

Sentencing Council meeting: 14 June 2019
Paper number: SC(19)JUN10 – Annual Report
Lead official: Phil Hodgson 020 7071 5788

1. Issue

- 1.1 This paper presents the Sentencing Council Annual Report 2018/19 for consideration by members of the Council.

2. Recommendation

- 2.1 That the Council approves the Annual Report for submission to the Lord Chancellor and subsequent laying before Parliament.

3. Consideration

- 3.1 The Annual Report is a summary of the activities and achievements of the Sentencing Council between 1 April 2018 to 31 March 2019.
- 3.2 This year's report follows the same structure as was used last year. It includes:
- Foreword from the Chairman
 - Table of key events
 - A report for each guideline on which work was done during the year
 - Sentencing and non-sentencing factors reports
 - Accounts of work completed by the Analysis and Research and Communication functions
 - The Council's budget
- 3.3 For the first time we have included in the report four "features" designed to illustrate some of the wider work carried out by the Council.
- 3.4 We will also be introducing colour photography to this year's report. The photographs will show magistrates' and Crown Court buildings in London, Birmingham and Newport, and the Royal Courts of Justice. The Lady Justice image on the front cover will also be reproduced in colour.

- 3.5 The Council is required by statute to provide the Lord Chancellor with a report on the exercise of the Council's functions during the year. The Lord Chancellor must lay a copy of the report before Parliament, after which the Council will publish it. The schedule for this year is as follows:
- Thursday 20 June – submission to the Lord Chancellor and Robert Buckland MP, as the Council's sponsoring Minister
 - Thursday 11 July – laid in Parliament (am) and published (pm)
- 3.6 The report will also be seen, prior to publication, by the Bail, Sentencing and Release Policy Team in MoJ, who are our sponsorship team.
- 3.7 The report has been considered and approved by the Council's Governance Sub-group.
- 3.8 Members are asked to discuss any substantive corrections or suggestions for changes to the report at the Council meeting on Friday 14 June, and to forward any further minor changes to Phil (phil.hodgson@sentencingcouncil.gov.uk) by end of Monday 17 June.

Question: Subject to any minor changes, does the Council approve the Annual Report 2018/19 for submission to the Lord Chancellor?

Sentencing Council



**Sentencing Council
Annual Report 2018/19**

Sentencing Council Annual Report 2018/19

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



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Foreword

by the Chairman

Image to come

I am pleased to introduce the Sentencing Council's annual report for 2018/19, the Council's ninth and my first as Chairman. I shall start by thanking my predecessor Sir Colman

Treacy for his leadership of the previous five years and for handing into my custody an exciting and challenging programme of work. In his time as Chairman, Sir Colman oversaw the production of 17 definitive guidelines, providing the courts with a significant body of guidance to assist decision-making on allocation, imposition and guilty pleas; sentencing offences such as theft, robbery, sexual offences, terrorism and manslaughter; and sentencing children and young people. He also spearheaded the move to modernise the guidelines by producing them online. Sir Colman leaves us with an expert, talented and committed Council, strongly placed to continue to meet its statutory obligations.

Sentencing guidelines

The primary duty of the Sentencing Council is to provide judges and magistrates with guidelines that promote a clear, fair and consistent approach to sentencing, while maintaining the independence of the judiciary. During this last year we have continued to meet this duty, while making considerable progress towards the goals we set ourselves for 2020: to have updated all the guidelines produced by our predecessor

body the Sentencing Guidelines Council (SGC) and to have issued new guidelines for the most-frequently sentenced offences.

Since April 2018, the Council has published four definitive guidelines, all of which have come into effect. The Breach Offences guidelines, which cover 10 different types of breach, came into effect on 1 October 2018 (see [pxx](#)). These guidelines have provided the courts with clear guidance on what action should be taken against those offenders who ignore court orders. Court orders exist to protect the public, and the public has a right to expect that non-compliance will be dealt with firmly and consistently. Our Intimidatory Offences guidelines also came into effect on 1 October (see [pxx](#)). They cover harassment, stalking, disclosing private sexual images, controlling or coercive behaviour, and threats to kill. The guidelines recognise the intimate, personal nature of these types of offences, and the devastating, long-term impacts they can have, and provide the courts with comprehensive guidance that will help ensure sentences reflect the seriousness of the offending.

The Manslaughter guideline came into effect on 1 November 2018 (see [pxx](#)). It covers four offences: unlawful act manslaughter, gross negligence manslaughter, manslaughter by reason of loss of control and manslaughter by reason of diminished responsibility. Manslaughter is very serious in nature but offences can vary hugely and cases do not come before individual judges very frequently. The introduction of our guidelines will be particularly useful in promoting consistency in sentencing and transparency in terms of how sentencing decisions are reached.

The final guidelines we published this year covered three offences: cruelty to a child; causing or allowing a child to die or suffer serious physical harm; and failing to protect a girl from the risk of female genital mutilation. Child cruelty offences vary greatly. They can range from a one-off lapse of care, which puts a child at risk of harm, to a campaign of deliberate cruelty that leads to serious injury or even death. The new guideline will help make sure that sentences reflect the culpability of the offender and the harm done to the child. In assessing harm, these guidelines take into account for the first time developmental and/or emotional harm, which might for example be manifested in developmental milestones that a child has not met. The guidelines also introduce a new aggravating factor of an offender wrongly blaming others for an offence. Cases of this nature will frequently involve one parent or carer/guardian seeking to blame the other for what has happened in order to avoid prosecution. The Child Cruelty guidelines came into effect on 1 January 2019 (see [pxx](#)).

Three other guidelines – Bladed Articles and Offensive Weapons; Terrorism Offences; and Overarching Principles: Domestic Abuse – also came into effect during the year.

In consultation

Consultation remains the cornerstone of our approach to developing guidelines and we are grateful to members of the judiciary, our colleagues in the criminal justice system and others with an interest in criminal justice, individuals and organisations with expertise in our topic areas and members of the

public whose contributions all help inform our approach. This year, we have consulted on four guidelines, including the General Guideline, which will replace the current Seriousness guideline and will provide judges and magistrates with a clear structure to follow when sentencing offences that do not have an offence specific guideline (see [pxx](#)).

In summer 2018 we consulted on a draft guideline for sentencing high-volume public order offences. This is an area in which, at present, there is limited guidance in magistrates' courts and none for sentencing offenders in the Crown Court. We also held a consultation to revise the guideline covering arson and criminal damage offences. As with public order, there is currently limited guidance, available only to magistrates' courts. Once published, these guidelines will provide a comprehensive framework for sentencing these offences in both magistrates' courts and the Crown Court.

Our final consultation this year was on proposals to embed expanded explanations in all offence specific guidelines to provide useful supporting information to sentencers and other criminal justice practitioners in an accessible way. The expanded explanations will also help to give the public, including victims and witnesses, a clearer understanding of how sentencing works. We expect all these definitive guidelines to be published during the next reporting year.

On 8 November 2018 we completed our project to make the sentencing guidelines fully digital, publishing all guidelines that are used in the Crown Court in a digital format

on our website and digital versions of all the overarching guidelines. The magistrates' courts sentencing guidelines have been provided in this format for some time on the website and in an app that is used on the court-supplied iPads. The move to digital removes the need for sentencers to take paper copies of guidelines into court or worry about making sure their printed guidelines are the most up to date. It also makes the guidelines more visible to the public. The early response from sentencers and other practitioners in the Crown Court has been overwhelmingly positive.

Considering the role and work of the Council

The Council is open to scrutiny and keen to improve the way it carries out its work. In April 2018, we published a review written by Professor Sir Anthony Bottoms, in which he examined how the Council might best exercise its statutory functions. The review outlines many areas in which the Council may consider itself to have been successful, for example the production of offence specific and overarching guidelines and the analytical work to understand their impact and how they are used by sentencers. The report also suggests areas where more could potentially be done. We very much welcome Professor Bottoms' report and have already made considerable progress in a number of the areas he has identified. This work is set out on [pxx](#).

One of Professor Bottoms' recommendations was that the Council would benefit from fostering greater links with the academic

community. In November 2018, we hosted a symposium that was attended by a number of the leading academics in the field of sentencing, members of the judiciary, solicitors and barristers, officials from the Ministry of Justice, and representatives from the Law Commission, the Youth Justice Board and the Justice Select Committee, together with a range of other individuals and organisations with an interest in sentencing and its impacts. The symposium facilitated the sharing of sentencing research and analysis and included discussions around how the Council could collaborate more with academics in areas of mutual interest. More information on the event can be found on [pxx](#).

On 11 July 2018, my predecessor Sir Colman Treacy gave evidence to the Justice Select Committee inquiry: Prison Population 2022: Planning for the future, in which he clarified the Council's position and discussed the principal factors that lead to inflation. As a statutory consultee, the Justice Committee is one of the Council's most important stakeholders and we welcome its input to our consultations and ongoing interest in our work.

On 20 February 2019, the Council was invited to give evidence to the Joint Select Committee on Human Rights inquiry: The Right to Family Life: Children whose mothers are in prison. This was a welcome opportunity to demonstrate the ways in which the sentencing guidelines acknowledge the wider implications of sentencing and ask the court to consider whether the impact of imprisonment on dependents will make the sentence of imprisonment disproportionate to the purposes of punishment.

Also in February 2019, the Council received the final report of a tailored review conducted by the Ministry of Justice. The review found that the Council is effective and efficient in the delivery of its responsibilities, that its functions are still required and that the current model is still the most appropriate to deliver those functions. The review also made a number of recommendations for action, which we will be taking forward this year.

