

## **Kidnapping, false imprisonment, abduction of child by parent, etc, abduction of child by other persons, blackmail and disclosing private sexual images offences**

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**Table 1.1: Number of adult offenders sentenced for kidnapping, Crown Court, 2010-2020<sup>1</sup>**

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<b>Court</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>2</sup>
Crown Court	147	128	123	95	122	134	136	121	120	98	69

Notes:

1) Figures shown here differ from those published by the MoJ, as there was one kidnapping case in the CPD in 2019 which indicates that the offender was sentenced in a magistrates' court. This case has been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

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

**Table 1.2: Number and proportion of adult offenders sentenced for kidnapping, by sentence outcome, 2010-2020<sup>1</sup>**

<b>Outcome</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>2</sup>
Absolute and conditional discharge	0	1	0	0	0	1	0	0	0	0	0
Fine	0	0	0	0	0	1	0	0	0	0	0
Community sentence	3	1	0	3	1	3	0	1	3	1	2
Suspended sentence	8	6	8	10	7	10	11	8	4	3	5
Immediate custody	134	117	115	82	113	117	123	105	104	88	51
Otherwise dealt with <sup>3</sup>	2	3	0	0	1	2	2	7	9	6	11
<b>Total</b>	<b>147</b>	<b>128</b>	<b>123</b>	<b>95</b>	<b>122</b>	<b>134</b>	<b>136</b>	<b>121</b>	<b>120</b>	<b>98</b>	<b>69</b>

<b>Outcome</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>2</sup>
Absolute and conditional discharge	0%	1%	0%	0%	0%	1%	0%	0%	0%	0%	0%
Fine	0%	0%	0%	0%	0%	1%	0%	0%	0%	0%	0%
Community sentence	2%	1%	0%	3%	1%	2%	0%	1%	3%	1%	3%
Suspended sentence	5%	5%	7%	11%	6%	7%	8%	7%	3%	3%	7%
Immediate custody	91%	91%	93%	86%	93%	87%	90%	87%	87%	90%	74%
Otherwise dealt with <sup>3</sup>	1%	2%	0%	0%	1%	1%	1%	6%	8%	6%	16%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**Notes:**

1) Figures shown here differ from those published by the MoJ, as there was one kidnapping case in the CPD in 2019 which indicates that the offender was sentenced in a magistrates' court. This case has been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

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

3) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

**Table 1.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for kidnapping, 2010-2020**

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**Estimated pre-guilty plea**

<b>ACSL (years)<sup>1,2,3</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Mean	6.02	5.41	4.8	4.9	6.8	6.6	5.8	6.0	7.6	6.6	7.2
Median	5.3	4	3.8	4.0	5.6	4.5	5.0	4.5	6.8	6.0	6.9

**Post-guilty plea**

<b>ACSL (years)<sup>1,2,3</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Mean	4.88	4.39	3.8	4.0	5.6	5.8	4.8	5.3	6.7	5.9	5.8
Median	5.0	3.5	3.0	3.3	4.0	4.0	4.0	4.0	6.0	5.5	5.6

Notes:

- 1) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 2) Figures shown here differ from those published by the MoJ, as there was one kidnapping case in the CPD in 2019 which indicate that the offender was sentenced in a magistrates' court. This case has been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.
- 3) The statutory maximum sentence for this offence is life imprisonment.
- 4) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

**Table 1.4a: Estimated pre-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for kidnapping, 2010-2020**

<b>Sentence length (years)<sup>1,2,3</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Less than 2 years	23	20	27	15	12	23	18	15	7	11	5
2 to 4	27	37	32	27	24	30	35	31	24	26	6
4 to 6	25	23	18	19	27	17	18	19	20	10	13
6 to 8	21	11	8	5	14	7	22	11	11	12	10
8 to 10	12	4	9	4	12	14	12	8	12	10	7
10 to 12	8	4	5	6	7	6	13	7	16	12	4
12 to 14 years	2	3	3	1	5	5	1	3	7	1	1
Greater than 14 years	7	7	2	1	10	13	3	7	6	5	4
Indeterminate	9	8	11	4	2	2	1	4	1	1	1
<b>Total</b>	<b>134</b>	<b>117</b>	<b>115</b>	<b>82</b>	<b>113</b>	<b>117</b>	<b>123</b>	<b>105</b>	<b>104</b>	<b>88</b>	<b>51</b>

<b>Sentence length (years)<sup>1,2,3</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Less than 2 years	17%	17%	23%	18%	11%	20%	15%	14%	7%	13%	10%
2 to 4	20%	32%	28%	33%	21%	26%	28%	30%	23%	30%	12%
4 to 6	19%	20%	16%	23%	24%	15%	15%	18%	19%	11%	25%
6 to 8	16%	9%	7%	6%	12%	6%	18%	10%	11%	14%	20%
8 to 10	9%	3%	8%	5%	11%	12%	10%	8%	12%	11%	14%
10 to 12	6%	3%	4%	7%	6%	5%	11%	7%	15%	14%	8%
12 to 14 years	1%	3%	3%	1%	4%	4%	1%	3%	7%	1%	2%
Greater than 14 years	5%	6%	2%	1%	9%	11%	2%	7%	6%	6%	8%
Indeterminate	7%	7%	10%	5%	2%	2%	1%	4%	1%	1%	2%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

1) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than and equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

2) Figures shown here differ from those published by the MoJ, as there was one kidnapping case in the CPD in 2019 which indicate that the offender was sentenced in a magistrates' court. This case has been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

3) The statutory maximum sentence for this offence is life imprisonment.

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

**Table 1.4b: Post-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for kidnapping, 2010-2020**

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<b>Sentence length (years)<sup>1,2,3</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Less than 2 years	35	31	39	22	16	31	28	23	11	13	7
2 to 4	25	41	36	31	40	29	34	30	29	27	9
4 to 6	27	16	14	14	22	13	23	18	18	9	15
6 to 8	23	7	4	4	5	8	26	12	10	17	10
8 to 10	6	6	5	3	13	13	6	5	12	10	4
10 to 12	3	5	4	2	9	7	5	7	14	8	4
12 to 14 years	5	2	1	2	2	6	0	1	5	2	1
Greater than 14 years	1	1	1	0	4	8	0	5	4	1	0
Indeterminate	9	8	11	4	2	2	1	4	1	1	1
<b>Total</b>	<b>134</b>	<b>117</b>	<b>115</b>	<b>82</b>	<b>113</b>	<b>117</b>	<b>123</b>	<b>105</b>	<b>104</b>	<b>88</b>	<b>51</b>

<b>Sentence length (years)<sup>1,2,3</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Less than 2 years	26%	26%	34%	27%	14%	26%	23%	22%	11%	15%	14%
2 to 4	19%	35%	31%	38%	35%	25%	28%	29%	28%	31%	18%
4 to 6	20%	14%	12%	17%	19%	11%	19%	17%	17%	10%	29%
6 to 8	17%	6%	3%	5%	4%	7%	21%	11%	10%	19%	20%
8 to 10	4%	5%	4%	4%	12%	11%	5%	5%	12%	11%	8%
10 to 12	2%	4%	3%	2%	8%	6%	4%	7%	13%	9%	8%
12 to 14 years	4%	2%	1%	2%	2%	5%	0%	1%	5%	2%	2%
Greater than 14 years	1%	1%	1%	0%	4%	7%	0%	5%	4%	1%	0%
Indeterminate	7%	7%	10%	5%	2%	2%	1%	4%	1%	1%	2%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

1) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than and equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

2) Figures shown here differ from those published by the MoJ, as there was one kidnapping case in the CPD in 2019 which indicate that the offender was sentenced in a magistrates' court. This case has been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

3) The statutory maximum sentence for this offence is life imprisonment. In 2020 the longest post-guilty plea determinate sentence given was 13 years.

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

**Table 2.1: Number of adult offenders sentenced for false imprisonment, Crown Court, 2010-2020<sup>1</sup>**

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<b>Court</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>2</sup>
Crown Court	199	202	196	171	155	191	189	112	94	113	82

Notes:

1) Figures shown here differ from those published by the MoJ, as there were three false imprisonment cases in the CPD between 2018-2020 which indicate that the offenders were sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

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

**Table 2.2: Number and proportion of adult offenders sentenced for false imprisonment, by sentence outcome, 2010-2020<sup>1</sup>**

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<b>Outcome</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>2</sup>
Absolute and conditional discharge	1	1	1	1	1	0	7	3	0	0	0
Fine	0	1	0	0	0	0	0	0	0	0	0
Community sentence	11	11	19	7	6	7	2	3	3	4	2
Suspended sentence	20	21	32	15	26	22	27	12	5	4	5
Immediate custody	159	158	137	144	120	149	141	89	76	97	70
Otherwise dealt with <sup>3</sup>	8	10	7	4	2	13	12	5	10	8	5
<b>Total</b>	<b>199</b>	<b>202</b>	<b>196</b>	<b>171</b>	<b>155</b>	<b>191</b>	<b>189</b>	<b>112</b>	<b>94</b>	<b>113</b>	<b>82</b>

<b>Outcome</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>2</sup>
Absolute and conditional discharge	1%	<0.5%	1%	1%	1%	0%	4%	3%	0%	0%	0%
Fine	0%	<0.5%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Community sentence	6%	5%	10%	4%	4%	4%	1%	3%	3%	4%	2%
Suspended sentence	10%	10%	16%	9%	17%	12%	14%	11%	5%	4%	6%
Immediate custody	80%	78%	70%	84%	77%	78%	75%	79%	81%	86%	85%
Otherwise dealt with <sup>3</sup>	4%	5%	4%	2%	1%	7%	6%	4%	11%	7%	6%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

1) Figures shown here differ from those published by the MoJ, as there were three false imprisonment cases in the CPD between 2018-2020 which indicate that the offenders were sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

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

3) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.



**Table 2.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for false imprisonment, 2010-2020**[Index](#)**Estimated pre-guilty plea**

<b>ACSL (years)<sup>1,2,3</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Mean	4.28	4.7	3.6	4.3	4.6	4.6	4.5	5.1	5.0	6.6	4.7
Median	3.3	4	3.1	3.4	3.8	3.3	3.8	4.0	4.0	5.0	3.5

**Post-guilty plea**

<b>ACSL (years)<sup>1,2,3</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Mean	3.29	3.72	2.8	3.2	3.6	3.9	3.6	4.2	4.1	5.2	3.6
Median	2.7	3	2.5	2.8	2.7	2.7	3.0	3.0	3.0	4.0	3.0

## Notes:

- 1) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 2) Figures shown here differ from those published by the MoJ, as there were three false imprisonment cases in the CPD between 2018-2020 which indicate that the offenders were sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.
- 3) The statutory maximum sentence for this offence is life imprisonment.
- 4) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

**Table 2.4a: Estimated pre-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for false imprisonment, 2010-2020**

<b>Sentence length (years)<sup>1,2,3</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Less than 2 years	33	25	37	33	25	38	32	23	17	13	13
2 to 4	50	52	48	50	45	50	42	22	21	24	24
4 to 6	24	39	28	37	22	23	37	18	22	20	17
6 to 8	13	18	9	9	11	13	15	10	3	14	8
8 to 10	5	11	2	7	9	5	6	7	5	9	3
10 to 12	3	5	4	4	6	7	0	4	1	5	1
12 to 14 years	2	0	0	2	1	4	4	2	2	6	3
Greater than 14 years	3	1	0	1	1	4	2	3	4	6	1
Indeterminate	26	7	9	1	0	5	3	0	1	0	0
<b>Total</b>	<b>159</b>	<b>158</b>	<b>137</b>	<b>144</b>	<b>120</b>	<b>149</b>	<b>141</b>	<b>89</b>	<b>76</b>	<b>97</b>	<b>70</b>

<b>Sentence length (years)<sup>1,2,3</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Less than 2 years	21%	16%	27%	23%	21%	26%	23%	26%	22%	13%	19%
2 to 4	31%	33%	35%	35%	38%	34%	30%	25%	28%	25%	34%
4 to 6	15%	25%	20%	26%	18%	15%	26%	20%	29%	21%	24%
6 to 8	8%	11%	7%	6%	9%	9%	11%	11%	4%	14%	11%
8 to 10	3%	7%	1%	5%	8%	3%	4%	8%	7%	9%	4%
10 to 12	2%	3%	3%	3%	5%	5%	0%	4%	1%	5%	1%
12 to 14 years	1%	0%	0%	1%	1%	3%	3%	2%	3%	6%	4%
Greater than 14 years	2%	1%	0%	1%	1%	3%	1%	3%	5%	6%	1%
Indeterminate	16%	4%	7%	1%	0%	3%	2%	0%	1%	0%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

1) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than and equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

2) Figures shown here differ from those published by the MoJ, as there were three false imprisonment cases in the CPD between 2018-2020 which indicate that the offenders were sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

3) The statutory maximum sentence for this offence is life imprisonment.

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

**Table 2.4b: Post guilty-plea sentence lengths received by adult offenders sentenced to immediate custody for false imprisonment, 2010-2020**

[Index](#)

Sentence length (years) <sup>1,2,3</sup>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Less than 2 years	54	39	56	52	47	59	47	33	27	19	20
2 to 4	48	68	54	59	37	49	48	25	21	31	31
4 to 6	18	26	8	20	21	11	27	14	14	13	12
6 to 8	4	11	9	6	9	9	9	7	5	14	2
8 to 10	5	5	1	4	4	4	3	4	3	14	3
10 to 12	3	1	0	1	1	5	1	2	1	2	1
12 to 14 years	0	0	0	1	1	3	3	2	2	1	1
Greater than 14 years	1	1	0	0	0	4	0	2	2	3	0
Indeterminate	26	7	9	1	0	5	3	0	1	0	0
<b>Total</b>	<b>159</b>	<b>158</b>	<b>137</b>	<b>144</b>	<b>120</b>	<b>149</b>	<b>141</b>	<b>89</b>	<b>76</b>	<b>97</b>	<b>70</b>

Sentence length (years) <sup>1,2,3</sup>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Less than 2 years	34%	25%	41%	36%	39%	40%	33%	37%	36%	20%	29%
2 to 4	30%	43%	39%	41%	31%	33%	34%	28%	28%	32%	44%
4 to 6	11%	16%	6%	14%	18%	7%	19%	16%	18%	13%	17%
6 to 8	3%	7%	7%	4%	8%	6%	6%	8%	7%	14%	3%
8 to 10	3%	3%	1%	3%	3%	3%	2%	4%	4%	14%	4%
10 to 12	2%	1%	0%	1%	1%	3%	1%	2%	1%	2%	1%
12 to 14 years	0%	0%	0%	1%	1%	2%	2%	2%	3%	1%	1%
Greater than 14 years	1%	1%	0%	0%	0%	3%	0%	2%	3%	3%	0%
Indeterminate	16%	4%	7%	1%	0%	3%	2%	0%	1%	0%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

1) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 2 years' includes sentence lengths less than and equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

2) Figures shown here differ from those published by the MoJ, as there were three false imprisonment cases in the CPD between 2018-2020 which indicate that the offenders were sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

3) The statutory maximum sentence for this offence is life imprisonment. In 2020 the longest post-guilty plea determinate sentence given was 14 years.

