

Consultation stage resource assessment

Hare coursing offences

Introduction

This document fulfils the Council's statutory duty to produce a resource assessment which considers the likely effect of its guidelines on the resources required for the provision of prison places, probation and youth justice services ([s127 Coroners and Justice Act 2009](#)).

Scope

The guideline covering hare coursing offences applies only to adults. This assessment therefore only considers the resource impact of the draft guideline on prison and probation resources. Any resource impacts which may fall elsewhere are therefore not included in this assessment.

This resource assessment covers the following offences:

- Taking or destroying game by night, Night Poaching Act 1828 (section 1)
- Trespassing in the daytime in search of game, Game Act 1831 (section 30)
- Trespassing with intent to search for or to pursue hares with dogs etc, Police, Crime, Sentencing and Courts Act 2022 (section 63)
- Being equipped for searching for or pursuing hares with dogs etc, Police, Crime, Sentencing and Courts Act 2022 (section 64)

The Council is consulting on a new sentencing guideline for these offences, for use in all courts in England and Wales.

The data presented in this resource assessment only include cases where the specified offence was the principal offence committed. For more details see the 'Further information' section at the end of this document.

Rationale and objectives for new guideline

There are currently no guidelines covering these offences. The development of a guideline for these offences is in accordance with the Council's aim to develop guidelines, to improve consistency in sentencing and provide guidance for sentencers.

For the offences of taking or destroying game by night, and trespassing in the daytime in search of game, the statutory maximum sentence increased from a level 3 fine to 6 months' custody as of 1 August 2022. The offences of trespassing with intent to search for or to pursue hares with dogs etc, and being equipped for searching for or pursuing hares with dogs etc only recently came into force from 1 August 2022, and also have a statutory maximum sentence of 6 months' custody.

The intention is that the new guideline will help encourage consistency of approach in sentencing for these offences. For the offences of taking or destroying game by night and trespassing in the daytime in search of game the draft guideline is intended to increase sentencing severity to reflect the recent increase in the statutory maximum sentence for these cases by allowing for custodial and community sentences.

Current sentencing practice

To ensure that the objectives of the guideline are realised, and to understand better the potential resource impacts of the guideline, the Council has carried out analytical and research work in support of it.

Sources of evidence have included relevant news articles, information from Police and prosecutors, reports on rural crime, magistrates with experience of hare coursing offences, and sentencing data from the MoJ Court Proceedings Database. For more information on this data source please see the Further information section at the end of this document. Knowledge of the sentencing starting points, ranges and factors used in previous cases has helped the Council to create a guideline that are in line with the Council's intentions.

Detailed sentencing statistics for the offences covered by the draft guideline have been published on the [Sentencing Council: Statistical summaries webpage](#).

Taking or destroying game by night

Taking or destroying game by night is a low volume offence. In 2023, around 20 offenders were sentenced for taking or destroying game by night. As of 1 August 2022, the statutory maximum sentence for this offence increased from a fine to 6 months' custody; however no offenders received immediate custody in either 2022 or 2023. In 2023, all adult offenders received a fine.

For adult offenders who received a fine in 2023, the average (median) fine value was £323 after any reduction for a guilty plea. Half of fines received by adult offenders for this offence were up to and including £250, and a quarter were between £250 and £500.

Trespassing in the daytime in search of game

In 2023, around 20 offenders were sentenced for trespassing in the daytime in search of game. The statutory maximum sentence for this offence also increased as of 1 August 2022, from a fine to 6 months' custody; however, again no offenders received immediate custody in either 2022 or 2023. In 2023, all offenders sentenced for trespassing in the daytime in search of game received a fine.

In 2023, offenders sentenced to a fine received an average (median) fine value of £150 after any reduction for a guilty plea. In 2023, around three quarters (76 per cent) of offenders received a fine of up to and including £250.

Trespassing with intent to search for or to pursue hares with dogs etc

In 2023, around 30 offenders were sentenced for trespassing with intent to search for or to pursue hares with dogs etc. The statutory maximum sentence for this offence is 6 months' custody; however no offenders received immediate custody since it came into force on 1 August 2022.

In 2023, 75 per cent of offenders sentenced for this offence received a fine. A further 18 per cent received a community order. Around 4 per cent received an absolute or conditional discharge, and the remaining 4 per cent received a suspended sentence order.

In 2023, offenders sentenced to a fine received an average (median) fine value of £500 after any reduction for a guilty plea. In 2023, around half (52 per cent) of offenders received a fine between £250 and £500, and a further 29 per cent received a fine of up to and including £250.