Membership of the Council

The Sentencing Council is now approaching its 10th anniversary in 2020. The years ahead will, I am sure, be stimulating and demanding for the Council, and I am looking forward to working with my colleagues to achieve our goals and meet the challenges ahead. I thank my colleagues on the Council for their expertise, commitment and energy. Without their knowledge and insight, none of our work would be possible.

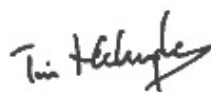
This year we have seen a reasonably high degree of turnover in Council members. In addition to Sir Colman standing down as Chairman, we bade farewell to a further six members: Simon Byrne, Mark Castle, Martin Graham, Jill Gramann, Professor Julian Roberts and Alison Saunders. I would like to thank each of them for the important contribution they have made to the work of the Council.

We have also welcomed six new members to the Council this year who, between them, bring a wealth of experience from diverse professional backgrounds: Her Honour Judge Rosa Dean and Rob Butler JP joined as members representing the judiciary or magistracy; Max Hill QC, Director of Public

Prosecutions, Dr Alpa Parmar and Beverley Thompson OBE, as members with other specific experience of sentencing or the criminal justice system. At the time of writing we are recruiting a Police member. In the interim I am very grateful to Assistant Commissioner Nick Ephgrave and, before him, Chief Constable Olivia Pinkney for providing a police presence at our council meetings. Between them they have made a valuable contribution and ensured that the police perspective has continued to be brought to Council discussions.

I would also like to thank those Council members who have served over the last year on one of our three sub-groups: analysis and research, confidence and communication and governance. Our work benefits greatly from their challenge and scrutiny.

It is a privilege to have been appointed to lead this influential and successful organisation, following in the footsteps of two formidable and committed predecessors, and to have taken over the reins at such a pivotal point in the Council's evolution. We are now turning our minds to what the Council might achieve in the next 10 years and how we will work with magistrates, judges, practitioners, academics and our other supporters to ensure that the sentencing guidelines continue to play a vital role in delivering access to justice.



Tim Holroyde
Lord Justice Holroyde
July 2019

Introduction

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

This annual report covers the period from 1 April 2018 to 31 March 2019. 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.

In 2018/19 the Council's work was aligned to the following four objectives:

1. Prepare sentencing guidelines that meet their stated aims, with particular regard to the likely impact on prison, probation and youth justice services, the need to consider the impact on victims, and to promote consistency and public confidence.
2. Monitor and evaluate the operation and effect of guidelines and draw conclusions.
3. Promote awareness of sentencing and sentencing practice.
4. Deliver efficiencies, while ensuring that the Council continues to be supported by high-performing and engaged staff.

The activities for 2018/19 that have contributed to the delivery of these objectives are outlined in this report.

Also in this report, produced in accordance with the Coroners and Justice Act 2009, are two reports considering the impact of sentencing (ppxx-x) and non-sentencing factors (ppxx-x) 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.

Key events of 2018/19

| 2018 | | |
|---------------|----|---|
| April | 18 | Council publishes independent review |
| | 27 | Terrorism offences definitive guideline – came into effect |
| May | 3 | Dr Alpa Parmar appointed to the Council as non-judicial member |
| | 3 | Her Honour Judge Rosa Dean and Rob Butler JP appointed to the Council as judicial members |
| | 9 | Public order offences draft guideline – consultation opened |
| | 24 | Overarching principles: domestic abuse definitive guideline – came into effect |
| June | 1 | Bladed articles and offensive weapons definitive guideline – came into effect |
| | 1 | Drug offences definitive guideline – assessment published |
| | 7 | Breach offences definitive guideline – published |
| | 15 | Beverley Thompson OBE to the Council as non-judicial member |
| | 19 | General guideline: sentencing offences for which there is no definitive guideline – consultation opened |
| | 25 | Sentencing of drug offences involving newer and less common drugs – guidance issued |
| | 26 | Fraud, bribery and money laundering offences definitive guideline – assessment published |
| July | 5 | Intimidatory offences definitive guideline – published |
| | 20 | Sentencing Council annual report and account 2017/18 published |
| | 31 | Manslaughter definitive guideline – published |
| August | 1 | Lord Justice Holroyde appointed Chairman of the Sentencing Council |
| | 8 | Public order offences – consultation closed |

| | | |
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| September | 6 | Child cruelty definitive guideline – published |
| | 11 | General guideline: sentencing offences for which there is no definitive guideline – consultation closed |
| October | 1 | Breach offences definitive guideline – came into effect |
| | 1 | Intimidatory offences definitive guideline – came into effect |
| | 29 | Sexual offences definitive guideline – assessment published |
| November | 1 | Manslaughter definitive guideline – came into effect |
| | 7 | Collaborating to shape the future of sentencing research: Innovation and impact – seminar held in partnership with the Centre for the Study of Legal Professional Practice, City Law School |
| | 8 | Digital sentencing guidelines for use in the Crown Court launched |
| 2019 | | |
| January | 1 | Child cruelty offences definitive guideline – came into effect |
| February | 5 | Theft offences definitive guideline – assessment published |
| | 7 | Government publishes Tailored Review of the Sentencing Council |
| | 15 | Robbery offences definitive guideline – assessment published |
| | 28 | Expanded explanations in sentencing guidelines – consultation opened |

Sentencing Guidelines

The sentencing guidelines are intended to help ensure a consistent approach to sentencing, while preserving judicial discretion. Under the Coroners and Justice Act 2009, 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.

Consultations are not only a statutory duty but also a valuable resource for the Council. When launching consultations, we seek publicity via mainstream and specialist media, making Council spokespeople available for media interviews, as we do when launching definitive guidelines. We promote consultations on Twitter and on the Sentencing Council website, and 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 input.

The work conducted on all the guidelines during the period from 1 April 2018 to 31 March 2019 is set out here, separated into four key stages: development, consultation, post-consultation, and evaluation and monitoring. Because guidelines were at different stages of development during the year, reporting varies between guidelines.

Arson and criminal damage offences

Consultation

The Council consulted on a draft Arson and Criminal Damage Offences guideline from March to June 2018, during which time we also carried out research with sentencers on the application of the draft guideline. The research included 12 interviews with Crown Court judges and a discussion event attended by a number of people and organisations with an interest in the subject. It also included group discussions and exercises on the racially aggravated offences, which were completed by approximately 100 magistrates at three separate events. A statistical bulletin and draft resource assessment were published alongside the draft guideline.

The draft guideline covered five offences:

- Arson
- Criminal damage/arson with intent to endanger life or reckless as to whether life endangered
- Criminal damage with a value exceeding £5,000, including racially or religiously aggravated criminal damage
- Criminal damage with a value not exceeding £5,000, including racially or religiously aggravated criminal damage

- Threats to destroy or damage property

Post-consultation

The Council received 26 responses to the guideline consultation and the responses were broadly supportive of the proposals. These responses and the results of the research with sentencers helped to inform changes to the draft guidelines, such as the inclusion of more factors within medium culpability in order to assist sentencers. The definitive guideline is expected to be published in summer 2019.

Assault – revising the existing guideline

Development

Following an assessment of the impact and implementation of the existing Assault definitive guideline, we have started work to produce a revised version. The revised guideline will comprise all offences in the existing guideline, including:

- causing grievous bodily harm with intent to do grievous bodily harm/wounding with intent to do grievous bodily harm;
- inflicting grievous bodily harm/unlawful wounding;
- assault occasioning actual bodily harm;
- assault with intent to resist arrest;
- assault on a police constable in execution of his duty; and
- common assault.

The guideline will also include two new offences:

- Assault on emergency workers
- Attempted murder

Evaluation and monitoring

In 2018/2019 the Council carried out research to inform the development of the revised draft guideline. We conducted 23 interviews with magistrates, exploring the draft guidelines for common assault and assault occasioning actual bodily harm (ABH), and 20 interviews with Crown Court judges, exploring the guidelines for ABH, grievous bodily harm/wounding with intent (section 18) and grievous bodily harm/unlawful wounding (section 20). A number of judges also assisted us by taking part in online exercises to test various elements of the guidelines.

Breach offences

The Breach Offences definitive guideline was published in June 2018 and came into effect on 1 October 2018. The guideline includes guidance on sentencing ten different types of breach:

- Breach of a community order
- Breach of a suspended sentence order
- Breach of post-sentence supervision
- Failure to surrender to bail
- Breach of a protective order (restraining and non-molestation orders)

- Breach of a criminal behaviour order (also applicable to breach of an anti-social behaviour order)
- Breach of a sexual harm prevention order (also applicable to breach of a sexual offences prevention order and to breach of a foreign travel order)
- Fail to comply with notification requirements
- Breach of disqualification from acting as a director
- Breach of disqualification from keeping an animal

Evaluation and monitoring

The definitive guideline was published alongside a consultation response document and final resource assessment.

The data from which the resource assessment was drawn were gathered between November 2017 to March 2018, in an exercise that examined how breaches of protective orders, community orders and suspended sentence orders were being sentenced across a sample of magistrates' courts.

Media coverage

On 7 June 2018, the Council published the Breach Offences definitive guideline. We achieved national coverage from The Times, The Independent and The Daily Telegraph and received a good level of attention from the regional press.

Child cruelty

Post-consultation

The Child Cruelty offences definitive guideline was published on 6 September 2018 and came into effect on 1 January 2019.