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

**Table 3.1: Number of adult offenders sentenced for abduction of child by parent, etc, all courts, 2010-2020**

[Index](#)

<b>Court</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>
Magistrates' court	1	0	0	0	0	2	2	0	0	0	0
Crown Court	7	12	6	11	17	15	13	10	9	11	7
<b>Total</b>	<b>8</b>	<b>12</b>	<b>6</b>	<b>11</b>	<b>17</b>	<b>17</b>	<b>15</b>	<b>10</b>	<b>9</b>	<b>11</b>	<b>7</b>

<b>Court</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Magistrates' court	13%	0%	0%	0%	0%	12%	13%	0%	0%	0%	0%
Crown Court	88%	100%	100%	100%	100%	88%	87%	100%	100%	100%	100%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

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

**Table 3.2: Number and proportion of adult offenders sentenced for abduction of child by parent, etc, by sentence outcome, 2010-2020**

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<b>Outcome</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>
Absolute and conditional discharge	1	0	0	0	0	1	1	1	0	0	0
Fine	0	0	0	0	0	1	0	0	0	0	0
Community sentence	1	0	0	0	1	0	0	0	0	0	1
Suspended sentence	2	5	1	3	7	6	7	3	4	3	1
Immediate custody	3	7	5	8	9	9	7	6	5	8	5
Otherwise dealt with <sup>2</sup>	1	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>8</b>	<b>12</b>	<b>6</b>	<b>11</b>	<b>17</b>	<b>17</b>	<b>15</b>	<b>10</b>	<b>9</b>	<b>11</b>	<b>7</b>

<b>Outcome</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>
Absolute and conditional discharge	13%	0%	0%	0%	0%	6%	7%	10%	0%	0%	0%
Fine	0%	0%	0%	0%	0%	6%	0%	0%	0%	0%	0%
Community sentence	13%	0%	0%	0%	6%	0%	0%	0%	0%	0%	14%
Suspended sentence	25%	42%	17%	27%	41%	35%	47%	30%	44%	27%	14%
Immediate custody	38%	58%	83%	73%	53%	53%	47%	60%	56%	73%	71%
Otherwise dealt with <sup>2</sup>	13%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

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

2) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

**Table 3.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for abduction of child by parent, etc, 2010-2020**

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**Estimated pre-guilty plea**

<b>ACSL (years)<sup>1,2</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Mean	2.15	3.03	3.2	2.1	4.0	2.7	3.1	2.4	3.2	2.2	3.4
Median	1.8	2.25	2.7	1.9	2.5	2.0	2.7	2.6	2.7	1.3	3.0

**Post-guilty plea**

<b>ACSL (years)<sup>1,2</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Mean	1.83	2.06	2.2	1.7	3.3	2.1	2.3	1.9	2.3	1.6	3.0
Median	1.2	1.5	2.0	1.3	1.7	2.0	2.0	2.0	2.7	1.0	3.0

Notes:

- 1) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 2) The statutory maximum sentence for this offence is 7 years' custody.
- 3) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 4) For 2013 onwards this is calculated as the number of offenders given life sentences, out of the number of offenders given a sentence of immediate custody. For 2010-2012, this is calculated as the number of offenders sentenced to Imprisonment for Public Protection (IPP), Extended Sentences for Public Protection (EPP) and life sentences, out of the number of offenders given a sentence of immediate custody. IPP and EPP sentences were introduced in 2005 and abolished in 2012.

**Table 3.4a: Estimated pre-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for abduction of child by parent, etc, 2010-2020**

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Sentence length (years) <sup>1,2</sup>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Less than 1 year	0	1	0	2	1	0	1	0	1	1	0
1 to 2	2	2	2	4	2	5	2	2	1	5	0
2 to 3	0	1	2	1	2	1	2	3	1	1	3
3 to 4	1	1	0	0	0	2	1	1	0	0	1
4 to 5	0	1	0	0	2	0	0	0	0	0	1
5 to 6	0	0	0	1	0	1	0	0	2	0	0
6 to 7	0	0	0	0	1	0	0	0	0	0	0
Greater than 7 years <sup>4</sup>	0	1	1	0	1	0	1	0	0	1	0
<b>Total</b>	<b>3</b>	<b>7</b>	<b>5</b>	<b>8</b>	<b>9</b>	<b>9</b>	<b>7</b>	<b>6</b>	<b>5</b>	<b>8</b>	<b>5</b>

Sentence length (years) <sup>1,2</sup>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Less than 1 year	0%	14%	0%	25%	11%	0%	14%	0%	20%	13%	0%
1 to 2	67%	29%	40%	50%	22%	56%	29%	33%	20%	63%	0%
2 to 3	0%	14%	40%	13%	22%	11%	29%	50%	20%	13%	60%
3 to 4	33%	14%	0%	0%	0%	22%	14%	17%	0%	0%	20%
4 to 5	0%	14%	0%	0%	22%	0%	0%	0%	0%	0%	20%
5 to 6	0%	0%	0%	13%	0%	11%	0%	0%	40%	0%	0%
6 to 7	0%	0%	0%	0%	11%	0%	0%	0%	0%	0%	0%
Greater than 7 years <sup>4</sup>	0%	14%	20%	0%	11%	0%	14%	0%	0%	13%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

1) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than and equal to 1 year, and '1 to 2' includes sentence lengths over 1 year and up to and including 2 years.

2) The statutory maximum sentence for this offence is 7 years' custody.

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

4) While these sentences appear to exceed the statutory maximum, they are estimates only; there are no post guilty plea sentence lengths exceeding the statutory maximum.

**Table 3.4b: Post-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for abduction of child by parent, etc, 2010-2020**

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<b>Sentence length (years)<sup>1,2</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Less than 1 year	1	2	2	2	3	1	1	1	2	5	0
1 to 2	1	2	2	5	2	5	3	4	0	2	1
2 to 3	0	2	0	0	0	1	2	1	1	0	2
3 to 4	1	0	0	0	0	2	0	0	2	0	2
4 to 5	0	1	1	0	2	0	0	0	0	0	0
5 to 6	0	0	0	1	0	0	1	0	0	1	0
6 to 7 years	0	0	0	0	2	0	0	0	0	0	0
<b>Total</b>	<b>3</b>	<b>7</b>	<b>5</b>	<b>8</b>	<b>9</b>	<b>9</b>	<b>7</b>	<b>6</b>	<b>5</b>	<b>8</b>	<b>5</b>

<b>Sentence length (years)<sup>1,2</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Less than 1 year	33%	29%	40%	25%	33%	11%	14%	17%	40%	63%	0%
1 to 2	33%	29%	40%	63%	22%	56%	43%	67%	0%	25%	20%
2 to 3	0%	29%	0%	0%	0%	11%	29%	17%	20%	0%	40%
3 to 4	33%	0%	0%	0%	0%	22%	0%	0%	40%	0%	40%
4 to 5	0%	14%	20%	0%	22%	0%	0%	0%	0%	0%	0%
5 to 6	0%	0%	0%	13%	0%	0%	14%	0%	0%	13%	0%
6 to 7 years	0%	0%	0%	0%	22%	0%	0%	0%	0%	0%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

- 1) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than and equal to 1 year, and '1 to 2' includes sentence lengths over 1 year and up to and including 2 years.
- 2) The statutory maximum sentence for this offence is 7 years' custody. In 2020 the longest post-guilty plea determinate sentence given was 4 years.
- 3) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.



**Table 4.1: Number of adult offenders sentenced for abduction of child by other persons, all courts, 2010-2020**

[Index](#)

<b>Court</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>
Magistrates' court	8	16	14	19	14	26	29	20	30	19	17
Crown Court	60	53	67	48	65	71	59	59	42	41	32
<b>Total</b>	<b>68</b>	<b>69</b>	<b>81</b>	<b>67</b>	<b>79</b>	<b>97</b>	<b>88</b>	<b>79</b>	<b>72</b>	<b>60</b>	<b>49</b>

<b>Court</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Magistrates' court	12%	23%	17%	28%	18%	27%	33%	25%	42%	32%	35%
Crown Court	88%	77%	83%	72%	82%	73%	67%	75%	58%	68%	65%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

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

**Table 4.2: Number and proportion of adult offenders sentenced for abduction of child by other persons, by sentence outcome, 2010-2020**

[Index](#)

<b>Outcome</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>
Absolute and conditional discharge	2	4	5	7	5	9	9	5	7	3	4
Fine	1	1	1	1	0	0	1	2	4	0	0
Community sentence	12	20	22	11	11	17	16	11	15	8	12
Suspended sentence	14	11	12	13	18	23	20	19	13	9	6
Immediate custody	38	28	40	30	43	44	40	36	25	32	24
Otherwise dealt with <sup>2</sup>	1	5	1	5	2	4	2	6	8	8	3
<b>Total</b>	<b>68</b>	<b>69</b>	<b>81</b>	<b>67</b>	<b>79</b>	<b>97</b>	<b>88</b>	<b>79</b>	<b>72</b>	<b>60</b>	<b>49</b>

<b>Outcome</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>1</sup>
Absolute and conditional discharge	3%	6%	6%	10%	6%	9%	10%	6%	10%	5%	8%
Fine	1%	1%	1%	1%	0%	0%	1%	3%	6%	0%	0%
Community sentence	18%	29%	27%	16%	14%	18%	18%	14%	21%	13%	24%
Suspended sentence	21%	16%	15%	19%	23%	24%	23%	24%	18%	15%	12%
Immediate custody	56%	41%	49%	45%	54%	45%	45%	46%	35%	53%	49%
Otherwise dealt with <sup>2</sup>	1%	7%	1%	7%	3%	4%	2%	8%	11%	13%	6%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

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

2) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

**Table 4.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for abduction of child by other persons, etc, 2010-2020**

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**Estimated pre-guilty plea**

<b>ACSL (years)<sup>1,2</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Mean	2.53	1.88	1.9	2.2	1.8	2.3	1.8	1.9	2.0	2.0	2.2
Median	2.3	2	1.7	1.6	1.5	1.9	1.5	1.5	1.3	1.8	1.8

**Post-guilty plea**

<b>ACSL (years)<sup>1,2</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Mean	1.86	1.44	1.4	1.7	1.4	1.7	1.4	1.4	1.6	1.5	1.6
Median	1.6	1.33	1.2	1.3	1.2	1.5	1.1	1.1	1.0	1.3	1.2

Notes:

- 1) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 2) The statutory maximum sentence for this offence is 7 years' custody.
- 3) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 4) For 2013 onwards this is calculated as the number of offenders given life sentences, out of the number of offenders given a sentence of immediate custody. For 2010-2012, this is calculated as the number of offenders sentenced to Imprisonment for Public Protection (IPP), Extended Sentences for Public Protection (EPP) and life sentences, out of the number of offenders given a sentence of immediate custody. IPP and EPP sentences were introduced in 2005 and abolished in 2012.

**Table 4.4a: Estimated pre-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for abduction of child by other persons, etc, 2010-2020**

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Sentence length (years) <sup>1,2</sup>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Less than 1 year	4	10	11	9	12	8	16	10	8	9	8
1 to 2	12	8	16	8	17	16	10	12	9	11	6
2 to 3	12	6	8	6	8	8	5	11	2	4	4
3 to 4	5	4	2	2	3	9	6	1	2	6	2
4 to 5	2	0	2	3	1	3	1	1	3	2	0
5 to 6	2	0	1	2	2	0	2	1	1	0	3
6 to 7	0	0	0	0	0	0	0	0	0	0	0
Greater than 7 years <sup>4</sup>	1	0	0	0	0	0	0	0	0	0	1
<b>Total</b>	<b>38</b>	<b>28</b>	<b>40</b>	<b>30</b>	<b>43</b>	<b>44</b>	<b>40</b>	<b>36</b>	<b>25</b>	<b>32</b>	<b>24</b>

Sentence length (years) <sup>1,2</sup>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Less than 1 year	11%	36%	28%	30%	28%	18%	40%	28%	32%	28%	33%
1 to 2	32%	29%	40%	27%	40%	36%	25%	33%	36%	34%	25%
2 to 3	32%	21%	20%	20%	19%	18%	13%	31%	8%	13%	17%
3 to 4	13%	14%	5%	7%	7%	20%	15%	3%	8%	19%	8%
4 to 5	5%	0%	5%	10%	2%	7%	3%	3%	12%	6%	0%
5 to 6	5%	0%	3%	7%	5%	0%	5%	3%	4%	0%	13%
6 to 7	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Greater than 7 years <sup>4</sup>	3%	0%	0%	0%	0%	0%	0%	0%	0%	0%	4%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

1) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than and equal to 1 year, and '1 to 2' includes sentence lengths over 1 year and up to and including 2 years.

2) The statutory maximum sentence for this offence is 7 years' custody.

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

4) While these sentences appear to exceed the statutory maximum, they are estimates only; there are no post guilty plea sentence lengths exceeding the statutory maximum.

**Table 4.4b: Post-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for abduction of child by other persons, 2010-2020**

[Index](#)

<b>Sentence length (years)<sup>1,2</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Less than 1 year	10	11	19	14	21	15	20	18	15	12	11
1 to 2	16	12	14	9	14	15	10	12	3	12	6
2 to 3	8	3	5	2	5	11	7	3	4	8	3
3 to 4	3	2	2	2	3	3	1	3	1	0	3
4 to 5	1	0	0	2	0	0	2	0	2	0	0
5 to 6	0	0	0	1	0	0	0	0	0	0	1
6 to 7 years	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>38</b>	<b>28</b>	<b>40</b>	<b>30</b>	<b>43</b>	<b>44</b>	<b>40</b>	<b>36</b>	<b>25</b>	<b>32</b>	<b>24</b>

<b>Sentence length (years)<sup>1,2</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>3</sup>
Less than 1 year	26%	39%	48%	47%	49%	34%	50%	50%	60%	38%	46%
1 to 2	42%	43%	35%	30%	33%	34%	25%	33%	12%	38%	25%
2 to 3	21%	11%	13%	7%	12%	25%	18%	8%	16%	25%	13%
3 to 4	8%	7%	5%	7%	7%	7%	3%	8%	4%	0%	13%
4 to 5	3%	0%	0%	7%	0%	0%	5%	0%	8%	0%	0%
5 to 6	0%	0%	0%	3%	0%	0%	0%	0%	0%	0%	4%
6 to 7 years	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

- 1) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than and equal to 1 year, and '1 to 2' includes sentence lengths over 1 year and up to and including 2 years.
- 2) The statutory maximum sentence for this offence is 7 years' custody. In 2020 the longest post-guilty plea determinate sentence given was 5 years 9 months.
- 3) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

**Table 5.1: Number of adult offenders sentenced for blackmail, Crown Court, 2010 to 2020<sup>1,2</sup>**

<b>Court</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Crown Court	170	147	143	137	202	220	179	149	158	134	108
<b>Total</b>	<b>170</b>	<b>147</b>	<b>143</b>	<b>137</b>	<b>202</b>	<b>220</b>	<b>179</b>	<b>149</b>	<b>158</b>	<b>134</b>	<b>108</b>

**Notes:**

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

2) Figures shown here differ from those published by the MoJ, as there were four blackmail cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court. There was also an indeterminate sentence in 2012 which has been excluded from the above table.

**Table 5.2: Number and proportion of adult offenders sentenced for blackmail, by sentence outcome, 2010-2020<sup>1,2</sup>**[Index](#)

<b>Outcome</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Community sentence	3	5	3	4	3	4	3	1	2	4	2
Suspended sentence	18	11	14	30	30	39	40	26	29	25	31
Immediate custody	146	126	125	99	168	177	135	120	125	103	70
Otherwise dealt with <sup>3</sup>	3	5	1	4	1	0	1	2	2	2	5
<b>Total</b>	<b>170</b>	<b>147</b>	<b>143</b>	<b>137</b>	<b>202</b>	<b>220</b>	<b>179</b>	<b>149</b>	<b>158</b>	<b>134</b>	<b>108</b>

<b>Outcome</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Community sentence	2%	3%	2%	3%	1%	2%	2%	1%	1%	3%	2%
Suspended sentence	11%	7%	10%	22%	15%	18%	22%	17%	18%	19%	29%
Immediate custody	86%	86%	87%	72%	83%	80%	75%	81%	79%	77%	65%
Otherwise dealt with <sup>3</sup>	2%	3%	1%	3%	<0.5%	0%	1%	1%	1%	1%	5%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

## Notes:

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

2) Figures shown here differ from those published by the MoJ, as there were four blackmail cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court. There was also an indeterminate sentence in 2012 which has been excluded from the above table.

3) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

**Table 5.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for blackmail, 2010-2020<sup>1,2,3</sup>**

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**Estimated pre-guilty plea**

<b>ACSL (years)</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Mean	3.5	3.8	3.3	3.8	3.9	3.4	3.7	3.5	3.7	3.8	3.7
Median	3.0	3.1	3.0	3.3	3.4	3.0	3.3	3.2	3.4	3.3	3.1

**Post-guilty plea**

<b>ACSL (years)</b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>4</sup>
Mean	2.8	3.0	2.6	3.0	3.1	2.7	2.9	2.8	2.8	3.0	2.9
Median	2.5	2.5	2.0	2.5	2.7	2.3	2.5	2.4	2.5	2.3	2.3

Notes:

1) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.

2) The statutory maximum sentence for this offence is 14 years.

3) Figures shown here differ from those published by the MoJ, as there were four blackmail cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

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



**Table 5.4a: Estimated pre-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for blackmail, 2010-2020<sup>1,2</sup>**

[Index](#)

<b>Sentence length (years)<sup>3,4</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Up to 2 years	38	33	28	22	30	54	35	35	28	30	14
2 to 4	63	55	71	44	79	77	61	47	58	39	33
4 to 6	35	20	17	21	39	33	23	27	25	17	16
6 to 8	3	9	6	8	13	8	9	9	7	11	4
8 to 10	4	4	2	2	3	3	3	2	7	6	0
Greater than 10 years	3	5	1	2	4	2	4	0	0	0	3
<b>Total</b>	<b>146</b>	<b>126</b>	<b>125</b>	<b>99</b>	<b>168</b>	<b>177</b>	<b>135</b>	<b>120</b>	<b>125</b>	<b>103</b>	<b>70</b>

<b>Sentence length (years)<sup>3,4</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Up to 2 years	26%	26%	22%	22%	18%	31%	26%	29%	22%	29%	20%
2 to 4	43%	44%	57%	44%	47%	44%	45%	39%	46%	38%	47%
4 to 6	24%	16%	14%	21%	23%	19%	17%	23%	20%	17%	23%
6 to 8	2%	7%	5%	8%	8%	5%	7%	8%	6%	11%	6%
8 to 10	3%	3%	2%	2%	2%	2%	2%	2%	6%	6%	0%
Greater than 10 years	2%	4%	1%	2%	2%	1%	3%	0%	0%	0%	4%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

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

2) Figures shown here differ from those published by the MoJ, as there were four blackmail cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court. There was also an indeterminate sentence in 2012 which has been excluded from the above table.

3) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Up to 2 years' includes sentence lengths less than or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

4) The statutory maximum sentence for this offence is 14 years.

**Table 5.4b: Post-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for blackmail, 2010-2020<sup>1,2</sup>**

[Index](#)

<b>Sentence length (years)<sup>3,4</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Up to 2 years	65	56	64	42	58	79	55	51	55	45	27
2 to 4	60	46	46	35	76	75	55	47	47	36	33
4 to 6	15	12	12	17	22	16	16	18	19	14	7
6 to 8	3	10	3	4	10	5	5	4	4	6	1
8 to 10	3	0	0	0	0	1	4	0	0	2	0
Greater than 10 years	0	2	0	1	2	1	0	0	0	0	2
<b>Total</b>	<b>146</b>	<b>126</b>	<b>125</b>	<b>99</b>	<b>168</b>	<b>177</b>	<b>135</b>	<b>120</b>	<b>125</b>	<b>103</b>	<b>70</b>

<b>Sentence length (years)<sup>3,4</sup></b>	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Up to 2 years	45%	44%	51%	42%	35%	45%	41%	43%	44%	44%	39%
2 to 4	41%	37%	37%	35%	45%	42%	41%	39%	38%	35%	47%
4 to 6	10%	10%	10%	17%	13%	9%	12%	15%	15%	14%	10%
6 to 8	2%	8%	2%	4%	6%	3%	4%	3%	3%	6%	1%
8 to 10	2%	0%	0%	0%	0%	1%	3%	0%	0%	2%	0%
Greater than 10 years	0%	2%	0%	1%	1%	1%	0%	0%	0%	0%	3%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

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

2) Figures shown here differ from those published by the MoJ, as there were four blackmail cases in the CPD between 2010-2020 which indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court. There was also an indeterminate sentence in 2012 which has been excluded from the above table.

3) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Up to 2 years' includes sentence lengths less than or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

4) The statutory maximum sentence for this offence is 14 years. In 2020 the longest post-guilty plea determinate sentence given was 12 years.

**Table 6.1: Number of adult offenders sentenced for disclosing private sexual images, all courts, 2015-2021<sup>1</sup>**

<b>Court</b>	2015	2016	2017	2018	2019	2020 <sup>2</sup>	2021
Magistrates' court	57	190	195	132	113	99	138
Crown Court	5	36	49	49	61	58	58
<b>Total</b>	<b>62</b>	<b>226</b>	<b>244</b>	<b>181</b>	<b>174</b>	<b>157</b>	<b>196</b>

<b>Court</b>	2015	2016	2017	2018	2019	2020 <sup>2</sup>	2021
Magistrates' court	92%	84%	80%	73%	65%	63%	70%
Crown Court	8%	16%	20%	27%	35%	37%	30%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

## Notes:

1) This offence came into force in 2015 and the legislation was amended in 2021 to also include threats to disclose private sexual images. Therefore, tables for this offence are presented for the years 2015-2021. Currently, there is no way of disaggregating the threats to disclose offences from the substantive offence using the data, so the figures for 2021 may include some threats to disclose offences (if there were any).

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

**Table 6.2: Number and proportion of adult offenders sentenced for disclosing private sexual images, by sentence outcome, 2015-2021<sup>1,2</sup>**

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<b>Outcome</b>	2015	2016	2017	2018	2019	2020 <sup>3</sup>	2021
Conditional discharge	1	10	10	4	7	5	8
Fine	4	16	13	6	7	5	5
Community sentence	23	59	77	62	63	46	63
Suspended sentence	18	85	98	68	56	63	84
Immediate custody	16	52	45	40	41	37	35
Otherwise dealt with	0	4	1	1	0	1	1
<b>Total</b>	<b>62</b>	<b>226</b>	<b>244</b>	<b>181</b>	<b>174</b>	<b>157</b>	<b>196</b>

<b>Outcome</b>	2015	2016	2017	2018	2019	2020 <sup>3</sup>	2021
Conditional discharge	2%	4%	4%	2%	4%	3%	4%
Fine	6%	7%	5%	3%	4%	3%	3%
Community sentence	37%	26%	32%	34%	36%	29%	32%
Suspended sentence	29%	38%	40%	38%	32%	40%	43%
Immediate custody	26%	23%	18%	22%	24%	24%	18%
Otherwise dealt with	0%	2%	<0.5%	1%	0%	1%	1%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

1) This offence came into force in 2015 and the legislation was amended in 2021 to also include threats to disclose private sexual images. Therefore, tables for this offence are presented for the years 2015-2021. Currently, there is no way of disaggregating the threats to disclose offences from the substantive offence using the data, so the figures for 2021 may include some threats to disclose offences (if there were any).

2) The statutory maximum sentence for this offence is 2 years' custody.

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

**Table 6.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for disclosing private sexual images, 2015-2021<sup>1,2</sup>**

**Estimated pre-guilty plea**

<b>ACSL (months)</b>	2015	2016	2017	2018	2019	2020 <sup>3</sup>	2021
Mean	7.3	7.6	7.9	8.4	8.7	9.6	9.3
Median	5.6	5.6	6.7	6.9	6.7	9.0	8.0

**Post-guilty plea**

<b>ACSL (months)</b>	2015	2016	2017	2018	2019	2020 <sup>3</sup>	2021
Mean	5.2	5.5	5.7	6.1	6.3	6.9	6.8
Median	3.7	3.9	5.0	5.2	6.0	6.0	6.0

Notes:

1) This offence came into force in 2015 and the legislation was amended in 2021 to also include threats to disclose private sexual images. Therefore, tables for this offence are presented for the years 2015-2021. Currently, there is no way of disaggregating the threats to disclose offences from the substantive offence using the data, so the figures for 2021 may include some threats to disclose offences (if there were any).

2) The statutory maximum sentence for this offence is 2 years' custody.

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

**Table 6.4a: Estimated pre-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for disclosing private sexual images, 2015-2021<sup>1,2</sup>**

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Sentence length (months) <sup>3</sup>	2015	2016	2017	2018	2019	2020 <sup>4</sup>	2021
Up to 3 months	3	9	11	4	3	2	3
3 to 6	7	21	7	13	16	12	12
6 to 9	4	12	17	13	8	9	7
9 to 12	1	2	1	2	5	2	5
12 to 15	0	2	6	2	4	7	2
15 to 18	0	4	0	4	4	3	3
18 to 21	0	0	2	1	1	2	2
21 to 24	0	1	1	0	0	0	0
Greater than 24 months <sup>5</sup>	1	1	0	1	0	0	1
<b>Total</b>	<b>16</b>	<b>52</b>	<b>45</b>	<b>40</b>	<b>41</b>	<b>37</b>	<b>35</b>

Sentence length (months) <sup>3</sup>	2015	2016	2017	2018	2019	2020 <sup>4</sup>	2021
Up to 3 months	19%	17%	24%	10%	7%	5%	9%
3 to 6	44%	40%	16%	33%	39%	32%	34%
6 to 9	25%	23%	38%	33%	20%	24%	20%
9 to 12	6%	4%	2%	5%	12%	5%	14%
12 to 15	0%	4%	13%	5%	10%	19%	6%
15 to 18	0%	8%	0%	10%	10%	8%	9%
18 to 21	0%	0%	4%	3%	2%	5%	6%
21 to 24	0%	2%	2%	0%	0%	0%	0%
Greater than 24 months <sup>5</sup>	6%	2%	0%	3%	0%	0%	3%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

1) This offence came into force in 2015 and the legislation was amended in 2021 to also include threats to disclose private sexual images. Therefore, tables for this offence are presented for the years 2015-2021. Currently, there is no way of disaggregating the threats to disclose offences from the substantive offence using the data, so the figures for 2021 may include some threats to disclose offences (if there were any).

2) The statutory maximum sentence for this offence is 2 years' custody.

3) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Up to 3 months' includes sentence lengths less than or equal to 3 months, and '3 to 6' includes sentence lengths over 3 months, and up to and including 6 months.

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

5) While these sentences appear to exceed the statutory maximum, they are estimates only; there are no post-guilty plea sentence lengths exceeding the statutory maximum.

**Table 6.4b: Post-guilty plea sentence lengths received by adult offenders sentenced to immediate custody for disclosing private sexual images, 2015-2021<sup>1,2</sup>**

[Index](#)

Sentence length (months) <sup>3</sup>	2015	2016	2017	2018	2019	2020 <sup>4</sup>	2021
Up to 3 months	5	17	12	11	11	6	12
3 to 6	8	25	22	19	14	17	10
6 to 9	2	2	4	2	9	3	4
9 to 12	0	6	3	6	5	8	5
12 to 15	0	1	3	1	1	3	2
15 to 18	0	0	1	0	1	0	2
18 to 21	0	0	0	1	0	0	0
21 to 24	1	1	0	0	0	0	0
<b>Total</b>	<b>16</b>	<b>52</b>	<b>45</b>	<b>40</b>	<b>41</b>	<b>37</b>	<b>35</b>

Sentence length (months) <sup>3</sup>	2015	2016	2017	2018	2019	2020 <sup>4</sup>	2021
Up to 3 months	31%	33%	27%	28%	27%	16%	34%
3 to 6	50%	48%	49%	48%	34%	46%	29%
6 to 9	13%	4%	9%	5%	22%	8%	11%
9 to 12	0%	12%	7%	15%	12%	22%	14%
12 to 15	0%	2%	7%	3%	2%	8%	6%
15 to 18	0%	0%	2%	0%	2%	0%	6%
18 to 21	0%	0%	0%	3%	0%	0%	0%
21 to 24	6%	2%	0%	0%	0%	0%	0%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Notes:

1) This offence came into force in 2015 and the legislation was amended in 2021 to also include threats to disclose private sexual images. Therefore, tables for this offence are presented for the years 2015-2021. Currently, there is no way of disaggregating the threats to disclose offences from the substantive offence using the data, so the figures for 2021 may include some threats to disclose offences (if there were any).

2) The statutory maximum sentence for this offence is 2 years' custody. In 2021 the longest post-guilty plea determinate sentence given was 18 months.

3) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Up to 3 months' includes sentence lengths less than or equal to 3 months, and '3 to 6' includes sentence lengths over 3 months, and up to and including 6 months.

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

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# Blackmail

**Theft Act 1968 (section 21)**

**Triable only on indictment**

**Maximum: 14 years' custody**

**Offence range: x – xx years' custody**

Guideline users should be aware that the [Equal Treatment Bench Book](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. It provides guidance which sentencers are encouraged to take into account wherever applicable, to ensure that there is fairness for all involved in court proceedings.

**STEP ONE****Determining the offence category**

The court should determine the offence category with reference only to the factors in the table below. In order to determine the category the court should assess **culpability** and **harm**.

The level of **culpability** is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

<b>CULPABILITY</b>	
Demonstrated by one or more of the following:	
<b>A-</b> High Culpability	<ul style="list-style-type: none"> <li>• Conduct over a sustained period of time</li> <li>• Sophisticated and/or planned nature of conduct</li> <li>• Deliberate targeting of particularly vulnerable victim</li> <li>• Use of violence</li> </ul>
<b>B-</b> Medium culpability	<ul style="list-style-type: none"> <li>• Violence threatened</li> <li>• Other cases that fall between categories A and C because:               <ul style="list-style-type: none"> <li>○ Factors are present in A and C which balance each other out <b>and/or</b></li> <li>○ The offender's culpability falls between the factors described in A and C</li> </ul> </li> </ul>
<b>C-</b> Lower culpability	<ul style="list-style-type: none"> <li>• Unplanned and/or limited in scope and duration</li> <li>• Involved through coercion, intimidation or exploitation</li> <li>• Offender's responsibility substantially reduced by mental disorder or learning disability</li> </ul>

<b>HARM</b>	
<b>The level of harm is assessed by weighing up all the factors in the case.</b>	
Category 1	<ul style="list-style-type: none"> <li>• Serious distress caused to the victim</li> <li>• Serious distress caused to others</li> <li>• Very large amount of money obtained</li> <li>• Serious consequential financial impact of the offence</li> <li>• Widespread public impact of the offence</li> </ul>
Category 2	<ul style="list-style-type: none"> <li>• Some distress caused to the victim</li> <li>• Some distress caused to others</li> <li>• Some consequential financial impact of the offence</li> <li>• Considerable amount of money obtained</li> </ul>
Category 3	<ul style="list-style-type: none"> <li>• Limited effects of the offence</li> <li>• Small amount of money obtained</li> </ul>

## STEP TWO

### Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions

Harm	Culpability		
	A	B	C
<b>Category 1</b>	<b>Starting Point</b> 7 years' custody <b>Category Range</b> 4 - 10 years' custody	<b>Starting Point</b> 4 years' custody <b>Category Range</b> 2 -6 years' custody	<b>Starting Point</b> 2 years' custody <b>Category Range</b> 1 -4 years' custody
<b>Category 2</b>	<b>Starting Point</b> 4 years' custody <b>Category Range</b> 2 -6 years' custody	<b>Starting Point</b> 2 years' custody <b>Category Range</b> 1 -4 years' custody	<b>Starting Point</b> 1 years' custody <b>Category Range</b> 6 months'- 2 years' custody
<b>Category 3</b>	<b>Starting Point</b> 2 years' custody <b>Category Range</b> 1 -4 years' custody	<b>Starting Point</b> 1 years' custody <b>Category Range</b> 6 months' - 2 years' custody	<b>Starting Point</b> 6 months' custody <b>Category Range</b> High level Community order - 1 year's custody

[Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the Totality guideline and step five of this guideline.]

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

#### Factors increasing seriousness

##### *Statutory aggravating factors:*

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

*Other aggravating factors:*

- Disturbing nature of the threat(s)
- Offence related to other criminal activity
- Abuse of trust or dominant position
- Other(s) put at risk of harm by the offending
- Blame wrongly placed on others
- Offence committed in a domestic context
- Commission of offence whilst under the influence of alcohol or drugs
- Leading role in group
- Offender involves others in the conduct
- Offence committed on licence or while subject to court order(s)

**Factors reducing seriousness or reflecting personal mitigation**

- No previous convictions **or** no relevant/recent convictions
- Remorse
- The offender was in a lesser or subordinate role if acting with others/performed limited role under direction
- Good character and/or exemplary conduct
- Co-operation with the investigation/early admissions
- Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment
- Mental disorder or learning disability (where not taken into account at step 1)
- Age and/or lack of maturity
- Sole or primary carer for dependent relatives
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour

**STEP 3****Consider any factors which indicate a reduction for assistance to the prosecution**

The court should take into account [section 74 of the Sentencing Code](#) (reduction in sentence for assistance to prosecution) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

**STEP 4****Reduction for guilty pleas**

The court should take account of any potential reduction for a guilty plea in accordance with [section 73 of the Sentencing Code](#) and the [Reduction in Sentence for a Guilty Plea guideline](#).

**STEP 5****Totality principle**

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the [Totality](#) guideline.

**STEP 6****Compensation and ancillary orders**

Where the offence has resulted in loss or damage the court must consider whether to make a compensation order and must give reasons if it does not do so ([section 55 of the Sentencing Code](#)).

**STEP 7****Reasons**

[Section 52 of the Sentencing Code](#) imposes a duty to give reasons for, and explain the effect of, the sentence.

**STEP 8****Consideration for time spent on bail (tagged curfew)**

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003 and [section 325 of the Sentencing Code](#).

