 18 July 2016
- Dr Alpa Parmar, academic, University of Oxford, 6 April 2018
- Beverley Thompson OBE, criminal justice system consultant and former Chief Executive Officer of Northampton Probation Service, 15 June 2018
- Max Hill QC, Director of Public Prosecutions and Head of the Crown Prosecution Service, 1 November 2018
- Diana Fawcett, Chief Executive, Victim Support, 5 April 2019
- Nick Ephgrave, Assistant Commissioner (Frontline Policing), Metropolitan Police, 26 May 2020

### **Register of members' interests**

At 31 March 2022, only one member of the Council had a personal or business interest to declare: a close family member of Jo King JP is a serving member of the Metropolitan Police.

# Appendix C: Sentencing guidelines production stages

Activities conducted during the reporting year are highlighted in blue.

Guideline	Production stage	Timing
<b>Animal cruelty</b>	Development	2021/22
	Consultation	May to August 2022
	Post-consultation	
	Evaluation and monitoring	
<b>Arson and criminal damage</b>	Development	Throughout 2016/17
	Consultation	March to June 2018
	Post-consultation	Published 3 July 2019 Came into effect 1 October 2019
	Evaluation and monitoring	In progress 2020
<b>Assault and attempted murder</b>	Development	Throughout 2018/19 and 2019/20
	Consultation	April to September 2020
	Post-consultation	Published 27 May 2021 Came into effect 1 July 2021
	Evaluation and monitoring	Data collection autumn 2022

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
<b>Bladed articles and offensive weapons</b>	Development	Throughout 2015/16
	Consultation	October 2016 to January 2017
	Post-consultation	Published 1 March 2018 Came into effect 1 June 2018
	Evaluation and monitoring	Data collection 2019. Evaluation in progress 2021/22
<b>Breach offences</b>	Development	Throughout 2016/17
	Consultation	October 2016 to January 2017
	Post-consultation	Published 7 June 2018 Came into effect 1 October 2018
	Evaluation and monitoring	Data collection 2019. Evaluation in progress 2021/22
<b>Burglary (revised)</b>	Development	2020/2021
	Consultation	June to September 2021
	Post-consultation	Published 19 May 2022 Came into effect 1 July 2022
	Evaluation and monitoring	Data collection autumn 2022
<b>Children and young people</b>	Development	Throughout 2015/16
	Consultation	May to August 2016
	Post-consultation	Published 7 March 2017 Came into effect 1 June 2017
	Evaluation and monitoring	Published 17 November 2020

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
<b>Dangerous dogs</b>	Development	Throughout 2014/15
	Consultation	March to June 2015
	Post-consultation	Published 17 March 2016 Came into effect 1 July 2016
	Evaluation and monitoring	Published October 2020
<b>Drug offences (revised)</b>	Development	Assessment of original guidelines and interim guidance published June 2018
	Consultation	January to May 2020
	Post-consultation	Published 27 January 2021 Came into effect 1 April 2021
	Evaluation and monitoring	
<b>Firearms</b>	Development	Throughout 2018/19 and 2019/20
	Consultation	October 2019 to January 2020
	Post-consultation	Published 8 December 2020 Came into effect 1 January 2021
	Evaluation and monitoring	
<b>Firearms importation</b>	Development	2020/21
	Consultation	June to September 2021
	Post-consultation	Published 24 November 2021 Came into effect 1 January 2022
	Evaluation and monitoring	

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
<b>General guideline and expanded explanations</b>	Development	Throughout 2017/18 and 2018/19
	Consultation	June to September 2018
	Post-consultation	Published 24 July 2019 Came into effect 1 October 2019
	Evaluation and monitoring	
<b>Guilty plea</b>	Development	Throughout 2015/16
	Consultation	February to May 2016
	Post-consultation	Published 7 March 2017 Came into effect 1 June 2017
	Evaluation and monitoring	Published 17 November 2020
<b>Health and safety offences, corporate manslaughter, and food safety and hygiene offences</b>	Development	Throughout 2013/14
	Consultation	November 2014 to February 2015
	Post-consultation	Published 3 November 2015 Came into effect 1 February 2016
	Evaluation and monitoring	Guideline assessment published 4 April 2019
<b>Intimidatory offences</b>	Development	Throughout 2016/17
	Consultation	March to June 2017
	Post-consultation	Published 5 July 2018 Came into effect 1 October 2018
	Evaluation and monitoring	Data collection 2019. Evaluation in progress 2021/22

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
<b>Mental disorders, developmental disorders or neurological impairments</b>	Development	Throughout 2018
	Consultation	April to July 2019
	Post-consultation	Published 21 July 2020 Came into effect 1 October 2020
	Evaluation and monitoring	
<b>Modern slavery</b>	Development	Throughout 2020/21
	Consultation	15 October 2020 to 15 January 2021
	Post-consultation	Published 12 August 2021 Came into effect 1 October 2021
	Evaluation and monitoring	
<b>Motoring offences</b>	Development	2021/22
	Consultation	July to October 2022
	Post-consultation	
	Evaluation and monitoring	
<b>Perverting the course of justice and witness intimidation</b>	Development	2021/22
	Consultation	March to June 2022
	Post-consultation	
	Evaluation and monitoring	
<b>Public order offences</b>	Development	Throughout 2017/18
	Consultation	May to August 2018
	Post-consultation	Published 16 October 2019 Came into effect 1 January 2020
	Evaluation and monitoring	

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
<b>Sale of knives, etc to persons under 18</b>	Development	2021/22
	Consultation	June to August 2022
	Post-consultation	
	Evaluation and monitoring	
<b>Sexual offences</b>	Development	2020/21
	Consultation	May to August 2021
	Post-consultation	Published 17 May 2022 Came into effect 31 May and 1 July 2022
	Evaluation and monitoring	
<b>Terrorism (revised)</b>	Development	From April 2019 (Counter Terrorism and Border Security Act 2018 came into force)
	Consultation	October 2019 to December 2019 and October 2021 to January 2022
	Post-consultation	
	Evaluation and monitoring	
<b>Unauthorised use of a trade mark</b>	Development	2020
	Consultation	8 July 2020 to 30 September 2020
	Post-consultation	Published 5 August 2021 Came into effect 1 October 2021
	Evaluation and monitoring	
<b>Vehicle taking (aggravated)</b>	Development	2021/22
	Consultation	
	Post-consultation	
	Evaluation and monitoring	



Copies of this report may be downloaded from our website: [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk)

For enquiries, please contact:

The Office of the Sentencing Council, EB12-16, Royal Courts of Justice, Strand, London WC2A 2LL

Telephone: 020 7071 5793 | Email: [info@sentencingcouncil.gov.uk](mailto:info@sentencingcouncil.gov.uk) | [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk) | [@SentencingCCL](https://twitter.com/SentencingCCL)

E02756573

978-1-5286-3431-1