The definitive guideline covers the offences of cruelty to a child, causing or allowing a child to die or suffer serious physical harm, and failing to protect a child from female genital mutilation. In consultation in 2017 respondents broadly supported our approach and suggested some additional factors. We made some changes to the guideline in light of consultation responses and further data analysis, particularly to ensure that the guideline assists sentencers in balancing factors across the full range of cases covered by these broad offences.

Media coverage

Publication of the definitive guideline received coverage in The Times and The Daily Telegraph, with our spokespeople quoted in both. The story was also issued by the Press Association and picked up by the regional press. The guidelines were mentioned in Politics Home, Sky News online, Police Oracle, Police Professional and 60 times on BBC local radio.

Exercising the Council’s statutory functions

On 18 April 2018 the Council published its response to an internal review conducted by Professor Sir Anthony Bottoms, Emeritus Professor at the Institute of Criminology, University of Cambridge. Professor Bottoms, working with his colleague, Dr Jo Parsons, had conducted the review at our request to consider how best the Council could exercise its statutory functions and to make recommendations on areas of work the Council might want to consider taking forward in the future.

The review outlines areas in which the Council has been successful since its inception in 2010 and identifies areas where more work could potentially be done, which include the following.

Making the Sentencing Council website more “user-friendly”

In 2018 we started work to revise both the design and content of our website to make it more easily accessible for all its users, including practitioners, victims, offenders, the public and anyone wanting to access specific information, for example statistical data. The revised site will give more context to the guidelines and help our non-expert audiences gain a better understanding of how the guidelines work and how sentencers use them. Building on research that told us what visitors want and expect to find when they come to our website, we commissioned an independent digital development agency to re-structure the site. We worked with a specialist writer to help us create useful and relevant information about sentencing and make the language across the site more easily understood by non-experts. We expect to launch our revised website later in 2019.

Improving public confidence

We commissioned this year work from the independent agency ComRes to help the Council develop a better insight into the public’s attitudes towards, and knowledge of, sentencing and the criminal justice system. The research was carried out across England and Wales and involved an online survey of 2,000 adults aged 18 and over, eight group discussions each with six to eight members of the public, and 12 interviews with victims of crime.

We expect to publish the research report later in 2019. Once complete, the work will allow us to identify audiences that the Council may wish to prioritise with its communications, and provide us with valuable insights into the sort of messages that might resonate most and help our audiences gain a better understanding of, and confidence in, sentencing.

Assessing consistency of sentencing

Under section 120(11)(b) of the Coroners and Justice Act 2009, the Council in producing guidelines must have regard to “the need to promote consistency in sentencing”. While there is no universally accepted definition of consistency in sentencing, the general concept is clear: similar offenders who commit similar offences in similar circumstances should be expected to receive similar sentencing outcomes. To help the Council assess the extent to which our guidelines have met this objective, we have this year commissioned analytical work from two independent academics. The project involves developing a methodology to measure consistency of approach to sentencing and applying this methodology to sentencing data for several specific offences, to gain a better understanding of whether the Council’s guidelines have increased consistency as intended. A summary of this work will be published in 2019.

The Council is also reviewing the way we use and present the data we draw on when assessing the impact of guidelines.

Developing a general guideline

In autumn 2018 the Council consulted on a General Guideline. The guideline provides courts with guidance for sentencing offences for which there is currently no offence specific guideline. It includes information on the purposes of sentencing and guidance on areas such as previous convictions, and mitigating and aggravating factors.

The guideline will provide advice to courts for a wide range of offences where, due to their low volume, no specific guidance exists. Currently, courts rely on judgments from the Court of Appeal or the now out-of-date Seriousness guideline issued by the Sentencing Guidelines Council. We expect to publish the General Guideline in the next reporting year.

Fostering links with the academic community

The Council is keen to benefit from closer links with academics and has made considerable progress against this recommendation. See [pxx](#).

Further initiatives

The Council very much welcomes Professor Bottoms’ review. We thank the authors for their hard work and the advice they have given us, and have committed to take forward a number of initiatives. The review and the Council’s response can be found on our website: www.sentencingcouncil.org.uk/news/item/council-publishes-independent-review/

Drug offences

Evaluation and monitoring

In June 2018, the Council published a summary of an assessment of the Drug Offences guideline, which came into effect in February 2012.

To assess the impact of the guideline, the Council commissioned an analysis of data from the Crown Court Sentencing Survey (which ran between 2010 and 2015) and data from the Ministry of Justice's Court Proceedings Database. The analysis also included data from a bespoke data collection exercise in magistrates' courts (which ran between November 2015 and February 2016).

While the guideline had led to some small unanticipated changes in sentencing severity, its overall effect was not considered to be a cause for concern. However, given that the nature of drug offending is likely to change over time, the Council decided to undertake more research. The aim of this work is to examine how the guideline might be revised to ensure that it fully reflects the type of offending coming before the courts today and is flexible enough to work well in the future. To this end, group discussions were held with Crown Court judges across two court centres that see a high number of drug offences. We are drawing on the results of these discussions to inform development of the new draft guideline.

Drug offences – sentencing drug offences involving newer and less common drugs

Since publication of the Drug Offences guideline in 2012, there has been an increase in the number of cases before the courts involving newer drugs, such as synthetic opioids, which may have much higher potency and potential to cause harm than more common drugs. In addition, some new offences have been created, for example, those in the Psychoactive Substances Act 2016.

On 25 June 2018 the Council published guidance to help courts sentence offences involving newer and less common drugs, in particular covering how to assess the harm caused. The guidance does not carry the same authority as a sentencing guideline, and sentencers are not obliged to follow it. The Council expects to consult later in 2019 on a revised drugs offences guideline that will incorporate this guidance.

Expanded explanations in sentencing guidelines

See Seriousness – replacing the Sentencing Guidelines Council guideline, [pxx](#).

Firearms

Development

Firearms is an area of serious offending where there is currently minimal sentencing guidance. There is one existing firearms guideline, which provides guidance to magistrates sentencing the offence of carrying a firearm in a public place. The Firearms Act 1968 was recently amended by the Policing and Crime Act 2017, implementing recommendations from a Law Commission report.¹ There are no further legislative changes expected in the near future aside from additional prohibited weapons being introduced through the Offensive Weapons Bill.

The Council started work developing a group of guidelines in early 2018 and we have engaged with relevant organisations and experts to inform the development of the guidelines. The group will consist of eight guidelines, which will cover the highest-volume firearms offences and those with the greatest maximum penalties, including possession of a prohibited weapon, other possession offences, possession with intent, and transfer or manufacture of a prohibited weapon. Where applicable, we include guidance on the minimum sentence and exceptional circumstances.

Fraud, bribery and money laundering offences

Evaluation and monitoring

In June 2018 we published an analysis of our Fraud, Bribery and Money Laundering Offences definitive guideline.

The guideline came into effect in October 2014. To assess its impact, the Council commissioned an analysis of data from the Crown Court Sentencing Survey (which ran between 2010 and 2015) and data from the Ministry of Justice's Court Proceedings Database.

None of the findings suggested that the guideline has caused a change in average sentencing severity so the Council concluded that, based on the evidence available, the guideline is working as expected.

While the analysis indicates that there is no specific need to revisit the guideline, the Council will continue to be alert to any changes (such as new legislation) that may affect whether the guideline remains fit for purpose.

General Guideline

See Seriousness – replacing the Sentencing Guidelines Council guideline, [pxx](#).

¹ Firearms Law – Reforms to Address Pressing Problems [Law Com 363] (2015).

Shaping the future of sentencing research

In November 2018, the Council held an academic seminar with the theme of Collaborating to Shape the Future of Sentencing Research: Innovation and Impact.

Our objectives for the day were to:

- facilitate a greater understanding of the role and purpose of the Council and how analytical work is integral to those;
- share current academic work in the area of sentencing;
- initiate discussion on how the Council might work more collaboratively with academics in the future; and,
- provide a networking opportunity for the Council, academics and other stakeholders with an interest in our field.

Close to 100 people joined us on the day, coming from a range of different areas and disciplines, including academia, the judiciary, solicitors and barristers, important stakeholders such as the Prison Reform Trust, RoadPeace and the Nuffield Foundation, officials from the Ministry of Justice and representatives from the Justice Select Committee, Law Commission, Scottish Sentencing Council and Youth Justice Board.

The presentations made throughout the day covered a wide range of subjects and stimulated constructive and lively discussions on issues facing sentencers and others working in today's criminal justice system. Papers included:

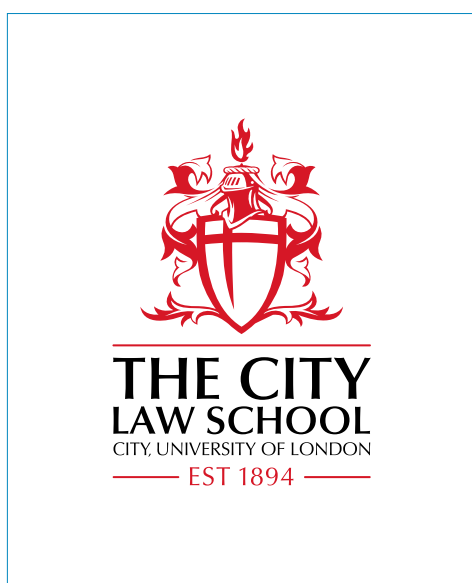
- A comparison of the impacts of short-term custody versus community sentences
- The role of gender and intoxication in sentencing assault offences
- The role of perceived choice in sentencing addicted offenders
- Sentencing for multiple versus single offences
- Evaluation of the Council's sexual offences guideline
- Algorithmic risk tools in sentencing processes

Delegates were also given updates on the work of the Sentencing Council and its Analysis and Research Team, and of the newly established Sentencing Academy. The Council is extremely grateful to all the presenters for sharing their learning and insights, and for contributing to what was a successful and stimulating event. Feedback from the day was very positive, with attendees appreciating the opportunity to come together to share research within this area and understand more about the Sentencing Council.