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**Framework Document between**

**THE MINISTRY OF JUSTICE**

**AND**

**THE SENTENCING COUNCIL**

**FOR ENGLAND AND WALES**

**Effective from XXXX 2022**



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## Introduction and Background

### 1. Purpose of document

- 1.1 This Framework Document (the “Framework Document”) has been agreed between the Ministry of Justice (“MoJ”) and the Sentencing Council of England and Wales (“the Council”) in accordance with HM Treasury’s handbook Managing Public Money (“MPM”) (as updated from time to time) and has been approved by HM Treasury.
- 1.2 The Framework Document sets out the broad governance framework within which the Sentencing Council and the MoJ operate. It sets out the Sentencing Council’s core responsibilities; describes the governance and accountability framework that applies between the roles of the MoJ, and the Sentencing Council, and sets out how the day-to-day relationship works in practice, including in relation to governance and financial matters. This framework maintains the independence of the Council whilst recognising the responsibilities of the Council, Ministers and the Permanent Secretary.
- 1.3 The document does not convey any legal powers or responsibilities but both parties agree to operate within its terms.
- 1.4 Copies of the document and any subsequent amendments have been placed in the Libraries of both Houses of Parliament and made available to members of the public on <https://www.sentencingcouncil.org.uk/>.
- 1.5 This Framework Document should be reviewed and updated at least every 3 years unless there are exceptional reasons that render this inappropriate that have been agreed with HM Treasury and the Principal Accounting Officer of the sponsor department. The latest date for review and updating of this document is [xxx] 2025.

### 2. Objectives

- 2.1. The MoJ and the Sentencing Council share the common objective of promoting greater transparency and consistency in sentencing, while maintaining the independence of the judiciary. To achieve this the Sentencing Council and the MoJ will work together in recognition of each other's roles and areas of expertise, providing an effective environment for the Sentencing Council to achieve its objectives in support of transparent and consistent sentencing.

### 3. Classification

- 3.1 For the purposes of administration and governance, the Sentencing Council is classified by Cabinet Office as a Non-Departmental Public Body with Advisory Function. Unlike most advisory NDPBs, however, the Council does not advise Ministers. The Council is independent of the Government, Parliament and of the Judiciary as regards the guidelines it issues to courts, its monitoring of their use, its resource assessments, its publications, its promotion of awareness of sentencing and in its approach to delivering these.

## **Purposes, Aims and Duties**

### **4. Purposes**

4.1 The Sentencing Council for England and Wales (referred to herein as 'the Council') was established by Part 4 of the Coroners and Justice Act 2009 (referred to herein as 'the 2009 Act').

### **5. Powers and duties**

5.1 The Council's powers and functions stem from Part 4 of the 2009 Act. Its primary statutory function is to promote greater transparency and consistency in sentencing, while maintaining the independence of the judiciary.

5.2 The Council has three main areas of responsibility:

- preparing and revising sentencing guidelines, having regard to:
  - o the sentences imposed by courts in England and Wales for offences;
  - o the need to promote consistency in sentencing;
  - o the impact of sentencing decisions on victims of offences;
  - o the need to promote public confidence in the criminal justice system;
  - o the cost of different sentences and their relative effectiveness in preventing re-offending;
  - o the results of any monitoring it has carried out.
- Monitoring the operation and effect of its guidelines;
- Promoting awareness of matters relating to the sentencing of offenders by courts in England and Wales.

### **6. Aims**

6.1 The Council will set out its strategic aims in an annual business plan. The plan will include key targets and milestones for the year. The Council will publish this plan on its website and separately make it available to the Lord Chancellor, the sponsorship team in MoJ and its own staff.

### **7 Governance and Accountability**

7.1 The Council shall operate corporate governance arrangements that, so far as practicable and in the light of the other provisions of this Framework Document or as otherwise may be mutually agreed, accord with good corporate governance practice and applicable regulatory requirements and expectations.

7.2 In particular (but without limitation), the Council should:

- comply with the principles and provisions of the Corporate Governance in Central Government Departments Code of Good Practice (as amended and updated from time to time) to the extent appropriate and in line with their statutory duties or specify and explain any non-compliance in its annual report;

- comply with MPM;
  - in line with MPM have regard to the relevant Functional Standards<sup>1</sup> as appropriate and in particular those concerning Finance, Commercial and Counter Fraud; and
  - take into account the codes of good practice and guidance set out in Annex A of this Framework Document as they apply to the Council.
- 7.3 The Council Head of Office shall provide the MoJ functional leads with such information about their function's operation, performance and capabilities within the Council as may reasonably be required. In the event of any significant concerns being identified, the MoJ functional lead will draw these to the attention of the Council.
- 7.4 In line with MPM Annex 3.1 the Council shall provide an account of corporate governance in its Annual Report including the Council's assessment of its compliance with the Code with explanations of any material departures. To the extent that the Council intends to materially depart from the Code, the MoJ should be notified in advance and their agreement sought to this approach.
- 7.5 The lead officials responsible for managing each function in the Office of the Sentencing Council are accountable to the Council's Head of Office for:
- the delivery of the Council business plan objectives relevant to the function and the direction and control of associated resources;
  - the quality and value for money of the service provision; and
  - ensuring the Council adopts the relevant function's policies, controls and standards, so far as consistent with the other provisions of this framework document.
- 7.6 The lead officials responsible for managing each function in the Council are accountable to the respective Ministry of Justice function leads for:
- providing assurance over compliance with functional standards, so far as consistent with the other provisions of this framework document;
  - implementing consistent policies, systems, processes and capabilities that support and promote interoperability and efficiency; and
  - supporting the on-going development of the function.
- 7.7 The lead officials responsible for managing each function in the Council shall provide the Ministry of Justice function leads with such information about their operations, performance and capabilities as may reasonably be required and so far as consistent with the provisions of this framework document. In the event of any significant concerns being identified, the MoJ function lead will draw these to the attention of the Principle Accounting Officer (PAO).
- 7.8 The Ministry of Justice may provide additional functional services to the Council. The PAO may seek to change the precise nature of the delivery model for these functions during the lifetime of the framework document to support better delivery of the Council objectives, more consistency, increased innovation and enhanced efficiency. Where there is proposed to be significant change in the way these additional functions are delivered, the Council will be consulted. When considering the extent of the services that can be

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<sup>1</sup> <https://www.gov.uk/government/collections/functional-standards>

provided to the Council, its operational independence from Government will be a central consideration.

## **Role of the MoJ**

### **8. The Lord Chancellor**

8.1 The Lord Chancellor will account in Parliament for the Council's business.

8.2 The Lord Chancellor's statutory powers in respect of the Council are set out in Part 4 of, and Schedule 15 to the 2009 Act.

8.3 Responsibilities of the Lord Chancellor include:

- Appointing 6 members of the Council ("non-judicial members") with the agreement of the Lord Chief Justice. Appointments of non-judicial members are made under the Commissioner for Public Appointments [Governance Code on Public Appointments](#);
- Agreeing the appointment of 8 members appointed by the Lord Chief Justice ("judicial members"). The appointments of the Chair and judicial members are made by the Lord Chief Justice and are not subject to the Code of Practice (as they are not appointments under the Public Appointments Order);
- Laying the annual report of the Council before Parliament;
- Approving the resources framework within which the Council should operate; and
- Providing the Council with such assistance as it requests in connection with the performance of its functions, under the power provided in section 133 of the 2009 Act.

8.4 The Lord Chancellor will, unless other arrangements have been agreed, meet the Chair and the Head of Office at least once a year to discuss matters of mutual interest in relation to sentencing, and any other relevant issues.

### **9. The Principal Accounting Officer**

9.1 The Principal Accounting Officer ("PAO") is the Permanent Secretary of the MoJ. The PAO is also the Accounting Officer for the Council.

9.2 The PAO of MoJ designates the Head of Office as the Council's Budget Holder and ensures that they are fully aware of their responsibilities. The Senior Sponsor issues a letter appointing the Budget Holder, setting out his or her responsibilities and delegated authorities.

9.3 The respective responsibilities of the PAO and accounting officers for Arm's Length Bodies (ALB)s are set out in Chapter 3 of MPM.

9.4 The PAO is accountable to Parliament for the issue of any grant-in-aid to the Council. The PAO may delegate the exercise of their responsibilities to an appropriately senior official within the department to act as Senior Sponsor to the Council. Where these responsibilities are delegated to a Senior Sponsor, the PAO does so based on the continuing assurances provided by the Senior Sponsor, supported by the policy sponsorship team and the ALB Centre of Expertise (CoE) and MoJ functions (where applicable).

9.5 The PAO is also responsible, via the Senior Sponsor and policy sponsorship team, for advising the Lord Chancellor on:

- an appropriate budget for the Council in the light of the sponsor department's overall public expenditure priorities;
- whether the internal controls applied by the Council conform to the requirements of regularity, propriety and good financial management;
- how well the Council is achieving its objectives and whether it is delivering value for money; and
- the exercise of the Lord Chancellor's statutory responsibilities concerning the Council.

9.6 The PAO, via the Senior Sponsor and ALB CoE team (in collaboration with the MoJ policy sponsorship team) and MoJ's functions (where applicable), is also responsible for ensuring arrangements are in place in order to:

- monitor the Council's delivery against plans and expenditure within its budget allocations on a continuing basis, ensuring that such monitoring is relevant and proportionate;
- address any significant problems in the governance or management of the Council, making such interventions, with the agreement of the Council as are judged necessary;
- periodically and at such frequency as is proportionate to the level of risk carry out an assessment of the risks both to the department and the Council's objectives and activities in line with the wider departmental risk assessment process;
- inform the ALB of relevant government policy in a timely manner; and,
- bring Ministerial or departmental concerns on the governance and financial management (as set out in box 3.1 of [MPM](#)) of the Council to the full Council, and, as appropriate to the departmental Board, requiring explanations and assurances that appropriate action has been taken.

## 10 The Sponsorship Team

10.1 The Senior Sponsor supported by the ALB Centre of Expertise and the policy sponsorship team in the MoJ and the department's functions (where applicable) is the primary contact for the Council. The responsible Senior Civil Servant for supporting this sponsorship relationship is the Head of the ALB Centre of Expertise. The Senior Sponsor is the main source of advice to the Lord Chancellor on the discharge of their responsibilities in respect of the Council. They also support the PAO in their responsibilities toward the Council. This sponsorship engagement will be guided by the principles set out in the [Cabinet Office Code of Good Practice: Partnerships between departments and arm's length bodies](#).

10.2 Officials of the ALB Centre of Expertise in the MoJ will liaise regularly with Council officials to review delivery against plans and expenditure against its budget allocations.

10.3 Liaison with the Council on matters of policy is led by the sentencing policy team within the MoJ. They will support the PAO, in advising the Lord Chancellor on the Council's activities. They will also liaise with Council officials to explain wider policy developments that might have an impact on the Council. In particular they will:

- act as an advocate for the Council in the MoJ and wider government;
- inform the Council of relevant government policy and prospective legislation in a timely manner
- ensure that, where relevant and appropriate, the Council's views are considered in policy development;
- encourage - as far as possible - policy colleagues to engage with the Council at the earliest possible opportunity in formulating policy and assist in facilitating this engagement when/where required; and
- maintain regular contact via meetings with Council officials to ensure there is ongoing dialogue around policy issues within the Council's remit;
- lead on Parliamentary Questions (PQs) related to policy relating to and affecting the Council, in consultation with the Council.

10.4 The ALB Centre of Expertise and the MoJ sentencing policy team will work closely together in matters relating to the work of the Council.

## **11 Resolution of disputes between the Council and MoJ**

11.1 Any disputes between the MoJ and the Council will be resolved in as timely a manner as possible. The MoJ and the Council will seek to resolve any disputes through an informal process in the first instance. If this is not possible, then a formal process, overseen by the Senior Sponsor, will oversee the dispute. They may then choose to ask the Permanent Secretary to nominate a non-executive member of the MoJ's Board to review the dispute, mediate with both sides, and reach an outcome, in consultation with the Lord Chancellor and Lord Chief Justice.

11.2 The above arrangement shall not prejudice the overall independence of the Council from Government, in particular with regard to conducting reviews and producing recommendations.

## **12 Freedom of information requests**

12.1 Where a request for information is received by either party under the Freedom of Information Act 2000, or the Data Protection Act 1998 or 2018, the party receiving the request will consult with the other party prior to any disclosure of information that may affect the other party's responsibilities.

## **13 Reporting on legal risk and litigation**

13.1 The Council shall provide updates when necessary to the Sponsor on the existence of any active litigation and any threatened or reasonably anticipated litigation. The parties acknowledge the importance of ensuring that legal risks are communicated appropriately to the Sponsor in a timely manner.

13.2 In the event of any substantial piece of litigation involving the Council, the parties will agree a litigation protocol which will include specific provisions to ensure appropriate and timely reporting on the status of the litigation and the protection of legally privileged information transmitted to the Sponsor to facilitate this. Until such time as a protocol is agreed, the parties will ensure that:

- material developments in the litigation are communicated to the Sponsor in an appropriate and timely manner;
- legally privileged documents and information are clearly marked as such;
- individual employees handling the legally privileged documents are familiar with principles to which they must adhere to protect legal privilege; and
- circulation of privileged information within government occurs only as necessary.

## Sentencing Council Governance Structure

### **14 The Council**

#### Composition of the Council

14.1 The Council will abide by standards of Corporate Governance consistent with the Government Code of Good Practice for Corporate Governance. The Council shall deliver its objectives, in accordance with the purposes as set out above, their statutory, regulatory, common law duties and their responsibilities under this Framework Document. Remuneration of the Council will be disclosed in line with the guidance in the Government Financial Reporting manual.

14.2 The Council will consist of 8 judicial members and 6 non-judicial members. The Lord Chief Justice is to have the title of President of the Council but is not a member of the Council.

#### Appointments to the Council

14.3 The appointment of all members of the Council are initially for a period of three years. The Chair of the Council is appointed by the Lord Chief Justice with the agreement of the Lord Chancellor also for an initial period of three years.

14.4 Under paragraph 9 of Schedule 15 to the 2009 Act the Lord Chancellor may pay —

- to any judicial member who is appointed by virtue of being a lay justice, such remuneration or expenses as the Lord Chancellor may determine, and
- to any other judicial member, such expenses as the Lord Chancellor may determine.

14.5 The Lord Chancellor may pay to any non-judicial member such remuneration or expenses as the Lord Chancellor may determine (except that, where the Director of Public Prosecutions is such a member, no remuneration may be paid to the Director).



- 14.6 Pursuant to paragraph 4 of Schedule 15 a person is eligible for appointment as a non-judicial member if the person appears to the Lord Chancellor to have experience in one or more of the following areas —
- criminal defence;
  - criminal prosecution;
  - policing;
  - sentencing policy and the administration of justice;
  - the promotion of the welfare of victims of crime;
  - academic study or research relating to criminal law or criminology;
  - the use of statistics; or
  - the rehabilitation of offenders.
- 14.7 The persons eligible for appointment as a non-judicial member by virtue of experience of criminal prosecution include the Director of Public Prosecutions.
- 14.8 Pursuant to paragraph 3 of Schedule 15 a person is eligible for appointment as a judicial member if the person is—
- a judge of the Court of Appeal,
  - a puisne judge of the High Court,
  - a Circuit judge,
  - a District Judge (Magistrates' Courts), or
  - a lay justice.
- 14.9 The judicial members must include at least one Circuit judge, one District Judge (Magistrates' Courts) and one lay justice.
- 14.10 When appointing judicial members, the Lord Chief Justice must have regard to the desirability of the judicial members including at least one person who appears to the Lord Chief Justice to have responsibilities relating to the training of judicial office-holders who exercise criminal jurisdiction in England and Wales.
- 14.11 All such appointments should have regard to the principle that appointments should reflect the diversity of the society in which we live, and appointments should be made taking account of the need to appoint boards which include a balance of skills and backgrounds.

#### Duties of the Council

- 14.12 The Council will deliver its statutory responsibilities as set out in the 2009 Act. Specific provisions engage communication between the Council and the MoJ. These are;
- a. the provision of an annual report to the Lord Chancellor (s 119);
  - b. consultation with the Lord Chancellor and others about draft guidelines (s 120(6));
  - c. consideration of any proposals made by the Lord Chancellor as to guidelines (s 124);
  - d. resource assessment of policy and legislative proposals referred by the Lord Chancellor (s 132);
  - e. requests for assistance from the Lord Chancellor (s 133); and

f. appointment of Council Members under Schedule 15.

14.13 The Council is also responsible for:

- establishing and taking forward its strategic aims and objectives within the resources framework determined by the Lord Chancellor;
- working within a framework of prudent and effective controls which enables risk to be assessed and managed;
- ensuring resources are used appropriately to ensure that the SC meets its objectives
- reviewing performance against its strategic objectives;
- demonstrating high standards of corporate governance at all times;
- regularly reviewing financial and management information concerning its management;
- informing the Lord Chancellor of any changes likely to impact on the attainability of its targets or the reputation of the MoJ, determining the steps needed to deal with such changes and where appropriate bringing such matters to the attention of the Responsible Minister and Principal Accounting Officer via the executive team, sponsorship team or directly;
- ensuring compliance with any statutory or administrative requirements for the use of public funds. The Council is responsible for its own expenditure and for operating within the limits of its statutory authority and any delegated authority agreed with the MoJ, as well as in accordance with any other guidance or conditions relating to the use of public funds;
- that, in reaching financial management decisions, the Council takes into account relevant and appropriate guidance issued by the sponsor department;
- ensuring that as part of the above compliance the Council is familiar with:
  - this framework document;
  - any delegation letter issued to the Council; and,
- determining all such other things which the Council considers ancillary or conducive to the attainment or fulfilment by the Council of its objectives.

