

Evaluation of the impact and implementation of the Sentencing Council's Bladed articles and offensive weapons guidelines: Summary

Introduction

The Sentencing Council has a statutory duty under the Coroners and Justice Act 2009 to monitor the operation and effect of its sentencing guidelines and to draw conclusions from this information.

This evaluation examined the potential impact and implementation of the Bladed articles and offensive weapons guidelines which came into force on 1 June 2018. It describes the research and analysis that has been undertaken and explores whether there is any evidence of any implementation issues or unanticipated impacts of the guidelines.

Background

Bladed articles and offensive weapons offences are relatively high volume and covered by three sentencing guidelines. Two of the guidelines apply only to adults – one for sentencing possession offences and one for threats offences – and the third guideline applies to the sentencing of children and young people for both possession and threats offences.

The guideline for sentencing adult possession offences replaced a previous Sentencing Guidelines Council guideline, in force from August 2008, which only applied at magistrates' courts. No guidelines were previously available for sentencing adult offenders for possession offences at the Crown Court, for sentencing threats offences at either court, or for the sentencing of children and young people.

The guidelines sought to bring together changes to legislation regarding second or subsequent offences and relevant case law principles, to ensure that sentence levels reflect the serious social problem of offenders carrying knives, are proportionate in relation to other offences, and promote a consistent approach to sentencing for these offences. All of the offences analysed are subject to statutory minimum sentence provisions which are set out in the guidelines.

The resource assessments published alongside the definitive guidelines anticipated that there might be a potential increased demand on prison and probation resources from the adult guideline for sentencing possession offences resulting from a higher proportion of offenders receiving a custodial sentence. Previously, a relatively high proportion of offenders received a non-custodial sentence for these offences but under the new guideline it was anticipated that these offenders might receive a short custodial sentence instead.

No changes were anticipated in relation to the Threats guideline. In addition, given the particular focus on offender personal mitigation within the guideline for children and young people, this guideline was not expected to increase the proportion receiving a custodial sentence for these offences. The Council did not therefore anticipate a substantial impact on youth justice services as a result of the guideline.

Methodology

This evaluation considered the available evidence from multiple sources, including:

- trend analysis of sentencing outcomes for the various offences using the Ministry of Justice Court Proceedings Database (CPD), both pre and post the guidelines and across a longer time series;
- content analysis of a sample of Crown Court judges' sentencing remarks and Court of Appeal transcripts from the post guideline period; and
- analysis of a Sentencing Council data collection exercise in relation to adults sentenced for possession offences at magistrates' courts pre and post guideline. This captured sentence outcomes and how guideline factors were being used in practice. The data from this exercise is published alongside this evaluation: [Bladed Articles and Offensive Weapon Data Collection](#).

Findings

Adult possession offences

- The majority of offenders received a custodial sentence for possession offences and sentencing outcomes did not change substantially following the guideline.
- The resource assessment estimated that additional prison places might be needed as a result of the guideline. While there was no evidence that this has been the case, it is acknowledged that sentencing outcomes may have been impacted by the COVID-19 pandemic.
- The mean and median Average Custodial Sentence Length (ACSL) were generally stable pre to post guideline, indicating sentencers may already have been applying the key principles regarding sentencing possession offences,

particularly the statutory minimum sentence, prior to the introduction of the Possession guideline.

- The majority of knives and bladed articles cases were categorised correctly in culpability A. However, there was evidence of some balancing of culpability factors, even for cases not involving the culpability D factor 'Possession of weapon falls just short of reasonable excuse', especially in cases where the weapons were reportedly not used to threaten or cause fear.
- For possession of a bladed article offences, the proportion of non-custodial outcomes decreased more sharply immediately following the guideline but then plateaued.
- For possession of offensive weapons offences, there was no decrease observed in the proportion of non-custodial outcomes. Instead, there was an increase in these outcomes from 2017 onwards.
- Specifically at magistrates' courts, as well as predominantly being categorised as low harm, the cases receiving non-custodial outcomes were found to generally involve lower culpability factors with a high proportion of guilty pleas.
- In relation to the statutory minimum sentence, the guideline appears to have maintained the low level of community sentences imposed on offenders with qualifying previous convictions.
- Sentencers seemed to place a relatively high weight on mitigation during sentencing and may have been utilising principles in the Imposition of community and custodial sentences guideline to suspend custody or impose community orders for possession offences.

Adult threats offences

- The majority of offenders received a custodial sentence for threats offences, of which around one quarter were suspended, in the years immediately post-guideline. This represents a stabilisation of the pre-existing trend.
- For offenders receiving immediate custody, almost all sentences were above the statutory minimum sentence of 6 months' custody.
- The ACSL for offenders receiving an immediate custodial sentence increased pre to post guideline by 2 months. It is not known if these increases would have persisted; sentencing trends in 2020 and 2021 have been impacted by COVID-19.
- Very few offenders receive a non-custodial outcome for these offences. A realistic prospect of rehabilitation was the most frequent reason sentencers were found to give for not imposing the statutory minimum sentence.

Children and young people

- The majority of children and young people receive a referral order for both possession and threat offences.
- For possession offences, there was an observed decrease in referral orders pre to post guideline for 10 to 15 year olds, and a corresponding increase in custody. Sentencing outcomes for 16 to 17 year olds remained stable.
- The ACSL for possession offences appears stable, although no clear differences were observed by age group as might have been expected. The ACSL for 16 to 17 year olds is consistently higher than the statutory minimum sentence.
- The small volumes for threat offences hamper robust analysis when comparing between age groups and principal offences. Nevertheless, around two thirds of 16 to 17 year olds in 2019 did not receive custody for a threat offence, which has a statutory minimum sentence of 4 months' Detention and Training Order.
- The impact of COVID-19 makes it difficult to assess the longer term impact of the Children and young people guideline on sentencing trends for under 18s sentenced for possession and threat offences.

Conclusion

Although any conclusions regarding the ongoing impact of the guideline are likely to have been affected by the impact of the COVID-19 pandemic from early 2020 onwards, overall, the evidence suggests that the package of guidelines are generally working as intended.

Specifically in relation to the culpability assessment in the Possession guideline, the Council has concluded that while only a small number of cases appear to have been categorised in a way that was not anticipated, it would be appropriate to revisit this area of the guideline. As such, the Council has committed to reviewing the package of bladed article and offensive weapon guidelines as part of its 2025-2026 work plan. The Council will also keep the trend in outcomes for 10 to 15 year olds sentenced for possession under review, to ensure there are no unintended consequences of the guideline.