The Council decided to hold the event in response to the recommendation in Professor Sir Anthony Bottoms' review that the Council would benefit from fostering greater links with the academic community (see [pxx](#)), and to follow on from a small roundtable event we hosted jointly with Professor Bottoms in December 2017, kindly funded by Cambridge University.

We welcome the work of academics in the area of sentencing. We believe that, by working collaboratively with the academic community, the Council will be well placed to reap the benefits of new and emerging thinking. We plan to hold an annual event, providing a forum for sharing and exploring academic work and, later in 2019, we will be identifying potential areas for research relating to sentencing and inviting academics to work with us on these investigations.

The Council is very grateful to Professor Peter Hungerford-Welch, who facilitated the day's proceedings, and to City Law School's Centre for the Study of Legal Professional Practice for most generously hosting and funding the event.



Guilty plea

Evaluation and monitoring

The Reduction in Sentence for a Guilty Plea definitive guideline came into effect on 1 June 2017, following which the Council established a dedicated monitoring group.

Throughout 2018/19, the group continued its work to steer efforts to collect a range of information that will feed into an assessment of the implementation and impact of the guideline. Members of the group include representatives of the Sentencing Council, the police, the Crown Prosecution Service, Her Majesty's Courts and Tribunal Service, Victim Support, Judicial Office, Her Majesty's Prison and Probation Service, the Justices' Clerks Society and the Ministry of Justice.

Health and safety offences, corporate manslaughter and food safety and hygiene offences

Evaluation and monitoring

During 2018/19, the Council undertook an exercise to assess the impact of the Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences definitive guideline, which came into effect in February 2016.

We analysed data from the Ministry of Justice's Court Proceedings Database, along with prosecutions data provided by the Health and Safety Executive. We also carried out a content analysis of Crown Court judges' sentencing remarks and an analysis of a sample of judgments heard by the Court of Appeal.

A summary of our analysis was published in April 2019.

Intimidatory offences

The Intimidatory Offences definitive guideline was published on 5 July 2018 and came into effect on 1 October 2018. The guideline covers harassment, stalking, disclosing private sexual images, controlling or coercive behaviour, and threats to kill.

Post-consultation

As we noted in last year's Annual Report, the responses we received to the consultation on the Intimidatory Offences draft guideline were broadly supportive of our proposals so the main structure and content of the final, definitive guideline remain as consulted on. Some changes were made as a result of the consultation such as revisions to the guidance for racially or religiously aggravated offences, in order to give greater assistance to sentencers for these sensitive offences.

Media coverage

Publication of the definitive guideline in July 2018 achieved coverage in seven national papers and seven regional. We fielded a spokesperson from the Council for interview on Sky News. We also achieved coverage across BBC national radio stations, including the Today Programme, and 35 BBC regional radio stations. The coverage was positive and clearly carried our key messages.

Manslaughter

The Manslaughter definitive guideline was published on 31 July 2018, alongside a response to consultation document and a resource assessment. The guideline came into effect on 1 November 2018.

Post-consultation

In 2017, the Council consulted on draft guidelines for four offences.

- Unlawful act manslaughter
- Gross negligence manslaughter
- Manslaughter by reason of loss of control
- Manslaughter by reason of diminished responsibility

We received 45 responses from organisations and individuals, which were generally supportive of the draft guidelines. In light of the responses and research conducted with judges, we made a number of changes, including the following.

- Some draft culpability factors in gross negligence manslaughter were changed; it was felt they did not accurately reflect the seriousness of the offending.
- Mitigating factors were added to gross negligence manslaughter to reflect situations where an offence is committed in the context of external pressures.
- Guidance was added to the assessment of responsibility in manslaughter by reason of diminished responsibility.
- The caveat attached to the lower culpability factor relating to reduced responsibility was removed from all guidelines. The Council accepted that the complex interaction between mental health issues and drug and alcohol misuse was such that the caveat was unhelpful and could lead to injustice.

The aim of the Council with this guideline was to maintain current sentence levels in most circumstances; the exception being in some cases of gross negligence manslaughter where sentences were expected to increase. The sentence levels in the draft guideline were checked against sentence levels for cases sentenced in 2016 and some further research was conducted with judges to verify the findings. Taking account of the changes made to culpability factors, the Council concluded that no changes were required to the sentence levels in the draft guideline.

Media coverage

The launch of the Manslaughter definitive guideline achieved coverage in both broadsheets and tabloids, specifically the Guardian, the Times, Telegraph, Independent, Sun and Mirror. There were also mentions in trade media, including Construction Manager and Construction Index. The story also ran in BBC Radio 5 Live, and 16 BBC local radio stations.

Mental health**Development**

Evidence suggests that people in the criminal justice system are more likely to suffer from mental health problems than the general population. The prevalence of offenders with these conditions has led to calls for a guideline to assist in their sentencing.

In early 2018, the Council started work to develop a guideline for sentencing offenders with mental health conditions or disorders and those with learning disabilities, autism, brain injury, substance misuse disorders and dementia.

To help inform the development of the guideline we discussed our proposals from an early stage with interested organisations and experts in the field. We also designed and launched a programme of research with judges and magistrates, which continued into 2019.

Consultation

The Council held a consultation on our draft proposals between April and July 2019.

Public order**Consultation**

Between May and August 2018, the Council conducted a consultation on a draft guideline for sentencing a number of public order offences:

- Riot (section 1)
- Violent Disorder (section 2)
- Affray (section 3)
- Fear or provocation of violence (section 4) and the racially or religiously aggravated counterpart offences (section 31 Crime and Disorder Act 1988)
- Disorderly behaviour with intent to cause harassment, alarm or distress (section 4A) and the racially or religiously aggravated counterpart offences (section 31 Crime and Disorder Act 1988)
- Disorderly behaviour causing or likely to cause harassment, alarm or distress (section 5) and the racially or religiously aggravated counterpart offences (section 31 Crime and Disorder Act 1988)
- Offences relating to stirring up racial or religious hatred and hatred based on sexual orientation (sections 18 – 23 and 29B-29G)

These offences are relatively high-volume and, although some sentencing guidance exists for magistrates, there is currently no guidance for judges in the Crown Court.

During the consultation period we carried out research to examine systematically how the guideline might work in practice. This work included 12 interviews with Crown Court judges on the draft affray guideline, and group discussions and exercises on the guideline for racially aggravated public order offences, which were attended by approximately 150 magistrates across three events.

The consultation was informed by a resource assessment and statistical bulletin, which were published alongside the consultation document.

Post-consultation

We received 95 consultation responses. The vast majority of responses were from individual members of the public and focused predominantly on the hate crime and racial aspect of the guidelines.

The Council has been considering responses and research findings to identify whether any changes are required to the definitive versions of the guidelines. The Council expects to approve the definitive guideline in July 2019 for publication in the autumn.

A resource assessment will accompany the final version of the guidelines.

Media coverage

The consultation on public order opened on 9 May 2018. We achieved coverage of the launch in five national newspapers, including The Times, The Daily Telegraph, Independent, Daily Mail and Daily Express, as well as several regional newspapers. We fielded a spokesperson from the Council for interview on LBC, and the Press Association carried a lengthy factual piece, which was reproduced in a number of local papers.

Robbery

Evaluation and monitoring

During 2018 we undertook research to assess the impact of the Robbery Offences guideline, which has been effective from 1 April 2016. We commissioned an analysis of data from: the Crown Court Sentencing Survey (which ran between 2010 and 2015); a similar survey exercise post guideline (which ran between November 2016 and April 2017); and the Ministry of Justice's Court Proceedings Database.

The analysis suggested that, while the guideline appears to be working largely as intended, there have been some unanticipated changes. We published a summary of our analysis in February 2019.

The Council intends to investigate further in due course, and will consider at that stage whether any revision of the guideline is necessary.

Seriousness – replacing the Sentencing Guidelines Council guideline

The project to replace the Sentencing Guidelines Council (SGC) Overarching Principles: Seriousness guideline is being undertaken in two phases:

1. The General Guideline – a new guideline for use where there is no offence specific guideline. This will provide general guidance on the assessment of harm and culpability and will include expanded explanations of factors; and
2. The Expanded Explanations – expanded explanations of factors in offence specific guidelines.

Both phases of the project take advantage of the fact that all Sentencing Council guidelines are now published in digital format on the Council's website.

Consultation

The Council consulted on the General Guideline from June to September 2018 and carried out research with sentencers on the application of the guideline during the consultation period. A draft resource assessment was published alongside the draft guideline.

The consultation on the Expanded Explanations was launched on 28 February 2019 to run until 23 May 2019. A draft resource assessment was also published for this phase of the project.

Post-consultation

The Council received 27 responses to the General Guideline consultation, most of which came from organisations. These responses, and the results of the research with sentencers, helped to inform changes to the explanations in the guideline that are carried across to the draft Expanded Explanations.

At the conclusion of the Expanded Explanations consultation, the Council will consolidate the responses to both consultations and publish both phases of the project at the same time.

Sexual offences

Evaluation and monitoring

In October 2018, the Council published an analysis of the Sexual Offences definitive guideline, which came into effect in April 2014.