14.14 The Council should ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control. The Council does not operate a separate Audit and Risk Assurance Committee. The Council is expected to assure itself of the adequacy and effectiveness of the risk management framework and the operation of internal control with reporting, by exception, provided to the Departmental Audit and

Risk Assurance Committee to ensure assurance is provided on governance and risk management where required.

- 14.15 The Council should make its own strategic choice about the style, shape and quality of risk management and should lead the assessment and management of opportunity and risk. The Council should ensure that effective arrangements are in place to provide assurance over the design and operation of risk management, governance and internal control in line with the Management of Risk – Principles and Concepts (The Orange Book). The Council is expected to assure itself of the adequacy and effectiveness of the risk management framework and the operation of internal control.

## **15 The Chair's roles and responsibilities**

- 15.1 The Chair is responsible for leading the Council in the delivery of its responsibilities. Such responsibility should be exercised in the light of their duties and responsibilities as set out in their appointment letter, the priorities in the Chair's appointment letter, the statutory authority governing the Council, this document and the documents and guidance referred to within this document.
- 15.2 Communications between the Council and the Lord Chancellor should normally be through the Chair.
- 15.3 The Chair is bound by the Code of Conduct for Board Members of Public Bodies<sup>2</sup>, which covers conduct in the role and includes the Nolan Principles of Public Life<sup>3</sup>.
- 15.4 In addition, the Chair is responsible for ensuring that by monitoring and engaging with appropriate governance arrangements the Council's affairs are conducted with probity.
- 15.5 The Chair has the following leadership responsibilities:
- formulating the Council's strategy;
  - ensuring that the Council, in reaching financial management decisions, takes proper account of guidance provided by the Responsible Minister or the department
  - promoting the efficient and effective use of staff and other resources;
  - delivering high standards of regularity and propriety; and
  - representing the views of the Council to the general public.
- 15.6 The Chair also has an obligation to ensure that:
- the work of the Council and its members is reviewed and is working effectively;

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<sup>2</sup> <https://www.gov.uk/government/publications/code-of-conduct-for-board-members-of-public-bodies>

<sup>3</sup> <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

- the Council has a balance of skills appropriate to its business, and that the best use is made of the skills and knowledge of Council members in Council and in committees;
- with the Head of Office, Council members are fully briefed on terms of appointment, duties, rights and responsibilities;
- the Lord Chancellor and Lord Chief Justice are advised as appropriate of the Council's needs when Council vacancies arise;
- the work of the Council and its members are reviewed including ongoing assessment of the performance of individual Council members with an annual evaluation. These evaluations can be used when individual Council members are considered for reappointment; and that in conducting assessments the view of relevant stakeholders is considered.
- the Council is aware of this Framework Document and the role and responsibilities of Council Members under it;
- the Council has appropriate internal mechanisms for the monitoring, governance and external reporting regarding any conditions arising from the Framework Document and any delegation letter issued to the Council, and ensures that the Head of Office and the Sentencing Council as a whole act in accordance with their obligations under them; and
- Council members are aware of the Cabinet Office Code of Conduct for Board Members of Public Bodies.

## **16 Individual Council Members' responsibilities**

### 16.1 Individual Council Members should:

- comply at all times with the Code of Conduct for Board Members of Public Bodies, which covers conduct in the role and includes the Nolan Principles of Public Life as well as rules relating to the use of public funds and to conflicts of interest;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the MoJ's rules on the acceptance of gifts and hospitality, and of business appointments;
- act in good faith and in the best interests of the Council;
- ensure they are familiar with any applicable guidance on the role of Public Sector Boards that may be issued from time to time by the Cabinet Office, HM Treasury or wider government.

## 17 The Head of Office

### Appointment

- 17.1 The Head of the OSC is a Civil Servant appointed by the MoJ after agreement with the Chairman.
- 17.2 The Head of Office is a member of the Senior Civil Service. The Head of Office's line manager for day-to-day purposes in terms of performance management and objective setting is the Chair of the Council. As the Chair is not a serving civil servant, he or she will be supported in the role of line manager by an appropriate Senior Civil Servant in the MoJ, agreed with the Head of Office. The Head of Office will be appointed on the basis of fair and open competition, per the terms outlined in the Civil Service Commission's Recruitment Principles.<sup>4</sup>

### Responsibilities of the Head of Office as Budget Holder

- 17.3 The Head of Office as budget holder is personally responsible for safeguarding the public funds for which they have charge; for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds; and for the day-to-day operations and management of the Council. In addition, they should ensure that the Council as a whole is run on the basis of the standards, in terms of governance, decision-making and financial management, that are set out in Box 3.1 of MPM. These responsibilities include the below and those that are set in the budget delegation letter by the Senior Sponsor.

### Responsibilities to Parliament and the public

- 17.4 Responsibilities to Parliament and the public include:
- ensuring that effective and proportionate procedures for handling complaints about the Council in accordance with Parliamentary and Health Service Ombudsman's Principles of Good Complaint Handling are established and made widely known within the Council and published on the Council's website;
  - acting in accordance with the terms of MPM and other instructions and guidance issued from time to time by the Department, the Treasury and the Cabinet Office;
  - ensuring that as part of the above compliance they are familiar with and act in accordance with:
    - o any governing legislation;
    - o this framework document;
    - o any delegation letter issued to the Council;
  - ensuring they have appropriate internal mechanisms for the monitoring, governance and external reporting regarding non-compliance with any conditions arising from the above documents;

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<sup>4</sup> <https://civilservicecommission.independent.gov.uk/recruitment/recruitment-principles/>

- being subject to the scrutiny of the House of Commons Justice Select Committee and giving evidence when called to do so; and
- giving evidence, normally with the PAO, when summoned before the Public Accounts Committee on the Council's stewardship of public funds.

#### Responsibilities to the MoJ

17.5 Responsibilities to the MoJ include:

- establishing the Council's corporate and business plans, and ensuring that they align with and support the delivery of the Council's statutory functions;
- informing the department of progress in achieving the Council's objectives and in demonstrating how resources are being used within its budget allocations to achieve those objectives; and
- ensuring that timely forecasts and monitoring information on performance and finance are provided to the department; that the department is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the department in a timely fashion.

#### Responsibilities to the Council

17.6 The Head of Office is responsible for:

- supporting the Council in ensuring that effective systems and arrangements are in place to provide assurance on risk management, governance and internal control;
- working with the Chair to advise the Council on the discharge of the Council's responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time;
- advising the Council on its performance compared with its aims and objectives;
- assisting the Council to establish and take forward the strategic aims and objectives consistent with its overall strategic direction and within the resource framework approved by the Lord Chancellor;
- regularly reviewing financial information about the management of the Council, ensuring they are informed in a timely manner about any concerns about the activities of the Council; and can assure MoJ that appropriate action has been taken on such concerns; and
- that they have appropriate internal mechanisms for the monitoring, governance and external reporting regarding any conditions arising from this Framework Document and any delegation letter issued to the Council, and ensure that they act in accordance with their obligations under those documents.
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Managing conflicts

- 17.7 Save as provided in paragraph 16.9, the Head of Office should follow the advice and direction of the Council.
- 17.8 If the Council, or its Chair, is contemplating a course of action involving a transaction which the Head of Office considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, is of questionable feasibility, or is unethical the Head of Office in their role as budget holder should reject that course of action and ensure that the Council have a full opportunity to discuss the rationale for that rejection.
- 17.9 Such conflicts should be brought to the attention of the Senior Sponsor and the PAO as soon as possible.
- 17.10 Furthermore, and if agreed with the Lord Chancellor, the budget holder must write a letter of justification to the Chair of the Council setting out the rationale for not following the advice and recommendation of the Council and copy that letter to the Treasury Officer of Accounts, and Lord Chief Justice as the President of the Council.
- 17.11 If the Lord Chancellor agrees with the proposed course of action of the Council it may be appropriate for the Minister to direct the budget holder in the manner as set out in Managing Public Money paragraph 3.6.6 onwards.

## Management and financial responsibilities and controls

### **18 Delegated authority**

- 18.1 The ALB's delegated authorities are set out in the delegation letter. This delegation letter may be updated and superseded by later versions which may be issued by MoJ, in agreement with HM Treasury. The Council's budget is delegated to it through its Senior Sponsor.
- 18.2 In line with MPM Annex 2.2 these delegations will be reviewed on an annual basis.
- 18.3 At all times, the Council shall uphold the principles and duties set out in MPM and it is the responsibility of the Council Budget Holder to ensure compliance is maintained. If the Budget Holder is intending to pursue a course of action that might conflict with those duties, before proceeding they should consult with the Senior Sponsor and where appropriate seek PAO and HM Treasury's prior written approval before:
- entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in the Council's annual budget as approved by the department;
  - incurring expenditure for any purpose that is or might be considered novel or contentious, or which has or could have significant future cost implications;
  - making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the department;

- making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required; or
- carrying out policies that go against the principles, rules, guidance and advice in Managing Public Money.

## **19 Spending authority**

19.1 Once the budget has been approved by the MoJ the Council shall have authority to incur expenditure approved in the budget without further reference to the sponsor department, on the following conditions:

- the Council shall comply with the delegations set out in the delegation letter. These delegations shall not be altered without the prior agreement of the MoJ and as agreed by HM Treasury and Cabinet Office as appropriate;
- the Council shall comply with MPM regarding novel, contentious or repercussive proposals;
- inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed;
- the Council shall provide the MoJ with such information about its operations, performance, individual projects or other expenditure as the sponsor department may reasonably require.

## **20 Procurement**

- 20.1 Where the Council undertakes procurement activities, it shall ensure that its procurement policies are aligned with and comply with any relevant UK or other international procurement rules and in particular the Public Contracts Regulations 2015.
- 20.2 The Council shall follow MoJ procurement policies.
- 20.3 In procurement cases where the Council is likely to exceed its delegated authority limit, procurement strategy approval for the specific planned purchase must be sought from the Department's sponsor team.
- 20.4 Goods, services, and works should be acquired by competition. Proposals to let single-tender or restricted contracts shall be limited and exceptional, and a quarterly report explaining those exceptions should be sent to the Department.
- 20.5 Procurement by the Council of works, equipment, goods, and services shall be based on, a full option appraisal and value for money (VfM), i.e. the optimum combination and whole life costs and quality (fitness for purpose).



20.6 The Council shall:

- a) engage fully with Department and Government wide procurement initiatives that seek to achieve VfM from collaborative projects,
- b) comply with all relevant Procurement Policy Notes issued by Cabinet Office and
- c) co-operate fully with initiatives to improve the availability of procurement data to facilitate the achievement of VfM.

20.7 The Council shall comply with the Commercial and Grants Standards. These standards apply to the planning, delivery, and management of government commercial activity, including management of grants in all departments and ALBs, regardless of commercial approach used and form part of a suite of functional standards that set expectations for management within government<sup>5</sup>.

## **21 Risk Management**

21.1 The Council shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and develop a risk management strategy, in accordance with the Treasury guidance *Management of Risk – Principles and Concepts (The Orange Book)*.

## **22 Fraud, Bribery and Corruption**

22.1 The Council should adopt and implement policies and practices to safeguard itself against fraud, bribery and corruption. This includes staff fraud and theft.

22.2 The Council should act in line with guidance as issued by the Counter Fraud Function and in compliance with the procedures and considerations as set out in Managing Public Money Annex 4.9 and the Counter Fraud Functional Standard<sup>6</sup>. It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter a contract, outside of the work entered into on behalf of other government departments.

22.3 The Council should keep records of and prepare and forward to the department an annual report on fraud, bribery and corruption suffered by the Council and notify the sponsor department of any unusual or major incidents as soon as possible. The Council should also report detected loss from fraud, bribery, corruption and error, alongside associated recoveries and prevented losses, to the MoJ Counter Fraud Centre of Expertise in line with the agreed government definitions as set out in Counter Fraud Functional Standard.

## **23 Staff**

### Broad responsibilities for staff

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<sup>5</sup> <https://www.gov.uk/government/publications/commercial-operating-standards-for-government>  
<https://www.gov.uk/government/publications/grants-standards>

<sup>6</sup> <https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud>

23.1 Within the arrangements approved by the Lord Chancellor and HM Treasury the Council will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that:

- the rules for recruitment and management of staff create an inclusive culture in which diversity is fully valued; appointment and advancement is based on merit: there is no discrimination against employees with protected characteristics under the Equality Act 2010;
- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness;
- the performance of its staff at all levels is satisfactorily appraised and the Council's performance measurement systems are reviewed from time to time;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Council's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place; and
- whistle-blowing procedures consistent with the Public Interest Disclosure Act are in place.

#### Staff costs

23.2 Subject to its delegated authorities, the Council shall ensure that the creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them.

#### Pay and conditions of service

23.3 The Council's staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by the MoJ and the Treasury. The Council has no delegated power to amend these terms and conditions.

23.4 Civil Service terms and conditions of service apply to the rates of pay and non-pay allowances paid to the staff and to any other party entitled to payment in respect of travel expenses or other allowances. Payment shall be made in accordance with the Civil Service Management Code<sup>7</sup> and the annual Civil Service Pay Remit Guidance<sup>8</sup>, except where prior approval has been given by the department to vary such rates.

23.5 Staff terms and conditions should be set out in relevant sections of the MoJ Intranet.

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<sup>7</sup> <https://www.gov.uk/government/publications/civil-servants-terms-and-conditions>

<sup>8</sup> <https://www.gov.uk/government/publications/civil-servants-terms-and-conditions>

23.6 The Council shall abide by public sector pay controls, including the relevant approvals process dependent on the organisation's classification, as detailed in the Senior Pay Guidance<sup>9</sup> and the public sector pay and terms guidance.<sup>10</sup>

23.7 The travel expenses of Council members shall be tied to the departmental rates. Reasonable actual costs shall be reimbursed.

#### Pensions, redundancy and compensation

23.8 Compensation scheme rules and pension scheme rules should reflect legislative and HM Treasury guidance requirements regarding exit payments.

23.9 Council staff are eligible for the Civil Service pension scheme. Staff may opt out of the occupational pension scheme provided by the MoJ, but that employer's contribution to any personal pension arrangement, including stakeholder pension shall normally be limited to the national insurance rebate level.

23.10 Any proposal by the Council to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the MoJ. Proposals on severance must comply with the rules in chapter 4 of MPM.

## Business Plans, Financial Reporting and Management Information

### **24 Business Plans, Financial Reporting and Management Information**

24.1 The Council shall share annually with the ALB Centre of Expertise and the policy sponsorship team in the MoJ, a business plan setting out the objectives for the coming year, as well as information on plans and objectives for future years, which will be published on the Council's website. A draft will be shared by the Summer Recess. The plan shall reflect the Council's statutory and/or other duties.

24.2 The business plan shall be updated to include key targets and milestones for the year immediately ahead and where possible shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the department. Subject to any commercial considerations, the business plan should be published by the Council on its website and separately be made available to staff.

24.3 The following key matters should be included in the plan:

- key objectives and associated key performance targets for the forward years, and the strategy for achieving those objectives;
- key non-financial performance targets;

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<sup>9</sup> <https://www.gov.uk/government/publications/senior-civil-service-pay-and-reward>

<sup>10</sup> <https://www.gov.uk/government/publications/public-sector-pay-and-terms-guidance-note>

- a review of performance in the preceding financial year, together with comparable outturns for previous years, and an estimate of performance in the current year; and
- alternative scenarios and an assessment of the risk factors that may significantly affect the execution of the plan but that cannot be accurately forecast.

## **25 Budgeting procedures**

- 25.1 Each year, the MoJ will send to the Council as close as possible to the end of the preceding financial year a formal statement of the annual budgetary provision allocated by the department. This shall be agreed in accordance with the Departmental Allocations processes.
- 25.2 The approved annual business plan will take account both of approved funding provision and any forecast receipts and will include a budget of estimated payments and receipts together with a profile of expected expenditure. These elements form part of the approved business plan for the year in question.

## **26 Grant-in-aid**

- 26.1 Any grant-in-aid provided by the department for the year in question will be voted in the department's Supply Estimate and derive from the monies voted to the MoJ by Parliament.
- 26.2 The grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. The Council will comply with the general principle, that there is no payment in advance of need. Cash balances accumulated during the course of the year from grant-in-aid or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of the Council. Grant-in-aid not drawn down by the end of the financial year shall lapse. Subject to approval by Parliament of the relevant Estimates provision, where grant-in-aid is delayed to avoid excess cash balances at the year-end, the MoJ will make available in the next financial year any such grant-in-aid that is required to meet any liabilities at the year end, such as creditors.