Being equipped for searching for or pursuing hares with dogs

In 2023, fewer than 10 offenders were sentenced for being equipped for or pursuing hares with dogs etc. The offence also came into force on 1 August 2022, but no offenders were sentenced in 2022.

The statutory maximum sentence for this offence is 6 months' custody; however no offenders have received an immediate custodial sentence since it came into force.

In 2023, 43 per cent (this equates to fewer than 5 offenders) of offenders sentenced for this offence received a suspended sentence order. A further 43 per cent received a community order, and the remaining offenders received a fine (14 per cent).

Key assumptions

To estimate the resource effect of a new guideline, an assessment is required of how it will affect aggregate sentencing behaviour. This assessment is based on the objectives of the new guideline, and draws upon analytical and research work undertaken during guideline development. However, some assumptions must be made, in part because it is not possible precisely to foresee how sentencers' behaviour may be affected across the full range of sentencing scenarios. Any estimates of the impact of the new guideline are therefore subject to a substantial degree of uncertainty.

As the statutory maximum change from a fine to 6 months' custody for the offences of taking or destroying game by night and trespassing in the daytime in search of game applies to offences committed from 1 August 2022 onwards, the first full year of sentencing data which would likely reflect sentencing under the new statutory maximum is 2023 data. Additionally, while the offences of trespassing with intent to search for or to pursue hares with dogs etc, and being equipped for searching for or

pursuing hares with dogs etc came into force on 1 August 2022, offenders only began to be sentenced in 2023. Therefore, there is only one year of data on which to base an assessment of any resource impacts.

Historical data on changes in sentencing practice following the publication of guidelines can help inform these assumptions, but since each guideline is different, there is no strong evidence base on which to ground assumptions about behavioural change. Furthermore, as the offences of trespassing with intent to search for or to pursue hares with dogs etc and being equipped for searching for or pursuing hares with dogs etc are relatively new, there is limited evidence to draw from. The assumptions thus have to be based on careful analysis of how current sentencing practice corresponds to the guideline ranges presented in the proposed new guideline.

The resource impact of the new guideline is measured in terms of the change in sentencing practice that is expected to occur as a result of it. Any future changes in sentencing practice which are unrelated to the publication of the new guideline are therefore not included in the estimates.

In developing sentence levels for the different guidelines, existing guidance and data on current sentence levels have been considered.

While data exist on the number of offenders and the sentences imposed, assumptions have been made about how current cases would be categorised across the levels of culpability and harm proposed in the new guideline, due to a lack of data available regarding the seriousness of current cases. This is because these offences are summary only, and therefore are typically heard at the magistrates' courts where proceedings are not recorded. Therefore, analysis of transcripts of sentencing remarks and factors considered in sentencing has not been possible. As a consequence, it is difficult to ascertain how sentence levels may change under the new guideline.

It therefore remains difficult to estimate with any precision the impact the guideline may have on prison and probation resources. To support the development of the guideline and mitigate the risk of the guideline having an unintended impact, research will be undertaken with sentencers during the consultation period, which will provide more information on which to base the final resource assessment accompanying the definitive guideline.

Resource impacts

This section should be read in conjunction with the draft guideline available on the [Sentencing Council consultations webpage](#).

Overall, due to a lack of available data it is not possible to quantify with any confidence the impact of the guideline on prison and probation resources overall. It is possible that the guideline may increase the proportion of offenders receiving community orders and custodial sentences, and therefore there may be an impact on prison and probation resources. However, as the number of offenders sentenced for these offences is low (around 70 offenders sentenced in 2023 in total for these

offences), it is anticipated that any potential impact on prison and probation resources would be small.

Offences covered by the draft hare coursing guideline (Taking or destroying game by night, trespassing in the daytime in search of game, trespassing with intent to search for or to pursue hares with dogs etc, and being equipped for searching for or pursuing hares with dogs etc)

There is currently no guideline for the four offences covered by the proposed Hare coursing guideline: taking or destroying game by night, trespassing in the daytime in search of game, trespassing with intent to search for or to pursue hares with dogs etc and being equipped for or pursuing hares with dogs etc.

The draft guideline consists of two levels of culpability and two levels of harm. The sentencing ranges have been set to reflect the full range of sentencing outcomes under the statutory maximum of 6 months' custody and be proportionate to the severity of the offending. The sentencing table in the draft guideline ranges from a Band A fine at the bottom of the range for category B2, up to 6 months' custody at the top of the range for category A1, which is the statutory maximum for these four offences.