To assess the impact of the guideline, the Council commissioned an analysis of data from the Crown Court Sentencing Survey (which ran between 2010 and 2015) and data from the Ministry of Justice's Court Proceedings Database.

The analysis suggests that the guideline is generally being implemented in the way that the Sentencing Council expected, although there has been an increase in sentencing severity for sexual assault, which was not anticipated.

The Council intends to investigate further the operation of the guideline in due course, and will consider at that stage whether any revision of the guideline is necessary.

Theft offences

Evaluation and monitoring

In February 2019, the Council published an analysis of the Theft Offences definitive guideline, which came into effect in February 2016.

To assess the impact of the guideline, the Council commissioned an analysis of data from the Ministry of Justice's Court Proceedings Database and from a bespoke data collection exercise carried out in magistrates' courts. The latter exercise ran for a period before the new guideline came into effect (from November 2015 to February 2016) and after (September 2016 to December 2016).

The assessment showed that there were some unanticipated effects following the introduction of the guideline. The Council has decided to continue to monitor the trend over time before deciding on whether or not to revisit the guideline.

Communication

The Sentencing Council has a statutory obligation, in producing guidelines, to have regard to “the need to promote public confidence in the criminal justice system”. To help the Council meet this duty, it has set itself a strategic objective: to improve awareness and understanding of sentencing among victims, witnesses, offenders and the public.

The Communication team has a central role to play in supporting this objective, which we do by delivering high-quality, proactive and reactive communications that aim to:

- inform and equip our professional audiences, and strengthen their confidence in the Council, the sentencing guidelines and the Council’s sentencing model; and
- inform and educate our public audiences, and improve their understanding of, and confidence in, sentencing and the criminal justice system.

Working with the media

The Council publicises its work via general and specialist media. Our aim is to make sure that sentencers, criminal justice practitioners and the wider public 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.

The four definitive guidelines and three 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 were fully briefed and prepared to talk to the media for each announcement and undertook a variety of interviews, including on high-profile, national programmes such as the Today programme, Sky News and Good Morning Britain, as well as on regional radio.

The work of the Council remained of significant interest to the media and, over the course of the year, there were 252 mentions of the Council in print media, 311 broadcast mentions and 1,338 mentions online, not including social media.

Our press office also 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 to engage the public and victims of crime

As in previous years, the Council has worked with partner organisations who have direct contact with the public, to improve understanding of sentencing particularly among victims and witnesses.

We have focused on our communication with the police service, aiming to reach the officers who most often engage with the public. Our activities have included ensuring police publications receive Council announcements, working with Police Professional magazine to provide articles and features on aspects of sentencing and establishing relationships with relevant groups of officers, such as Family Liaison Officers (FLOs). Among other duties, FLOs provide the link between bereaved families and the police during major investigations. In September 2018 we spoke at the National FLO Conference, to update officers on the recently published manslaughter guideline, which came into effect on 1 November 2018, and to ensure FLOs have the information they need to talk to victims, witnesses and their families about sentencing.

Throughout the year the Witness Service continued to use our materials about sentencing to support and reassure witnesses and victims.

Videos on our YouTube channel continue to attract a consistent level of attention. Our most viewed video, which describes how sentencing works in clear, easy-to-follow terms, and which we promote on our website, was watched more than 21,000 times during the year.

Developing relationships with partners and interested parties

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 gave a series of speeches and presentations covering all aspects of sentencing and developing guidelines. Our audiences included magistrates, judges, legal practitioners, academics and NGOs.

We also accepted invitations to raise the profile of the Council in other jurisdictions. We shared our expertise on sentencing and developing guidelines on 30 October 2018 with the Attorney General of Oman and his colleagues from the Omani Public Prosecution Office and Royal Oman Police and, on 26 November, with the President of the Supreme Court of Somaliland.

In October 2018 we were invited to present at an international symposium at the University of Leeds School of Law, funded by the National Centre for Research Methods. We gave a talk on the Sentencing Council and our collection and use of data. The symposium, “New Questions, Methods, and Data in Sentencing Research”, was attended by a global audience of academics, magistrates and other government representatives.

Website

The Sentencing Council's website, **www.sentencingcouncil.org.uk**, has continued to be a source of information for sentencers and others in the criminal justice system, as well as for victims, witnesses, the public and journalists. Traffic to the website has remained consistently high, with the number of unique visitors reaching almost a million: from 1 April 2017 to 31 March 2018, there were 978,212 unique visitors.

In December 2018 we commissioned the digital development agency that manages our website to start work to revise both the design and content of the site. The aim of this development work is to enable the Council to continue to serve the professional users of our website while creating more compelling public-facing content that would contribute to meeting our objective of improving public confidence in sentencing. For more information on this project, see [pxx](#).

Developing our digital capability

In November 2018 the Council launched a digital version of the sentencing guidelines that are used in the Crown Court, making the guidelines available as individual web pages on a dedicated area of the Council's website, and marking a significant milestone in our project to deliver digital guidelines to all sentencers in England and Wales.

Digital guidelines for the Crown Court

The aims of this project were to:

- deliver digital sentencing guidelines that meet user needs and work effectively in the context of the Crown Court;
- ensure the digital guidelines work within the context of CJS digital reform and are available within every Crown Court;
- ensure sentencers and other practitioners in the Crown Court know about the guidelines and know how to use them;
- motivate sentencers and other practitioners in the Crown Court to adopt digital guidelines; and
- facilitate ongoing feedback and evaluation.

We undertook initial research with Crown Court judges and other potential users during 2017 to gain a clear understanding of the ways in which the guidelines were being used and what sentencers considered their priorities to be.

Informed by this research and what we had learned from developing digital guidelines for the magistrates' courts in 2016 and 2017, we briefed our development agency to prepare digital templates for offence specific sentencing guidelines used in the Crown Court and for the overarching guidelines. These guidelines were approved for testing by the Council on 13 April 2018 and published on a "mirror" website. Throughout summer 2018, we tested the guidelines with judges, prosecutors and defence advocates and, as a result, made a series of refinements to the template before converting all the existing guidelines to a digital format.

We launched the Crown Court sentencing guidelines area of the website, including offence specific and overarching guidelines, on 8 November 2018.

Preparing the ground

The launch of the guidelines was supported with a message to Crown Court judges from the Chairman of the Council, which was published on the Judicial Intranet. Judges also received direct emails informing them of the publication of the guidelines and linking them

to guidance materials and an introductory video, showing how the guidelines work. The video was also published on the Judicial College Learning Management System. Bulletins were included in the monthly Criminal e-Letter sent by the Judicial College to all criminal judges and recorders, and in the Law Society Gazette and Counsel magazine. Use of digital guidelines was also included in the one-day Judicial College training courses attended between October and March by all circuit judges and recorders who sit in crime.

Digital by default

With the launch of digital guidelines for the Crown Court, the Council has achieved its aim of making the sentencing guidelines available to all sentencers in a format that is immediately accessible, quick and easy to use and designed to support the existing working practices of judges, magistrates and other practitioners.

“Going digital” also means that the guidelines are capable of being updated instantly. This feature allows the Council to reflect any changes or amendments to guidelines quickly, and gives sentencers confidence that they are always looking at the most up-to-date version of a guideline.

The development of digital guidelines has enabled the Council to achieve its long-term objective to cease production and design of printed and pdf guidelines. This change will result in a significant reduction in costs (estimated by 2019/20 to be in the region of £47,000 per annum), which will enable the Council to live within its budget as reduced by the Ministry of Justice.

The digitisation of sentencing guidelines also contributes directly to the Government's objectives to modernise the courts and for services to be digital by default.

Evaluation

The digital guidelines are being well used, with more than 68,000 unique visits since launch and an average of around 600 visitors each working day. Anecdotally, initial responses have been positive and encouraging. The Council will be running a user survey in early summer 2019 to get a clearer picture of how users are engaging with the guidelines and identify any areas for improvement.

The Council would like to thank all the judges, magistrates, and prosecution and defence advocates who contributed to the development of the digital guidelines. We are keen to continue to refine and improve them in line with our users' needs, and welcome any feedback.

Analysis and research

The statutory duties of the Council include requirements to carry out analysis and research into sentencing. Our work in this area includes the following.

Undertaking analysis to support the development of guidelines

The Council regularly carries out social research 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 with users of the guidelines: primarily Crown Court judges, district judges and magistrates, using a range of methods. These methods include surveys, face-to-face and telephone interviews and group discussions. Our researchers also review sentencing literature and analyse the content of Crown Court sentencing remark transcripts. This work helps to inform the content of the guidelines at an early stage of development.

During the development of draft guidelines, the Council also draws 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.

Publishing an assessment of 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 better understand 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 analysis of how sentences may be affected by guilty plea reductions and consideration of the factors that influence sentences. This analysis provides a 'point of departure' for the Council when it is considering the appropriate sentencing ranges for a guideline.

Where the Council intends for 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 for 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.

Monitoring the operation and effect of sentencing guidelines and drawing conclusions

The actual impact of the guideline on sentencing and, consequently, on resources, is assessed through monitoring and evaluation after the guideline has been implemented. To achieve this, we may use a range of different approaches and types of analysis, including putting in place bespoke, targeted data collections in courts, qualitative interviews with sentencers, transcript analysis and analysis of administrative data. These data are supplemented by data collected through the Crown Court Sentencing Survey (which ran until March 2015).

Publishing sentencing factors and non-sentencing factors reports

See [ppoo-o](#) for these reports.