## **27 Annual report**

- 27.1 The Council must publish an annual report of its activities. A draft of the report should be submitted to the department at least two weeks before the proposed publication date.
- 27.2 The annual report must outline main activities and performance during the previous financial year and set out in summary form forward plans.
- 27.3 The report shall be laid in Parliament by the Lord Chancellor pursuant to section 119(2) of the 2009 Act and be made available on the Council's website.

## **28 Reporting performance to the department**

- 28.1 The Council shall operate management, information and accounting systems that enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the business plan.

28.2 The Council shall report financial and non-financial performance, including delivery against plans and expenditure within its budget allocations, including in twice-yearly Business Assurance meetings with the Partnerships team.

28.3 The Senior Sponsor will meet the Head of Office at least once a year.

## **29 Information sharing**

29.1 The MoJ has the right of access to all Sentencing Council records and personnel for any purpose including, for example, sponsorship audits and operational investigations, with the exception of data pertaining to independent Sentencing Council work.

29.2 The Council shall provide the sponsor department with such information about its operations, performance, individual projects or other expenditure as the sponsor department may reasonably require.

29.3 The MoJ and HM Treasury may request the sharing of data held by the Council in such a manner as set out in central guidance except insofar as it is prohibited by law. This may include requiring the appointment of a senior official to be responsible for the data sharing relationship.

29.4 As a minimum, the Council shall provide the MoJ with information monthly that will enable the department satisfactorily to monitor:

- the Council's cash management;
- its draw-down of grant-in-aid;
- forecast outturn by resource headings;
- other data required for the Online System for Central Accounting and Reporting (OSCAR); and
- data as required in respect of its compliance with any Cabinet Office Controls pipelines or required in order to meet any condition as set out in any settlement letter.

## **Reviews and winding up arrangements**

### **30 Review of the Sentencing Council**

30.1 The Council will be reviewed in line with the Cabinet Office's Guidance or as per Cabinet Office requirements. These principles aim to ensure public bodies remain fit for purpose, well governed and properly accountable for what they do.

### **31 Arrangements in the event that the Sentencing Council is wound up**

31.1 The abolition of the Council, changes to its functions, or major changes to its structure would require the repeal or amendment of the 2009 Act.

31.2 If the Council were to be abolished, the MoJ shall put in place arrangements to ensure its orderly winding. In particular it should ensure that the assets and liabilities of the Council are passed to any successor organisation and accounted for properly. (In the event that

there is no successor organisation, the assets and liabilities should revert to the sponsor department.) To this end, the department shall:

- have regard to Cabinet Office guidance on winding up of ALBs;
- ensure that procedures are in place in the Council to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body; specify the basis for the valuation and accounting treatment of the Council's assets and liabilities;
- ensure that arrangements are in place to prepare closing accounts and pass to the C&AG (Comptroller and Auditor General) for external audit, and that, for non-Crown bodies funds are in place to pay for such audits. It shall be for the C&AG to lay the final accounts in Parliament, together with his report on the accounts;
- arrange for the most appropriate person to sign the closing accounts. In the event that another ALB takes on the role, responsibilities, assets and liabilities, the succeeding ALB AO should sign the closing accounts. In the event that the department inherits the role, responsibilities, assets and liabilities, the sponsor department's AO should sign.

31.3 The Council should also pass to the MoJ details of any other forms of claw-back due to the Council.

Signatures

This Framework Document is agreed between:

Lord Justice Holroyde - Chair of the Sentencing Council

James McEwen – CFO and Senior Sponsor

Date: [day / month] 2022

## **Compliance with Government-wide corporate guidance and instructions**

The Sentencing Council shall comply with the following general guidance documents and instructions except in so far as they conflict with the Council's independence in discharging its statutory functions:

- appropriate adaptations of sections of Corporate Governance in Central Government Departments: Code of Good Practice <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017>
- Managing Public Money <https://www.gov.uk/government/publications/managing-public-money>;
- Public Sector Internal Audit Standards [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/641252/PSAIS\\_1\\_April\\_2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/641252/PSAIS_1_April_2017.pdf)
- Management of Risk: Principles and Concepts: <https://www.gov.uk/government/publications/orange-book>
- A guide to managing fraud for public bodies <https://www.gov.uk/government/publications/a-guide-to-managing-fraud-for-public-bodies>;
- Government Financial Reporting Manual (FRoM), <https://www.gov.uk/government/publications/government-financial-reporting-manual-2019-20>; Cabinet Office's Policy on Spending Controls.
- <https://www.gov.uk/government/publications/cabinet-office-controls-version-5/cabinet-office-controls-policy-version-5>
- Fees and Charges Guide, Chapter 6 of Managing Public Money;
- Departmental Banking: A Manual for Government Departments, Annex 5.6 of Managing Public Money;
- relevant Dear Accounting Officer letters;
- Regularity, Propriety and Value for Money, <https://esrc.ukri.org/files/about-us/governance-and-structure/regularity-propriety-and-value-for-money-hm-treasury-see-annex-21/>
- The Parliamentary and Health Service Ombudsman's Principles of Good Administration <https://www.ombudsman.org.uk/about-us/our-principles/principles-good-administration>;
- Consolidation Officer Memorandum, and relevant DCO letters;
- Model Code for Staff of Executive Non-departmental Public Bodies, Public Bodies: A Guide for Departments, Chapter 5 Annex A [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/690948/Public\\_Bodies\\_-\\_a\\_guide\\_for\\_departments\\_-\\_chapter\\_5.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/690948/Public_Bodies_-_a_guide_for_departments_-_chapter_5.pdf) (Cabinet Office) and
  - other relevant guidance and instructions issued by HMT in respect of Whole of Government Accounts.



**HM Treasury contacts**

This document can be downloaded from [www.gov.uk](http://www.gov.uk)

If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

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**Annex A**

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**Aggravated vehicle taking – step 1 factors (provisionally agreed by Council in the May meeting)**

***Vehicle/property damage***

<b>HARM</b>	
Category 1	<ul style="list-style-type: none"> <li>• High value damage</li> </ul>
Category 2	<ul style="list-style-type: none"> <li>• Cases that fall between categories A or C because:               <ul style="list-style-type: none"> <li>○ Factors are present in A and C which balance each other out, and/or,</li> <li>○ The offender's culpability falls between the factors as described in A and C</li> </ul> </li> </ul>
Category 3	<ul style="list-style-type: none"> <li>• Total damage caused of under £5,000</li> </ul>

<b>CULPABILITY</b>	
A - High	<ul style="list-style-type: none"> <li>• Vehicle or property deliberately destroyed</li> <li>• Intention to cause serious damage</li> <li>• Under influence of alcohol/drugs</li> <li>• Significant planning</li> <li>• Police pursuit</li> <li>• Leading role in group offending</li> </ul>
B - Medium	<ul style="list-style-type: none"> <li>• Cases that fall between categories A or C because:               <ul style="list-style-type: none"> <li>○ Factors are present in A and C which balance each other out, and/or,</li> <li>○ The offender's culpability falls between the factors as described in A and C</li> </ul> </li> </ul>
C - Lower	<ul style="list-style-type: none"> <li>• Vehicle not driven in unsafe manner</li> <li>• Minor role in group offending</li> <li>• Exceeding authorised use of e.g. employer's or relative's vehicle</li> <li>• Retention of hire car for short period beyond return date</li> </ul>

**Injury**

<b>HARM</b>	
Category 1	<ul style="list-style-type: none"> <li>• Grave and/or life-threatening injury caused</li> <li>• Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment</li> <li>• Offence results in a permanent, irreversible injury or condition</li> </ul>
Category 2	<ul style="list-style-type: none"> <li>• Other cases of serious harm</li> </ul>
Category 3	<ul style="list-style-type: none"> <li>• All other cases</li> </ul>

<b>CULPABILITY</b>	
A - High	<ul style="list-style-type: none"> <li>• Risk of serious injury caused to persons</li> <li>• Under influence of alcohol/drugs</li> <li>• Significant planning</li> <li>• Police pursuit</li> <li>• Leading role in group offending</li> </ul>
B - Medium	<ul style="list-style-type: none"> <li>• Other cases that fall between categories A or C because: <ul style="list-style-type: none"> <li>○ Factors are present in A and C which balance each other out, and/or,</li> <li>○ The offender's culpability falls between the factors as described in A and C</li> </ul> </li> </ul>
C - Lower	<ul style="list-style-type: none"> <li>• Vehicle not driven in unsafe manner</li> <li>• Minor role in group offending</li> <li>• Exceeding authorised use of e.g. employer's or relative's vehicle</li> <li>• Retention of hire car for short period beyond return date</li> </ul>

**Death**

<b>HARM</b>
For all cases of aggravated vehicle taking causing death, the harm caused will inevitably be of the utmost seriousness. The loss of life is taken into account in the sentencing levels at step two.

<b>CULPABILITY</b>	
A - High	<ul style="list-style-type: none"> <li>• Risk of serious injury caused to persons</li> <li>• Under influence of alcohol/drugs</li> <li>• Significant planning</li> <li>• Police pursuit</li> <li>• Leading role in group offending</li> </ul>
B - Medium	<ul style="list-style-type: none"> <li>• Other cases that fall between categories A or C because:               <ul style="list-style-type: none"> <li>○ Factors are present in A and C which balance each other out, and/or,</li> <li>○ The offender's culpability falls between the factors as described in A and C</li> </ul> </li> </ul>
C - Lower	<ul style="list-style-type: none"> <li>• Vehicle not driven in unsafe manner</li> <li>• Minor role in group offending</li> <li>• Exceeding authorised use of e.g. employer's or relative's vehicle</li> <li>• Retention of hire car for short period beyond return date</li> </ul>

**Dangerous driving**

<b>HARM</b>	
Category 1	<ul style="list-style-type: none"> <li>• Offence results in injury to others</li> <li>• Circumstances of offence created a high risk of serious harm to others</li> <li>• Damage caused to vehicles or property</li> </ul>
Category 2	<ul style="list-style-type: none"> <li>• All other cases</li> </ul>

<b>CULPABILITY</b>	
<b>A-</b> High Culpability	<ul style="list-style-type: none"> <li>• Deliberate decision to ignore the rules of the road and disregard for the risk of danger to others.</li> <li>• Prolonged, persistent and deliberate course of dangerous driving</li> <li>• Consumption of substantial amounts of alcohol or drugs leading to gross impairment</li> <li>• Offence committed in course of police pursuit</li> <li>• Racing or competitive driving against another vehicle</li> <li>• Disregarding warnings of others</li> <li>• Lack of attention to driving for a substantial period of time</li> <li>• Speed greatly in excess of speed limit</li> <li>• <b>Leading role in group offending</b></li> </ul>
<b>B-</b> Medium culpability	<ul style="list-style-type: none"> <li>• Brief but obviously highly dangerous manoeuvre</li> <li>• Engaging in a brief but avoidable distraction</li> <li>• Driving knowing that the vehicle has a dangerous defect or is dangerously loaded</li> <li>• Driving at a speed that is inappropriate for the prevailing road or weather conditions, although not greatly excessive</li> <li>• Driving whilst ability to drive is impaired as a result of consumption of alcohol or drugs</li> <li>• Disregarding advice relating to driving when taking medication or as a result of a known medical condition which significantly impaired the offender's driving skills</li> <li>• Driving when knowingly deprived of adequate sleep or rest</li> <li>• The offender's culpability falls between the factors as described in high and lower culpability</li> </ul>
<b>C-</b> Lower culpability	<ul style="list-style-type: none"> <li>• Standard of driving was just over threshold for dangerous driving</li> <li>• Momentary lapse of concentration</li> <li>• <b>Minor role in group offending</b></li> </ul>

## Aggravated vehicle taking data – 2020<sup>1</sup>

### Sentencing outcomes

<b>Offence</b>	<b>Outcome</b>	<b>Volume</b>	<b>Proportion</b>
Damage under £5,000	Absolute and conditional discharge	9	3%
	Fine	25	7%
	Community sentence	212	60%
	Suspended sentence	46	13%
	Immediate custody	57	16%
	Otherwise dealt with <sup>2</sup>	7	2%
Damage over £5,000	Absolute and conditional discharge	1	1%
	Fine	5	3%
	Community sentence	69	42%
	Suspended sentence	40	24%
	Immediate custody	45	27%
	Otherwise dealt with <sup>2</sup>	5	3%
Injury	Absolute and conditional discharge	0	0%
	Fine	0	0%
	Community sentence	11	32%
	Suspended sentence	11	32%
	Immediate custody	12	35%
	Otherwise dealt with <sup>2</sup>	0	0%
Death	Absolute and conditional discharge	0	0%
	Fine	0	0%
	Community sentence	0	0%
	Suspended sentence	1	100%
	Immediate custody	0	0%
	Otherwise dealt with <sup>2</sup>	0	0%
Dangerous driving	Absolute and conditional discharge	1	<0.5%
	Fine	1	<0.5%
	Community sentence	30	15%
	Suspended sentence	42	20%
	Immediate custody	126	61%
	Otherwise dealt with <sup>2</sup>	6	3%

Source: Court Proceedings Database, Ministry of Justice

<sup>1</sup> Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

<sup>2</sup> The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there are a number of cases which are incorrectly categorised in the Court Proceedings Database (CPD) as 'Otherwise dealt with'. Therefore, these volumes and proportions should be treated with caution.

### Immediate custody sentence distribution

<b>Offence</b>	<b>Sentence band<sup>3</sup></b>	<b>Estimated pre-guilty plea proportion</b>	<b>Post-guilty plea proportion</b>
Damage under £5,000	0-1 month	4%	4%
	1-2 months	11%	28%
	2-3 months	21%	25%
	3-4 months	11%	32%
	4-5 months	26%	7%
	5-6 months	19%	5%
	Greater than 6 months <sup>4</sup>	9%	-
Damage over £5,000	0-6 months	13%	29%
	6-12 months	31%	53%
	12-18 months	44%	18%
	18-24 months	7%	0%
	Greater than 2 years <sup>4</sup>	4%	-
Injury	0-6 months	17%	25%
	6-12 months	17%	58%
	12-18 months	50%	17%
	18-24 months	17%	0%
Death <sup>5</sup>	-	-	-
Dangerous driving	0-6 months	10%	23%
	6-12 months	33%	52%
	12-18 months	37%	25%
	18-24 months	18%	1%
	Greater than 2 years <sup>4</sup>	2%	-

Source: Court Proceedings Database, Ministry of Justice, adjusted using data from the Crown Court Sentencing Survey (CCSS) to provide estimates of the pre-guilty plea sentence length

<sup>3</sup> Sentence length intervals do not include the lower bound but do include the upper bound sentence length. For example, the category '0-6 months' includes sentence lengths less than or equal to 6 months, and '6 to 12 months' includes sentence lengths over 6 months, and up to and including 12 months.

<sup>4</sup> While these sentences appear to exceed the statutory maximum, they are estimates only; there are no post guilty plea sentence lengths exceeding the statutory maximum.

<sup>5</sup> No offenders were sentenced to immediate custody for *aggravated vehicle taking causing death* in 2020. In 2019, two offenders received custodial sentences between 6 to 8 years for this offence.



**Average custodial sentence length (ACSL)**

<b>Offence</b>		<b>Pre-guilty plea estimated ACSL (months)</b>	<b>Post-guilty plea ACSL (months)</b>
Damage under £5,000	Mean	4.0	3.0
	Median	4.1	2.8
Damage over £5,000	Mean	13.1	9.5
	Median	13.3	10.0
Injury	Mean	14.4	9.8
	Median	15.0	10.0
Death <sup>5</sup>	Mean	-	-
	Median	-	-
Dangerous driving	Mean	14.0	10.0
	Median	13.5	10.0

Source: Court Proceedings Database, Ministry of Justice, adjusted using data from the Crown Court Sentencing Survey (CCSS) to provide estimates of the pre-guilty plea sentence length

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## Dangerous driving – step 2 factors

### Starting point and category range

	Culpability		
	A	B	C
Harm 1	<b>Starting Point:</b> 1 year 6 months <b>Category range:</b> 1 – 2 years	<b>Starting Point:</b> 1 year <b>Category range:</b> 26 weeks – 1 year 6 months	<b>Starting Point:</b> 26 weeks <b>Category range:</b> High level community order – 1 year
Harm 2	<b>Starting Point:</b> 1 year <b>Category range:</b> 26 weeks – 1 year 6 months	<b>Starting Point:</b> 26 weeks <b>Category range:</b> High level community order – 1 year	<b>Starting Point:</b> High level community order <b>Category range:</b> Low level community order – 26 weeks

Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Totality* guideline and step five of this guideline.