Currently, the vast majority of offenders sentenced for these offences receive a fine (82 per cent in 2023). The guideline currently includes a fine as a starting point only for the least severe cases (category B2), and fines are not included within the range for any other categories. As there are no sentencing transcripts for these cases available, it cannot be determined whether a similar proportion of cases would continue to be sentenced to a fine. However, it is possible given the majority of the sentencing starting points and ranges include community orders and custody, that the proportion of offenders receiving fines may decrease and the proportion of offenders receiving community orders and custodial sentences increase.

The statutory maximum sentence for these offences is 6 months' custody, but in 2023, fewer than five offenders out of a total of around 70 offenders (6 per cent) sentenced for these offences received a custodial sentence, all of which were suspended. The proposed Hare coursing guideline includes a custodial starting point for the most severe cases (category A1), and custodial sentences are also included in the range for category B1 and A2. It is possible this may lead to an increase in custodial sentences, but without any transcript information, it is not possible to assess the severity of current cases being sentenced and therefore what proportion of cases might likely receive a custodial sentence under the draft guideline.

However, it is important to note that the guideline starting points and ranges are pre-guilty plea, and also any custodial sentences for these offences fall within the threshold for suspension. As these are low volume offences, and it is probable a proportion of any custodial sentences handed down would be suspended, any impact on prison and probation resources would likely be small.

Risks

Risk 1: The Council's assessment of current sentencing practice is inaccurate

An important input into developing sentencing guidelines is an assessment of current sentencing practice. The Council uses this assessment as a basis to consider whether current sentencing levels are appropriate or whether any changes should be made. Inaccuracies in the Council's assessment could cause unintended changes in sentencing practice when the new guideline comes into effect.

This risk is mitigated by information that is gathered by the Council as part of the guideline development and consultation phase. This includes providing case scenarios as part of the consultation exercise which are intended to test whether the guideline has the intended effect and inviting views on the guideline. However, there are limitations on the number of factual scenarios which can be explored, so the risk cannot be fully eliminated.

Risk 2: Sentencers do not interpret the new guideline as intended

If sentencers do not interpret the guideline as intended, this could cause a change in the average severity of sentencing, with associated resource effects.

The Council takes a number of precautions in issuing a new guideline to try to ensure that sentencers interpret it as intended. Sentencing ranges are agreed on by considering sentencing data in conjunction with Council members' experience of sentencing. Research with sentencers due to be carried out during the consultation period should also enable issues with implementation to be identified and addressed prior to the publication of the definitive guideline.

Consultees can also feed back their views of the likely effect of the guideline, and whether this differs from the effects set out in this consultation stage resource assessment. The Council also uses data from the Ministry of Justice to monitor the effects of its guidelines to ensure any divergence from its aims is identified as quickly as possible.

Further information

Data sources and quality

The Court Proceedings Database (CPD), maintained by the Ministry of Justice (MoJ), is the data source for these statistics. Every effort is made by MoJ and the Sentencing Council to ensure that the figures presented in this publication are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

Work has been undertaken by MoJ to develop and deliver improvements to the criminal court sentencing data, these new processes affect data from 2017 onwards, therefore care should be taken when comparing trends between 2017 and 2016.

Further information on this can be found in the 'Technical Guide to Criminal Justice Statistics' within the [Criminal Justice System Statistics Quarterly \(CJSQ\) publication](#).

The data presented in this resource assessment only include cases where the specified offence was the principal offence committed. When an offender has been found guilty of two or more offences, the principal is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe. Although the offender will receive a sentence for each of the offences that they are convicted of, it is only the sentence for the principal offence that is presented here. Further information about these sentencing data can be found in the accompanying statistical summary and data tables published on the [Sentencing Council: Statistical summaries webpage](#).

The average fine amounts presented in this resource assessment are median average fine values for offenders sentenced, after any reduction for guilty plea.

The result category 'Other/unknown' includes cases where the outcome categorised in the CPD was 'Otherwise dealt with', which covers multiple miscellaneous disposals, and those cases where the disposal was not known.

Figures presented include the time period from March 2020 in which restrictions were initially placed on the criminal justice system due to the coronavirus (COVID-19) pandemic, and the ongoing courts' recovery since. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

General conventions

Actual numbers of sentences have been rounded to the nearest 100, when more than 1,000 offenders were sentenced, and to the nearest 10 when fewer than 1,000 offenders were sentenced.

Proportions of sentencing outcomes have been rounded to the nearest integer. Percentages in this report may not appear to sum to 100 per cent, owing to rounding.