We publish our research and statistical outputs on the analysis and research pages of our website: <https://www.sentencingcouncil.org.uk/analysis-and-research/>.

More information about the analysis and research we have undertaken to support the development of new guidelines or to evaluate existing guidelines is included in the Guidelines chapter of this report ([pxx](#)).

A cycle of continuous improvement

The Council has embedded a culture of continuous improvement into the guideline development process. Analytical work is crucial to this process: it helps ensure the Council has timely, relevant and robust data on which to base its decisions.

On 29 October 2018, we published an assessment of the impact of the Sexual Offences definitive guideline.² The guideline, which came into force in 2014, covers over 50 offences including rape, assault by penetration, sexual assault, sexual activity with a child and indecent images.³ To complete the development of the guideline and the subsequent assessment of its impact, the Council undertook and commissioned a portfolio of analytical work.

Data analysis

We brought together data from different sources, including Ministry of Justice (MoJ) administrative sources and Council's Crown Court Sentencing Survey (CCSS). These data included sentencing outcomes for sexual offence cases and the factors influencing sentencing decisions, and were important in helping the Council develop an understanding of current sentencing practice in this area.

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"the"

Social research

In addition – and as a result of the Council's recognition of the gravity of sexual offending and the very particular emotional and physical harm experienced by victims – we commissioned an independent social agency, Natcen Social Research, to undertake research into victim and public attitudes to the sentencing of sexual offences.

The research, which was conducted with the assistance of organisations such as Rape Crisis, involved people who had been victims of sexual offences (or their parents or guardians). Members of the public also participated in discussions, exploring attitudes to sentencing and sharing views on appropriate sentences and factors that should be considered when sentencing. The report helped inform the harm factors incorporated into the guideline for each of the offences.

Sentencing behaviour

Once the Council had developed a draft guideline, we also undertook some work to assess any behavioural implications of the proposals and ascertain whether the guideline might affect sentencing practice. This involved a small survey of Crown Court judges to establish how they would currently sentence certain sexual offences, face-to-face interviews with

² <https://www.sentencingcouncil.org.uk/publications/item/sexual-offences-assessment-of-guideline/>

³ <https://www.sentencingcouncil.org.uk/crown-court?s&collection=sexual-offences>

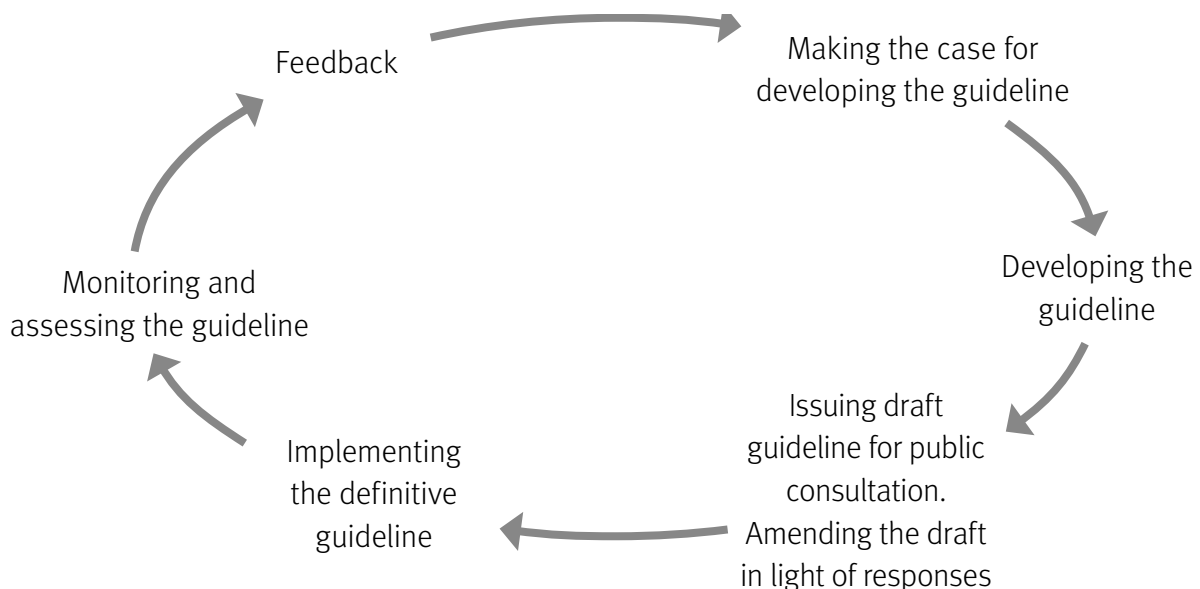
judges and content analysis of a small number of sentencing transcripts. The findings from these exercises helped to further refine the guideline proposals and ascertain whether there was any potential for sentencing changes. This was fed into work to estimate the impact of the guideline on correctional resources, which is one of the Council's statutory duties.

Assessing impact

After the guideline had been in force for some time (sufficient time to enable it to “bed in”), the Council undertook work to assess whether it had had an impact on sentencing outcomes and to explore whether there were any problems or issues with the guideline's implementation. Once again, this involved statistical analysis of MoJ administrative data and the CCSS, along with further interviews with Crown Court judges.

As a result of this assessment, it was found that that the guideline is generally being implemented in the way that the Sentencing Council anticipated, although increases in sentencing severity for sexual assault are at the upper limits of what had been expected. The analysis also found that a new harm factor of ‘Severe psychological harm’ had a significant impact on sentences for some sexual offences, including sexual assault; in interview, judges had also highlighted some issues around interpretation of this factor.

As a result of the findings from these analyses, the Council has committed to revisiting areas of the guideline where issues were identified, a clear example of the value of analytical work in ensuring the Council considers areas where guidelines may need improvement.



Sentencing factors report

In accordance with section 130 of the Coroners and Justice Act 2009 this report considers changes in the sentencing practice of courts (hereafter 'sentencing practice'), 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

During its ninth year (to 31 March 2019), the Council published the following definitive guidelines:

- Breach offences
- Intimidatory offences
- Manslaughter
- Child cruelty

Breach offences

Breach of a suspended sentence order

For breaches of suspended sentence orders (SSOs), there is a considerable amount of uncertainty regarding the impact of the guideline on sentencing. There is no reliable information about the number of offenders sentenced, very little information about sentencing practice at the Crown Court and only limited information on sentencing at magistrates' courts. It has therefore not been possible to assess previous sentencing practice or to make any realistic or informative estimate of the impact of the guideline on prison or probation services.

Data from an early extract of a data collection at magistrates' courts in 2017/18 suggested that while just over half of offenders dealt with for breaching a SSO had their custodial sentence activated, just under half did not. The new guideline says that sentencers must activate the custodial sentence unless it would be unjust in all the circumstances to do so, and therefore it is possible that there could be a substantial increase in the number of sentences that are activated. However, the guideline provides some circumstances in which it may be appropriate not to activate, and so it is expected that in some cases, sentencers will continue to deal with breaches in a different way.

The impact of the guideline for breaches of SSOs also depends partly on the impact of the Council's *Imposition of Community and Custodial Sentences* guideline, which came into effect on 1 February 2017. Evidence identified during the early development of the Breach guideline suggested that SSOs are sometimes imposed as a more severe form of community order (CO). The Imposition guideline was developed to ensure that the principles for the imposition of these sentences are clarified to reverse this trend.

If implemented as intended, the Imposition guideline should lead to an overall decrease in the number of SSOs imposed, resulting in a decrease in the volume of offenders for whom a sentence can be activated. It is therefore possible that a reduction in the number of offenders affected may balance out any increase in the proportion of offenders whose sentences are activated as a result of the Breach guideline.

Any changes in sentencing practice as a result of the Breach guideline could have an impact on the prisons, with more offenders being sent to custody than at present. However, analysis has suggested that sentences may be short, and work has been undertaken to embed the use of the Imposition guideline in courts. This should help to reduce any possible impact, and if SSOs are only imposed as intended – in line with the Council's Imposition guideline – then the impact of the guideline may not be substantial.

Breach of a community order

For breaches of COs by failing to comply with requirements, the new guideline states that where the non-compliance is wilful and persistent, the sentencer should revoke the order and impose a custodial sentence. Analysis of an early extract of data collected from magistrates' courts in 2017/18 shows that around 12 per cent of breaches of COs were considered to be 'wilful and persistent non-compliance'.

For all other types, the sentencer is told either to revoke the order and re-sentence the original offence, add curfew requirements, add additional hours of unpaid work, extend the length of the order, add additional requirements or impose a fine. These options are too varied for it to be feasible to estimate the impact of the guideline for high, medium, low or no compliance, because it would not be possible to determine with any certainty how the penalty may be different under the new guideline.

However, as some offenders whose non-compliance was deemed to be ‘wilful and persistent’ currently receive a non-custodial sentence, it is expected that a small proportion would receive a different sentence under the new guideline.

Overall, assuming the data from the magistrates’ court data collection are representative of all offenders sentenced for breach of a CO, it is estimated that just under three per cent of offenders will be sentenced to immediate custody under the new guideline when they wouldn’t have been under current sentencing practice (i.e. were deemed to be wilfully and persistently non-compliant, and will receive an immediate custodial sentence under the new guideline where they had previously received a non-custodial sentence).

In a similar way as for breaches of SSOs, the number of offenders dealt with for breach of a CO at court per year was not known, so it has not been possible to estimate the likely resource impact of the guideline.