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

#### Factors increasing seriousness

##### *Statutory aggravating factors:*

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

##### *Other aggravating factors:*

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving an LGV, HGV or PSV etc
- Other driving offences committed at the same time as the dangerous driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Vehicle poorly maintained
- Offence committed on licence or while subject to court order(s)

**Factors reducing seriousness or reflecting personal mitigation**

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- Actions of the victim or a third party contributed significantly to collision
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

## Causing injury by wanton or furious driving – step 2 factors

### Starting point and category range

	Culpability		
	A	B	C
Harm 1	<b>Starting Point:</b> 1 year 6 months <b>Category range:</b> 1 - 2 years	<b>Starting Point:</b> 1 year <b>Category range:</b> 26 weeks – 1 year 6 months	<b>Starting Point:</b> 26 weeks <b>Category range:</b> High level community order – 1 year
Harm 2	<b>Starting Point:</b> 1 year <b>Category range:</b> 26 weeks – 1 year 6 months	<b>Starting Point:</b> 26 weeks <b>Category range:</b> High level community order – 1 year	<b>Starting Point:</b> High level community order <b>Category range:</b> Low level community order – 26 weeks
Harm 3	<b>Starting Point:</b> 26 weeks <b>Category range:</b> High level community order – 1 year	<b>Starting Point:</b> High level community order <b>Category range:</b> Low level community order – 26 weeks	<b>Starting Point:</b> Low level community order <b>Category range:</b> Band B fine – High level community order

Where another offence or offences arise out of the same incident or facts concurrent sentences **reflecting the overall criminality** of offending will ordinarily be appropriate: please refer to the *Totality* guideline and step five of this guideline.

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

### Factors increasing seriousness

#### *Statutory aggravating factors:*

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

#### *Other aggravating factors:*

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving an LGV, HGV or PSV etc
- Other driving offences committed at or about the same time

- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Offence committed on licence or while subject to court order(s)

**Factors reducing seriousness or reflecting personal mitigation**

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- Actions of the victim or a third party contributed significantly to collision
- Offence due to inexperience rather than irresponsibility
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives

## Causing death by dangerous driving – step 2 factors

The starting points and category ranges below relate to a single offence resulting in a single death. Where another offence or offences arise out of the same incident or facts, concurrent sentences reflecting the overall criminality will ordinarily be appropriate.

Where more than one death is caused, it will be appropriate to make an upwards adjustment from the starting point within or above the relevant category range before consideration of other aggravating features. In the most serious cases, the interests of justice may require a total sentence in excess of the offence range for a single offence. See the Totality guideline and step six of this guideline.

### Starting point and category range

Culpability	Starting point	Range
High	12 years	8 – 18 years
Medium	6 years	4 – 9 years
Lesser	3 years	2 – 5 years

Below is a **non-exhaustive** list of additional elements providing the context of the offence and factors relating to the offender. Identify whether a combination of these or other relevant factors should result in any upward or downward adjustment from the sentence arrived at so far.

#### Factors increasing seriousness

##### *Statutory aggravating factors:*

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

##### *Other aggravating factors:*

- Victim was a vulnerable road user, including pedestrians, cyclists, horse riders
- Driving for commercial purposes
- Driving an LGV, HGV or PSV etc
- Other driving offences committed at the same time as the dangerous driving
- Blame wrongly placed on others
- Failed to stop and/or assist or seek assistance at the scene
- Passengers, including children
- Vehicle poorly maintained
- Serious injury to one or more victims, in addition to the death(s) (see step 6 on totality when sentencing for more than one offence)
- Offence committed on licence or while subject to court order(s)

**Factors reducing seriousness or reflecting personal mitigation**

- No previous convictions or no relevant/recent convictions
- Impeccable driving record
- Actions of the victim or a third party contributed significantly to collision or death
- Offence due to inexperience rather than irresponsibility (where offender qualified to drive)
- Genuine emergency
- Efforts made to assist or seek assistance for victim(s)
- Remorse
- The victim was a close friend or relative
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability
- Sole or primary carer for dependent relatives



## Aggravated vehicle taking – Crown court transcript summaries

### Vehicle/property damage

Details	Aggravating and mitigating factors	Pre-guilty plea sentence
Took partner's car and became engaged in police chase, speeding in residential areas and on busy roads. Lost control and crashed into railings	<p>Aggravating factors: Intoxicated (cannabis), no licence, uninsured</p> <p>Mitigating factors: Caring responsibilities for partner and child; mental health issues; lack of maturity; no previous relevant convictions</p>	12 months' suspended sentence
While significantly intoxicated, opportunistically took vehicle and drove above speed limit, on wrong side of road and in wrong direction around a roundabout. Refused to stop for police cars and almost hit a pedestrian. Collided with signpost, writing vehicle off	<p>Aggravating factors: Previous relevant convictions, intoxicated, no licence, uninsured</p> <p>Mitigating factors: N/A</p>	18 months' custody
Two offenders stole high-powered vehicle, speeding and involved in police pursuit. Collided with two cars and continued to drive wrong way around a roundabout and on wrong side of road. Only stopped once police rammed car. Driver was encouraged by passenger to offend	<p>Aggravating factors: Ignored warnings, no licence, uninsured, driver on an order at time of incident, passenger had previous relevant convictions</p> <p>Mitigating factors: Driver aged 18 at time of incident</p>	16 months' custody for driver; 8 months' custody for passenger
Took girlfriend's hire car and was in a crash. No evidence of intoxication; no police pursuit involved	<p>Aggravating factors: Uninsured, no licence</p> <p>Mitigating factors: N/A</p>	Community order of 180 hours unpaid work
Took grandmother's car and used it to help his friend run a 'drugs line operation' for one hour, selling cannabis. During this time, was in an accident with another car, causing substantial damage to the other vehicle	<p>Aggravating factors: N/A</p> <p>Mitigating factors: Good character, remorse</p>	16 weeks' suspended sentence
Drove car without owner's consent, hitting and damaging four other vehicles in the process, including a car with a young child inside,	<p>Aggravating factors: N/A</p> <p>Mitigating factors: N/A</p>	1 year's custody

and a mobility vehicle. Attempted to evade police but was eventually arrested		
Stole car from father while disqualified from driving. Crashed into church lychgate and gravestones	Aggravating factors: On licence; previous relevant convictions, driving while disqualified  Mitigating factors: N/A	14 months' custody
Stole two motorcycles with another offender; crashed and abandoned the first motorcycle, then rode second in highly dangerous police chase	Aggravating factors: N/A  Mitigating factors: N/A	21 months' suspended sentence
After drinking at a party, stole another party goer's car keys and smashed car into telephone pole, damaging fences and walls	Aggravating factors: Fled the scene  Mitigating factors: No previous convictions	6 months' suspended sentence
Stole car keys from victim's jacket pocket and was in a collision, hitting a bus stop and writing the car off	Aggravating factors: Uninsured, failed to stop and to report incident, committed offence while on bail  Mitigating factors: Suffered bereavement days before, difficult childhood	1 year's custody
While under influence of cocaine and cannabis, stole girlfriend's car and attempted to evade police, crashing into lamp post and post-box, writing the car off. Fled scene and later claimed he was just a passenger in the car	Aggravating factors: Intoxicated, previous relevant convictions, police pursuit, under suspended sentence order at time, driving while disqualified  Mitigating factors: Addressing addiction since incident occurred	12 months' custody
Took a friend's car without permission and went to collect someone else; lost control of car due to rain and crashed through a fence, hitting and damaging several other vehicles	Aggravating factors: Previous relevant conviction, uninsured  Mitigating factors: Pre-sentence report	6 months' suspended sentence

**Injury**

Details	Aggravating and mitigating factors	Pre-guilty plea sentence
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<p>Took vehicle while working on it for the owner; vehicle clipped kerb and was in head-on collision, injuring two occupants in the other car. One was left with broken vertebrae and required a back brace for a period of time, while other occupant required a cast for their injured hand</p>	<p>Aggravating factors: Previous relevant convictions</p> <p>Mitigating factors: N/A</p>	<p>2 years' custody</p>
<p>While under the influence of alcohol, offender was driving a car he knew to be stolen and was carrying passengers. When stopped by police, offender attempted to drive off, dragging two police officers by a few feet, and leaving them with cuts and bruises</p>	<p>Aggravating factors: Intoxication, disregarding warnings, police injured</p> <p>Mitigating factors: Caring responsibilities (pregnant partner, daughter and offender's mother)</p>	<p>12 months' custody</p>
<p>Opportunistically took vehicle from a front drive and was later seen by police stealing fuel. Drove into police officer in attempt to evade arrest, causing minor injuries that led to him being off work for some time</p>	<p>Aggravating factors: Police officer injured</p> <p>Mitigating factors: Lack of maturity and mental health issues</p>	<p>12 months' custody</p>

### **Death**

Details	Aggravating and mitigating factors	Pre-guilty plea sentence
<p>Involved multiple offenders. Both offenders charged with aggravated TWOC causing death were passengers in the taken vehicle, while the driver of the vehicle was charged with the offence of dangerous driving causing death. The incident involved a police chase, with the car colliding with another vehicle carrying a family. Four people died as a result, while three others were left with serious and/or life-changing injuries.</p>	<p>Aggravating factors: stolen car was disguised, dangerous/wet driving conditions, police taunted on social media beforehand, relevant previous convictions</p> <p>Mitigating factors: N/A</p>	<p>10 years' custody</p>

### **Dangerous driving**

Details	Aggravating and mitigating factors	Pre-guilty plea sentence
<p>Offender was staying at house of the victim and took her car and drove off. Car crashed and was written off. Refused to provide specimen for analysis when arrested</p>	<p>Aggravating factors: Previous relevant convictions</p> <p>Mitigating factors: N/A</p>	<p>18 months' custody</p>

Driving stolen car without licence and ended up in police pursuit, speeding in residential areas. Car collided with a taxi, injuring driver and passenger	<p>Aggravating factors: No licence, previous relevant convictions, police pursuit</p> <p>Mitigating factors: Pre-sentence report and letter from partner</p>	20 months' custody
Took 15-tonne road sweeper while intoxicated and drove through city centre, hitting multiple parked cars. Collided with a car with an elderly passenger at traffic lights	<p>Aggravating factors: Intoxicated, previous relevant convictions</p> <p>Mitigating factors: Taking steps to address addiction and seeking support</p>	18 months' suspended sentence
Drove dangerously over 18 miles with police in pursuit and a scared passenger in the car, speeding, going through red lights and driving on wrong side of the road. Crashed into roundabout and traffic lights, injuring passenger	<p>Aggravating factors: Police pursuit, ignored passenger asking him to stop, passenger injured, previous relevant convictions</p> <p>Mitigating factors: Mental health issues</p>	21 months' custody
Took car after victim had left car/house keys in vehicle. After stealing property from the house, drove off at speed, with police in pursuit	<p>Aggravating factors: Police pursuit</p> <p>Mitigating factors: N/A</p>	12 months' custody
Took employer's Range Rover and drove for a short period at excessive speeds on motorway. Involved in police pursuit. No immediate danger was posed, however	<p>Aggravating factors: Police pursuit</p> <p>Mitigating factors: N/A</p>	9 months' custody
Took car that had been left with keys in ignition. Drove off and began to speed in residential areas with police in pursuit. Offender only had provisional licence	<p>Aggravating factors: Police pursuit</p> <p>Mitigating factors: Young age (18 at time of incident), personal circumstances (family tragedy)</p>	16 weeks' custody
Drove powerful vehicle dangerously, and involved in police pursuit. Was speeding on residential roads, driving on paths and on the wrong side of a dual carriageway. Stopped after collision with police car	<p>Aggravating factors: Previous relevant convictions, police pursuit, significant risk posed</p> <p>Mitigating factors: N/A</p>	2 years' custody



Mr Steve Wade  
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My Ref: FTG-SC-02  
Your Ref:  
Date: 2<sup>nd</sup> August 2021

Dear Mr Wade,

#### **Review of the Environmental Offences Definitive Guideline (2014)**

We are writing to you as the Executive Members responsible for waste and fly tipping issues in our respective resource and waste partnerships covering Bedfordshire, Buckinghamshire, Cambridgeshire, Devon, Hampshire, Hertfordshire, Kent, Lancashire, Lincolnshire, Merseyside, Norfolk, Oxfordshire, Somerset, Staffordshire, Suffolk and Warwickshire. Together with a number of other local authorities and other organisations who have co-signed this letter (see pages 6 – 13) we are experiencing significant challenges in relation to sentences handed down by the courts for offences under Section 33 of the Environmental Protection Act ('fly tipping offences') resulting in a lack of any serious deterrent arising from the justice system.

Between us we cover 158 local authorities and 10 professional bodies working in partnership to reduce the menace of fly tipping including its associated significant costs and damage to the environment. Our partnerships have been working with various stakeholders including the National Fly Tipping Prevention Group for some time to identify potential changes to the legislative framework to better address fly tipping. Part of this work has considered the penalties given to those found guilty of fly tipping; a matter which is also a concern for both the National Farmers' Union and the CLA, whose members are often directly affected by the illegal depositing of waste on their land and with whom we continue to work closely on this issue.

Whilst the Environmental Offences Definitive Guideline gives consideration to the culpability of the defendant and the harm caused by the offence, it is widely agreed that sentences handed down do not always match the severity of the offence committed; fairly reflect the costs incurred by the public purse; or therefore act as a suitable deterrent. This has become particularly noticeable following a surge in fly tipping and littering during the pandemic combined with a much wider use and appreciation of outdoor spaces. The media and public reaction to this has seriously questioned the existing level of deterrence. It seems that fly tipping has become a far more attractive option for criminals.

Under this context we would like to highlight the following areas for the Sentencing Council to consider with a view to reviewing and possibly updating the Definitive Guideline (2014) as needed.

## **Court imposed fines and costs versus Fixed Penalty Notices**

Recent experience in the local authorities who have contributed to this letter indicates a propensity for courts to issue fines for fly tipping below the level of a fixed penalty notice (FPN) for the same offence. For example in Hertfordshire during 2018/19, 2019/20 and 2020/21 the average fine for fly tipping issued by the courts was £341, £365 and £297 respectively versus a potential maximum FPN of £400. Linked to this at the other end of the scale in Buckinghamshire from 56 cases successfully prosecuted for fly tipping and duty of care offences (March 2020-Feb 2021) the average fine imposed was £738, with the highest fine imposed being £3500.

Further analysis demonstrates it is usual for fly tipping offences to be designated to incur 'minor' or risk of 'minor' environmental harm. Yet the Guideline for such an offence is a fine with starting point of Band F, which is 600% of weekly earnings. If we take the average UK earnings (£514 a week), then a Band F fine would be £3,084; anecdotally much larger than most of the fines issued by the courts. This would be a very welcome fine in our experience, and we believe it would go some way to restoring public confidence.

As you will be aware FPNs were introduced partly to alleviate pressure on the courts. However, current practice is having the opposite effect. This appears to be due to the current Guideline which instructs magistrates to ignore the availability of an FPN compounded by anecdotal evidence which suggests solicitors are aware that courts regularly render fines less than the FPN and therefore advise clients to go to court rather than pay the FPN.

It must be considered that the purpose of an FPN is to discharge the defendant's liability to prosecution, as well as the prospect of a higher financial penalty through a correctly functioning court system. As such, if a defendant chooses to go to court as is their right, then we believe it is only reasonable that the potential consequences of such a choice are considered.

As such the signatories to this letter believe it is vital that the Guideline allows for a strong deterrence factor to be built into court judgements where cases for fly tipping are successfully prosecuted. With deterrent sentencing FPN levels should be less of an issue as paying the FPN would be seen as the better option. Linked to this whilst we appreciate FPNs may be an issue for local authorities to deal with, our suggestions are based on the reasonable assumption that we agree the need to work together to ensure that fly tipping offences are dealt with fairly, consistently and as efficiently as possible by the justice system.

Taking the above into account we suggest that in cases where a defendant opts to go to court and loses, it seems logical that in order to encourage the use of FPNs and reduce pressure on the courts, court fines should exceed the maximum FPN available currently set in legislation at £400. Such an approach should also take into account costs incurred by the public purse in bringing the case to court including local authority related costs, as well as any costs incurred by the police especially where warrants for arrest have had to be issued for previous no shows. In addition we would suggest that when relevant aggravating factors related to fly tipping on private land are present including costs related to clear up and restoration these should be included as a default and therefore reflected in any such judgements.