Breach of post-sentence supervision

For breach of post sentence supervision (PSS), it is anticipated that the guideline could lead to a reduction in the requirement for prison resources, although due to a lack of data it has not been possible to estimate what the impact might be.

Firstly, the new guideline includes the option of a custodial penalty only for offenders at the lowest level of compliance, whereas in the impact assessment the Ministry of Justice published relating to PSS, it was

assumed that 70 per cent of sanctions imposed following a breach would be committal to custody. Given that offenders would be distributed across all levels of compliance in the new guideline, it is unlikely that 70 per cent of offenders would fall into the lowest level of compliance and be committed to custody. Therefore, there could be a reduction in the requirement for prison resources. However, without full data on current sentencing practice for this offence, or information about how offenders would be split across the levels of compliance in the new guideline, it has not been possible to estimate the size of this impact.

Secondly, the guideline includes a penalty of up to seven days’ committal to custody at the lowest level of compliance. No data are currently available on the sentence lengths of offenders committed to custody. However, in the impact assessment the Ministry of Justice published relating to PSS, it was assumed that all offenders committed to custody would spend two weeks in custody. It is therefore possible that the new guideline may result in a reduction in the requirement for prison places due to a reduction in the time spent in custody, although without data on current sentence lengths for this offence, it has not been possible to quantify the potential impact on prison or probation resources.

Breach of disqualification from acting as a director and breach of disqualification from keeping an animal

The guidelines have been written with current sentencing practice in mind, therefore it is not anticipated there will be any impact on correctional resources. In addition, due to the low volume of these offences and the fact that only a very small proportion of offenders receive a custodial sentence, any potential impact would be minimal.

Failing to surrender to bail

The guideline has been written with current sentencing practice in mind, and therefore it is not anticipated that there will be any impact on prison and probation resources.

Breach of a protective order (restraining and non-molestation orders)

For breach of a protective order (which includes both restraining orders and non-molestation orders), in general the sentencing ranges have been set with current sentencing practice in mind and therefore it is not anticipated that there will be any impact on prison and probation resources in the majority of cases. There are two exceptions which may lead to higher sentences for some breaches of a protective order.

Firstly, it is likely that a small number of cases categorised at the highest category in the new guideline would receive a higher sentence. However, any costs to correctional resources incurred may be offset by the fact

that the category with the highest level of harm but the lowest level of culpability in the new guideline has a lower starting point and range than the top harm category in the previous guideline.

Secondly, an offender who breaches an order by resuming a relationship with the protected subject of an order, but doesn't cause any direct harm because the protected subject is willingly in contact, is expected to be sentenced more severely under the new guideline. The Council felt that, in order to enhance the efficacy of the restraining order, these types of offences should be treated more severely than they have been previously. In addition, it was felt that the sentence levels for this offence should not be lower than the same category for breach of an Anti-Social Behaviour Order (ASBO) or Criminal Behaviour Order (CBO).

It is not possible to estimate the number of breaches which may fall into these categories, due to a lack of data. However, the numbers are not likely to be large.

Breach of a Criminal Behaviour Order

For breach of a CBO, the sentencing ranges have generally been set with current sentencing practice in mind and therefore it is not anticipated that there will be any impact on prison and probation resources in the majority of cases. The exception is for the most serious breach cases that fall into the highest categories of harm and culpability (categories A1, A2 and B1), where there has been an extension to the category ranges, and also at the bottom of the distribution where

there may be a reduction in sentence severity.

Breach of a Sexual Harm Prevention Order

For breach of a Sexual Harm Prevention Order, the guideline has been written with current sentencing practice in mind, and therefore it is not anticipated that there will be any impact on prison and probation resources.

Failing to comply with a notification requirement

For failing to comply with a notification requirement, the new guideline may increase sentences for some cases. A review of transcripts of cases confirmed that the previous guidance was not considered adequate by sentencers to address offences falling within the top end of seriousness. The new guideline is more prescriptive and as a consequence it is possible that there may be more sentences at the top end of the guideline range. However, due to lack of data and the differences between the two guidelines it is not possible to quantify the size of the impact.

Intimidatory offences

For the offences of harassment (without violence) and stalking, threats to kill, disclosing private sexual images and films with intent to cause distress, and controlling or coercive behaviour in an intimate or family relationship, it is not anticipated that the guideline will have any impact on prison and probation resources.

For the offences of harassment (putting people in fear of violence) and stalking

(involving fear of violence or serious alarm or distress), it is also not anticipated that the guideline will have any impact on prison and probation resources. A small number of offenders falling in the highest category of seriousness are likely to receive higher sentences as a result of new legislation that has doubled the statutory maximum, but any increase as a result of this would not be attributable to the guideline.

For racially or religiously aggravated harassment and stalking offences, the guidelines are expected to increase some sentences. However, these are low volume offences and therefore this is anticipated to have a very small impact on the prison population, with a requirement for fewer than 10 additional prison places per year. As with the basic offences (the non-racially/religiously aggravated versions of the offences), any increase as a result of the new legislation that has doubled the statutory maximum sentence would not be attributable to the guideline.

Manslaughter

Overall, the Manslaughter guideline is anticipated to change sentencing practice only for cases which arise very infrequently, and therefore it is expected to have a minimal impact on correctional resources.

For unlawful act manslaughter, manslaughter by reason of loss of control and manslaughter by reason of diminished responsibility the sentencing ranges have been set with current sentencing practice in mind, and therefore it is not anticipated that there will be any impact on prison and probation resources.

For most types of gross negligence manslaughter, the Council's aim is to increase consistency in sentencing practice and not to change sentencing severity in the majority of cases. However, for some cases typically in the workplace, such as where an employer has had a long-standing disregard for the safety of employees and is motivated by cost cutting, the Council came to the conclusion that it would be appropriate for sentences to increase. It is therefore expected that where an offender has been convicted of manslaughter in circumstances where there has been a disregard for the risk of death to others motivated by financial gain, an increase may be seen in immediate custodial sentence lengths. However, these cases appear very infrequently, with transcript analysis showing that only seven offenders were sentenced for these offences in 2016, and only three offenders were sentenced in 2014. Therefore, the increase in sentence lengths for these specific types of cases is anticipated to have a very small impact on correctional resources (around 10 prison places per year).

It is possible that manslaughter sentences may continue to increase after the guideline has come into effect, as they have done over the past decade as a result of changing case mix and the influence of legislative changes, rather than as a result of the guideline.

Child cruelty

The Child Cruelty Definitive Guideline aims to improve consistency of sentencing but for the vast majority of cases it is not intended to change sentencing practice.

For the offence of cruelty to a child, the guideline is anticipated to change sentencing practice for a small number of cases involving weapons, and therefore it is expected to have a small impact on correctional resources, with the requirement for up to 10 additional prison places per year.

For the offences of cruelty to a child and causing or allowing a child to die or suffer serious physical harm, there may be an increase to sentences for some cases involving defendants who fail to protect a child. However, the cases that the guideline would affect appear very infrequently, and therefore this is expected to have a small impact on correctional resources, with a requirement for around 15 additional prison places per year (around 10 prison places per year for the cruelty to a child offence, and around 5 prison places per year for causing or allowing a child to die or suffer serious physical harm).

At the time of publication of the resource assessment, there had not yet been any sentences passed for the new offence of failure to protect a girl from the risk of female genital mutilation. Therefore, any increases in the prison population are expected to be due to a gradual increase in the number of offenders sentenced under the new legislation and not due to the guideline.

Non-sentencing factors report

The Sentencing Council is required under the Coroners and Justice Act 2009 to prepare a report of non-sentencing factors to identify 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 [ppxx-o](#)). 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

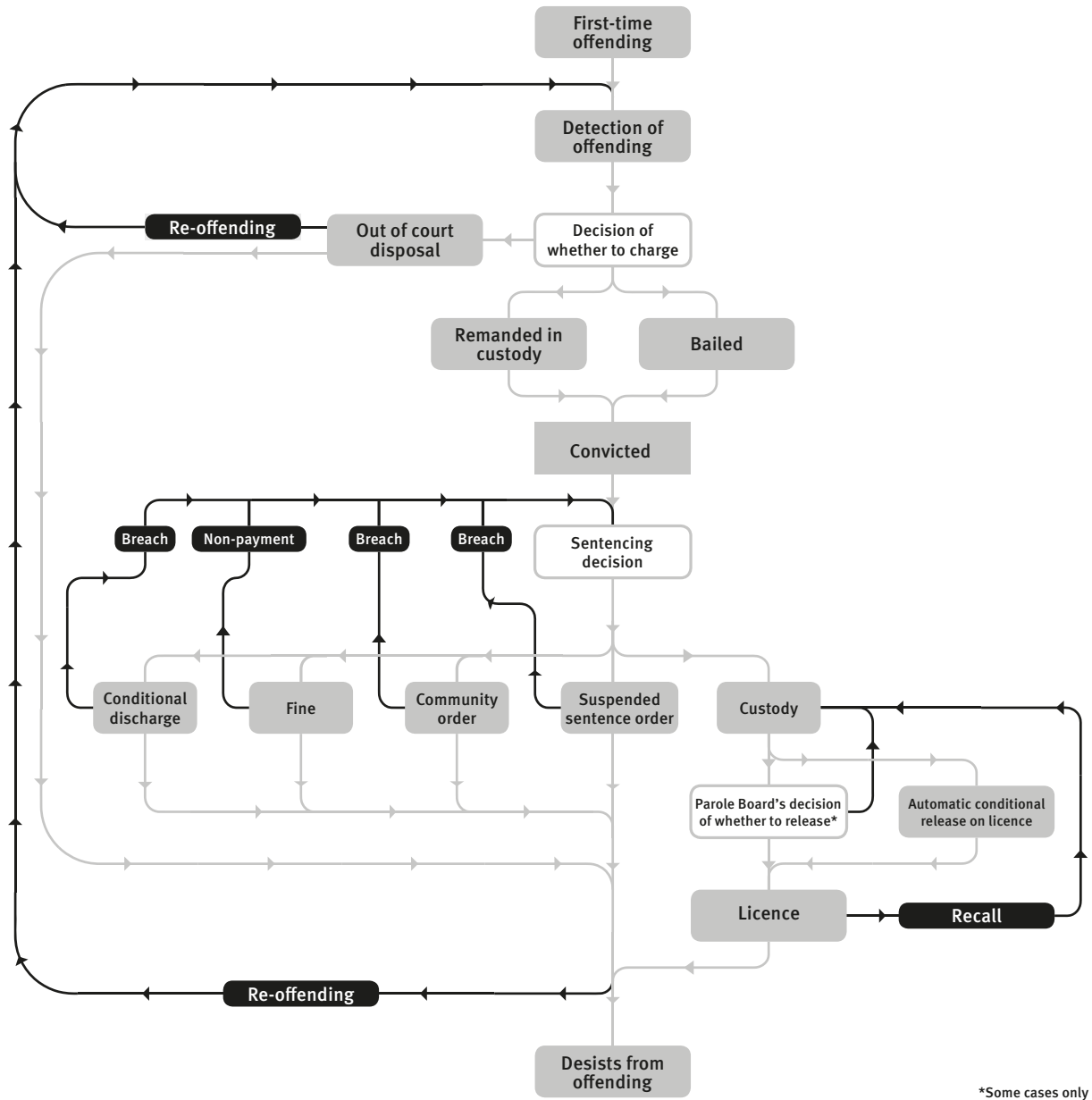
required to give effect to sentences. For example, the volume of offenders coming before the courts is a non-sentencing factor: greater sentencing volumes lead to greater pressure on correctional resources, even if the courts' treatment of individual cases does not change. Release provisions are another 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 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



The remainder of this report examines the available data on non-sentencing factors. Because of the complexities explained above, we have not attempted to untangle the interactions between different non-sentencing factors to explain the causes of observed changes and their impact on resources.

Volume of sentences and composition of offences coming before the courts

The Ministry of Justice (MoJ) publishes Criminal Justice System Statistics Quarterly, which gives quarterly statistics on the volume of sentences and the offence types for which offenders are sentenced.⁴

For the most detailed information on sentencing outcomes, follow the link to Criminal Justice System Statistics Quarterly: December 2018 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.⁵

The tables concerning licence recalls, Table 5.1 to Table 5.11, can be found via the link Offender Management Statistics Quarterly: October to December 2018. For example, Table 5.1 contains a summary of the number of licence recalls since 1984.

Post-sentence supervision

The Offender Rehabilitation Act 2014 expanded license 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 (PSS) on their release for 12 months. MoJ publishes statistics on the number of offenders under PSS in Offender Management Statistics Quarterly.⁶

See Table 4.7 in the probation tables.

The rate at which court orders are breached

If an offender breaches a court order, they must return to court. Their revised sentence will typically add or augment requirements to the order or involve custody. Breaches can therefore have significant resource implications.

Statistics on breaches can also be found in Offender Management Statistics Quarterly.⁷ Refer to the probation tables, specifically Table 4.11, which gives a breakdown of terminations of court orders by reason.

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

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

6 *ibid*

7 *ibid*

Patterns of reoffending

MoJ publishes reoffending statistics in Proven Reoffending Statistics.⁸

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. However, in a minority of cases, which are usually those of serious offences committed by dangerous offenders, 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.⁹

Remand

Decisions to hold suspected offenders on remand 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.¹⁰

The prison population tables can be found via the link Offender Management Statistics Quarterly: October to December 2018. For example, Table 1.1 contains data on how the remand population has changed through time.

⁸ <https://www.gov.uk/government/collections/proven-reoffending-statistics>

⁹ <https://www.gov.uk/government/publications?departments%5B%5D=parole-board>

¹⁰ <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 the Ministry of Justice (MoJ); 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.

| | 2018/19 (actual) £000s |
|---------------------------------|------------------------|
| Total funding allocation | 1,404 |
| Staff costs | 1,207 |
| Non-staff costs | 163 |
| Total expenditure | 1,370 |

Appendices

Appendix A: About the Sentencing Council

The primary function of the Sentencing Council is to prepare sentencing guidelines,¹¹ which the courts must follow unless it is contrary to the interests of justice to do so.¹²

The Council also fulfils other statutory functions:

- Publishing the resource implications in respect of the guidelines we draft and issue¹³
- Monitoring the operation and effect of our sentencing guidelines, and drawing conclusions¹⁴
- Preparing a resource assessment to accompany new guidelines¹⁵
- Consulting when preparing guidelines¹⁶
- Promoting awareness of sentencing and sentencing practice¹⁷
- Publishing a sentencing factors report¹⁸

- Publishing a non-sentencing factors report¹⁹
- Publishing an annual report²⁰

Governance

The Sentencing Council is an advisory non-departmental public body (NDPB) of the Ministry of Justice (MoJ). Unlike most advisory NDPBs, 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 impact 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. The

¹¹ s.120 Coroners and Justice Act 2009

¹² s.125(1) *ibid*

¹³ s.127 *ibid*

¹⁴ s.128 *ibid*

¹⁵ s.127 *ibid*

¹⁶ s.120(6) *ibid*

¹⁷ s.129 *ibid*

¹⁸ s.130 *ibid*

¹⁹ s.131 *ibid*

²⁰ s.119 *ibid*

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 Treasury instructions and guidance.

The budget is delegated to the Head of the Office of the Sentencing Council from the Director General, Policy, Communications and Analysis Group at MoJ (prior to November 2018, responsibility lay with Director General, Justice Analysis and Offender Policy Group). The Head of the Office of the Sentencing Council is responsible for the management and proper use of the budget.

The Director General, Policy, Communications and Analysis Group at 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. (Prior to November

2018, responsibility lay with Director General, Offender Reform and Commissioning Group.)

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 bodies while retaining our independence. These bodies include: the Attorney General's Office; the College of Policing; the Council of 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' Clerks' Society; the Magistrates Association; the Ministry of Justice; the National Bench Chairs' Forum and the National Police Chiefs' Council.

The Council engages with the public on sentencing, offers information and encourages debate.

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.²¹

²¹ www.sentencingcouncil.org.uk

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

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. Chairman: Dr Alpa Parmar.²²

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. Chairman: the Hon Mr Justice Goose.

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. Chairman: Beverley Thompson OBE

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

Relationship with Parliament

The Council has a statutory requirement to consult Parliament, specifically the House of Commons Justice Select Committee.

In order to facilitate the work of the Committee, the Council informs all organisations and individuals who respond to our consultations that their responses may be shared with the Justice Select Committee.

The Office of the Sentencing Council

The Council is supported in its work by the Office of the Sentencing Council (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.

At 31 March 2019 there were 18 members of staff, including the Head of the Office of the Sentencing Council.

In the 2018 Civil Service Staff Engagement Survey, the OSC recorded a staff engagement index of 76 per cent. This places the Office 14 percentage points ahead of other arm’s-length bodies and 9 percentage points ahead of other high-performing units across the Civil Service.

²² To 2 May 2018, this sub-group was chaired by Professor Julian Roberts.

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

In developing guidelines, the Council follows a process that is based on the policy cycle set out by HM Treasury in the Green Book on Appraisal and Evaluation in Central Government (2003) and allows a culture of continuous improvement to be embedded. 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.

For an illustration of the development cycle, see [pxx](#).

Appendix B: Membership of the Sentencing Council

The Lord Chief Justice of England and Wales, The Rt Hon 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.

Lord Justice Holroyde, a Court of Appeal judge, was appointed Chairman of the Sentencing Council from 1 August 2018.²³

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 on 31 March 2019

Judicial members

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

In order of appointment:

Her Honour Judge Sarah Munro QC,
6 April 2013

The Right Honourable Lady Justice Hallett,
27 November 2013

The Honourable Mr Justice Goose,
26 June 2014

The Honourable Mrs Justice McGowan,
2 January 2017

Her Honour Judge Rebecca Crane,
1 April 2017

Her Honour Judge Rosa Dean, 6 April 2018

Rob Butler JP, 6 April 2018

Non-judicial members

In order of appointment:

Mark Castle OBE, former Chief Executive of Victim Support, 1 August 2015

Rosina Cottage QC, barrister, 18 July 2016

Dr Alpa Parmar, Academic, University of Oxford, 6 April 2018

Beverley Thompson OBE, CJS Consultant and former CEO of Probation, 15 June 2018

Max Hill QC, Director of Public Prosecutions and Head of the Crown Prosecution Service, 1 November 2018

Register of members' interests

At 31 March 2019, one member of the Council had personal or business interests to declare:

- Rob Butler JP declared his appointment in May 2018 as Non-executive Director, Her Majesty's Prison and Probation Service.

²³ Lord Justice Holroyde replaced Sir Colman Treacy on 1 August 2018.

Copies of this report are available at
www.sentencingcouncil.org.uk

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Photography: **XXXX XXXX**

Copies of this report may be downloaded from our website: **www.sentencingcouncil.org.uk**

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