## **Introduce stronger means testing, and Court Fine "maximum payment periods"**

Whilst we understand the role that means testing has to play, it would appear that its primary purpose is to determine the level of fine. However, we would submit that there is little evidence to suggest whether means declarations are being adequately tested by the courts. A number of local authorities have found in practice that little is done by the courts to test means declarations beyond the defendant's sworn assurance and this is despite the Guideline stating:

*“Obtaining financial information. In setting a fine, the court may conclude that the offender is able to pay any fine imposed unless the offender has supplied any financial information to the contrary. It is for the offender to disclose to the court such data relevant to their financial position as will enable it to assess what they can reasonably afford to pay. If necessary, the court may compel the disclosure of an individual offender’s financial circumstances pursuant to section 162 of the Criminal Justice Act 2003. In the absence of such disclosure, or where the court is not satisfied that it has been given sufficient reliable information, the court will be entitled to draw reasonable inferences as to the offender’s means from evidence it has heard and from all the circumstances of the case.”*

Much more needs to be done to reinforce the need for courts to undertake robust checks of means declarations in line with the existing guidance above.

A number of local authorities have also observed that around 80% of people prosecuted for fly tipping offences already have previous varied court convictions underlining that their assumed integrity should not be taken for granted. The issue is further compounded by some defendants declaring low official income levels but often benefitting from large undeclared sums of the type that can be gained through fly tipping.

If someone does not have the ability to pay a fine in full then ‘payment plans’ should not be used to tacitly discharge their liability to the extent that the defendant incurs no practical significant inconvenience or penalty that would hopefully motivate correct behaviours in the future.

At the moment such plans often have the practical consequence of relieving defendants of their responsibility for the negative impacts of their actions. A situation which is then exacerbated when defendants choose to stop paying, with the ‘court system’ unwilling to pursue such matters when the costs of doing so quickly outweigh the level of fine(s) and cost(s) involved. As a result the courts often look ‘soft’ on fly tipping, which can only encourage more defendants to opt for the court route as opposed to accepting an FPN.

We suggest that fly tipping offences should be looked at as *the offence* in the *first* instance, not the person who committed it, or their ability to pay. Arguably, all fines could be set like this i.e. in line with the Guideline but before a means test. Based on this approach we would suggest means testing should therefore be used to ascertain what *type* of fine(s) to give, and never how much.

Under this context we also suggest that a review of the Definitive Guideline needs to consider how can a Section 33 (fly tipping) offence be anything but deliberate? A person may refer to “previous good character” in the Court, but they clearly did not act as such when the offence was committed so why should there be an option to reduce the fine? To this end it also needs to be considered that much of the time people also have “better character” when they are on trial as they are presenting themselves in Court and need to come across as well as possible – this underlines the need to go back to the principle suggested above – fly tipping offences should be looked at as *the offence* in the *first* instance.

## **Community Based Sentences**

If a defendant cannot pay the fine in full, or in part, then we would ask that consideration is given to changing to the Guideline to allow for a much wider use of community based sentences as a matter of redress; such as the recent example in April of this year from Basingstoke where a defendant was ordered to pay £784 in costs and was also given a community punishment order requiring 80 hours of community service (*case brought by Basingstoke and Deane Borough Council*).

Whilst we appreciate the Guideline has the practical consequence of creating bespoke judgements for individual cases, logic suggests that the Guideline could be updated in a way that community orders become available in all offence categories and penalty ranges. We would therefore urge the Sentencing Council to review the Guideline to support much wider use of community sentences in circumstances where the defendant claims a lack of means.

To this end a review may also conclude there is opportunity to align any revisions to the Guideline with wider anti-social behaviour legislation including specifically the use of criminal behaviour orders. When considering fly tipping and similar offences under such a context the courts are required to take into account the inherent distress arising from fly tipping to landowners and the public alike. Such an alignment would also support police and local authority duties and strategies under section 6 Crime and Disorder Act which places an emphasis upon harm to environment as matter of crime and disorder.

We believe such an approach would do three things.

- Firstly it would send a clear message about the willingness of the courts to seek redress from defendants who claim a lack of means likely leading to a greater willingness to settle financial penalties as opposed to the longer term 'inconvenience' of a community based sentence.
- Secondly from a practical standpoint using money and time as sanctions should in turn lead to a perception that going to court is unlikely to be seen as the better option leading to a greater willingness on the part of defendants to pay an FPN if available, therefore relieving pressure on the courts as originally intended.
- Thirdly, properly executed, community based sentences should relieve the courts and other agencies from getting involved in ensuring 'payment plans' for fines are paid or chased up when payments are not made as agreed.

Under this context we further believe that the application of community sentences could be enhanced by introducing the principle of reparation where activities arising from community sentences are focused on clearing fly tips and litter as part of an overall rehabilitation strategy. Such an approach would likely be widely supported by the general public leading to greater recognition of the issue. Parallel discussions with Defra and the Ministry of Justice note that both departments support the use of community sentences especially where they involve training and rehabilitation for those carrying out unpaid work on probation, potentially further reducing the likelihood of reoffending.

Additionally, community based sentences address the issue of higher earners receiving greater fines, and vice versa. As we are suggesting sentencing based on the gravity of the offence, combining monetary fines and community sentences could enable the Courts to sentence more fairly. Just because someone has more money does not mean they should necessarily receive a greater punishment. Individuals should not be treated as businesses, where fine levels based on turnover makes sense; as the larger a company becomes, the more there is a reasonable expectation that responsibility and experience will encourage correct behaviours.

However, clearly individuals do not work like this and therefore the Guideline and the sentences arising from them should reflect this. Individuals should be dealt with on a level playing field, with all that separates them being the offence they may have committed, and the seriousness of that offence.



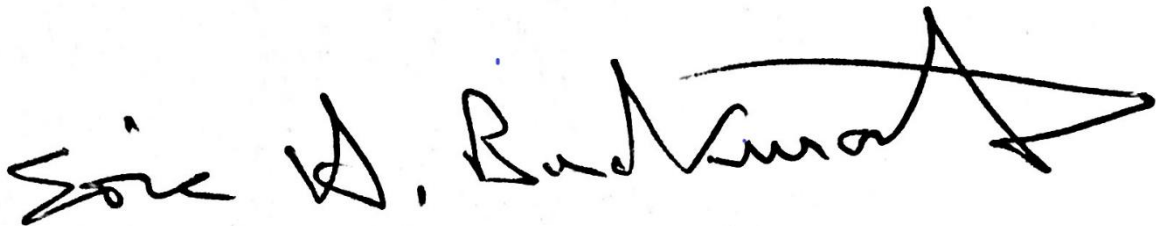
## Use of More Suspended Sentences

Evidence arising from 793 convictions secured in Buckinghamshire suggests the single most effective deterrent to reoffending by even the most aggressive serial fly-tippers has been a suspended prison sentence with Buckinghamshire suggesting that such an approach has prevented 20 case offenders from reoffending.

More specifically it is suggested that whilst a 24 month suspension is preferable to 12 months, the prospect of possible incarceration works as a worthwhile deterrent. As such we suggest that anyone convicted of a fly tipping offence for a second time is not given another suspended sentence.

Thank you for taking the time to consider the views expressed above. The local authorities and other organisations who have contributed to this letter stand ready to assist with any further queries you may have in preparation for responding to our suggestions as noted.

Yours sincerely,

A handwritten signature in black ink, reading "Eric W. Buckmaster". The signature is written in a cursive style with a large, sweeping flourish at the end.


Cllr Eric Buckmaster  
**Chair – Hertfordshire Waste Partnership**

*Please see overleaf for a list of signatories:*


CC: DEFRA – Under Secretary of State Rebecca Pow MP  
DEFRA – National Fly Tipping Prevention Group (Thomas Parrot / Pippa Harper)  
Chartered Institution of Wastes Management (Ray Parmenter / Tina Benfield)  
Environment Agency (Peter Kellet / Lee Rawlinson / Simon Hawkins / Alex Chown)  
HM Courts & Tribunals Service (South East) (Suzanne Gadd)  
Keep Britain Tidy (Rachel Scarisbrick)  
London Councils (Katharina Winbeck)  
Magistrates Association (Tom Franklin)  
National Farmers Union (Philippa Arnold / Rosalind David)  
Members of Parliament (as determined by each co-signing local authority / organisation)  
Natural Resources Wales  
Welsh Government – Environment Quality Department


On behalf of:

Waste Partnerships & Authorities

	<p>Cambridge City Council          East Cambridgeshire DC          Fenland District Council          Huntingdonshire DC          Peterborough City Council          South Cambridgeshire DC          Cambridgeshire CC</p>	 <p>Cllr Peter Murphy          RECAP Partnership</p>
<p>Devon Authorities          Strategic Waste Committee          (DASWC)</p>	<p>East Devon District Council          Exeter City Council          Mid Devon District Council          North Devon District Council          South Hams District Council          Teignbridge District Council          Torbay Council          Torridge District Council          West Devon Borough Council          Devon County Council</p>	 <p>Councillor Geoff Jung          Chairman DASWC</p>
	<p>Broxbourne Borough Council          Dacorum Borough Council          East Hertfordshire DC          Hertsmere Borough Council          North Hertfordshire DC          St Albans District Council          Stevenage Borough Council          Three Rivers District Council          Watford Borough Council          Welwyn Hatfield BC          Hertfordshire County Council</p>	 <p>Cllr Eric Buckmaster          Chair - Hertfordshire Waste          Partnership</p>
	<p>Ashford Borough Council          Canterbury City Council          Dartford Borough Council          Dover District Council          Folkestone &amp; Hythe DC          Gravesham Borough Council          Maidstone Borough Council          Sevenoaks District Council          Swale Borough Council          Thanet District Council          Tonbridge &amp; Malling BC          Tunbridge Wells BC          Kent County Council</p>	 <p>Cllr Nick Kenton          Chair – Kent Resource          Partnership</p>

 <p>LANCASHIRE WASTE PARTNERSHIP</p>	<p>Blackpool Council          Blackburn with Darwen BC          Burnley Borough Council          Chorley Council          Fylde Council          Hyndburn Borough Council          Lancaster City Council          Pendle Borough Council          Preston City Council          Ribble Valley BC          Rossendale Borough Council          South Ribble Borough Council          West Lancashire BC          Wyre Council          Lancaster County Council</p>	 <p>Cllr Shaun Turner          Cabinet Member for Environment          and Climate Change          Chair of the Lancashire Waste          Partnership.</p>
 <p>CLEANER GREENER          today tomorrow  <small>Lincolnshire Waste Partnership Tackling waste together</small></p>	<p>Boston Borough Council          City of Lincoln Council          East Lindsey District Council          North Kesteven DC          North East Lincolnshire          Council          North Lincolnshire Council          South Holland District Council          South Kesteven DC          West Lindsey District Council          Lincolnshire County Council</p>	 <p>Cllr Danny McNally          Chair Lincolnshire Waste          Partnership</p>
 <p>MRWA          MERSEYSIDE RECYCLING &amp; WASTE AUTHORITY</p>	<p>Merseyside and Halton Waste          Partnership:</p> <p>Liverpool City Council          Halton Council          Knowsley Council          Sefton Council          St Helens Council          Wirral Council          Halton Council</p>	 <p>Carl Beer - Chief Executive          Merseyside Recycling and Waste          Authority</p>
 <p>Norfolk          Waste          Partnership</p>	<p>Breckland District Council          Broadland District Council          Great Yarmouth BC          Kings Lynn &amp; West Norfolk DC          Norwich City Council          North Norfolk District Council          South Norfolk District Council          Norfolk County Council</p>	 <p>Cllr Andy Grant          Chair – Norfolk Waste          Partnership</p>
<p>Oxfordshire          Resources &amp; Waste          Partnership</p>	<p>Cherwell District Council          Oxford City Council          South Oxfordshire DC          Vale of White Horse DC          West Oxfordshire DC          Oxfordshire County Council</p>	<p>Cllr Lubna Arshad, Chair –          Oxfordshire Resources &amp; Waste          Partnership</p>

 	<p>Basingstoke &amp; Deane BC  East Hampshire DC  Eastleigh Borough Council  Fareham Borough Council  Gosport Borough Council  Hart District Council  Havant Borough Council  New Forest District Council  Portsmouth City Council  Rushmoor Borough Council  Southampton City Council  Test Valley Borough Council  Winchester City Council  Hampshire County Council</p>	<p>Cllr Eachus  Chair – Project Integra</p>  <p>Cllr Rob Humby  Deputy Leader of Hampshire  County Council, Executive Lead  Member for Economy, Transport  and Environment</p>
	<p>Mendip District Council  Sedgemoor District Council  Somerset West &amp; Taunton  South Somerset DC  Somerset County Council</p>	 <p>Cllr Sarah Dyke – Chair  Somerset Waste Partnership</p>
	<p>Cannock Chase DC  East Staffordshire BC  Lichfield District Council  Newcastle under Lyme BC  Stafford Borough Council  Staffordshire Moorland DC  South Staffordshire DC  Tamworth Borough Council  Stoke on Trent City Council  Staffordshire County Council</p>	 <p>Cllr Jonathan Price – Chair  Joint Waste Management Board  Somerset Waste Partnership</p>
	<p>Babergh District Council  East Suffolk Council  Ipswich Borough Council  Mid Suffolk District Council  West Suffolk Council  Suffolk County Council</p>	 <p>Cllr James Mallinder  Chair - Suffolk Waste Partnership</p>
	<p>Elmbridge Borough Council  Epsom &amp; Ewell BC  Guildford Borough Council  Mole Valley District Council  Reigate &amp; Banstead BC  Runnymede Borough Council  Spelthorne Borough Council  Surrey Heath BC  Tandridge District Council  Waverley Borough Council  Woking Borough Council  Surrey County Council</p>	 <p>Cllr Neil Dallen  Chair – Surrey Environment  Partnership</p>

	<p>North Warwickshire BC Nuneaton &amp; Bedworth BC Rugby Borough Council Stratford District Council Warwick District Council Warwickshire County Council</p>	<p><i>Heather Timms</i></p> <p>Cllr Heather Timms Chair – Warwickshire Waste Partnership</p>
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**On behalf of:**

**Individual local authorities:**

	<p><i>C. Lamb</i></p> <p><i>J. Platts</i></p> <p>Cllr Chris Lamb / Cllr Jenny Platts Barnsley Council</p>
	<p><i>Charles Royden</i></p> <p>Cllr Charles Royden Deputy Mayor &amp; Portfolio Holder for Environment, Highways and Transport</p>
	<p><i>W. Schmitt</i></p> <p>Cabinet Member, Environment Braintree District Council</p>
	<p><i>Maria Pearson</i></p> <p>Cllr Maria Pearson Chair of Environment, Enforcement and Housing Committee</p>
	<p>Cllr Peter Strachan – Portfolio Holder for Environment &amp; Climate Change Buckinghamshire Council</p>

 <p>Central Bedfordshire</p>	 <p>Cllr Ian Dalgarno Executive Member for Community Services</p>
 <p>Chelmsford City Council</p>	 <p>Councillor Rose Moore Cabinet Member for Greener and Safer Chelmsford</p>
 <p>Devon County Council</p>	 <p>Cllr Roger Croad Devon County Council</p>
 <p>Doncaster Metropolitan Borough Council</p>	 <p>Cllr Joe Blackman Cabinet Member for Highways, Infrastructure and Enforcement Doncaster Borough Council</p>
 <p>Dorset Council</p>	 <p>Cllr Jill Haynes Cabinet Member for Customers Services &amp; Community Dorset Council</p>
 <p>Epping Forest District Council <a href="http://www.eppingforestdc.gov.uk">www.eppingforestdc.gov.uk</a></p>	 <p>James Warwick / Cllr Nigel Avey Service Director – Contracts / Portfolio Holder Environmental and Technical Epping Forest District Council</p>
 <p>Essex County Council</p>	 <p>Cllr Malcolm Buckley (Cabinet Member for Waste Reduction and Recycling)</p>

	 <p>Cllr Abbas Hussain Portfolio Holder – Neighbourhood Services</p>
	 <p>Cllr Sarah Rouse Leader of Malvern Hills District Council</p>
	 <p>Cllr Wendy Stamp Leader – Maldon District Council</p>
	 <p>Cllr Heather Shearer Portfolio holder for Community Health Services</p>
	 <p>Cllr Dominic Beck Portfolio Holder for Transport &amp; Environment Rotherham Metropolitan Borough Council</p>
	 <p>Cllr Paul Wood Executive Member for Housing, Roads and Waste Management</p>
	 <p>Cllr Bradley Thomas Leader of Wychavon District Council</p>

On behalf of:

Professional Bodies

 <p>Association of Directors of Environment, Economy, Planning &amp; Transport</p>	 <p>Steve Palfrey Chair of ADEPT Waste Group</p>
 <p>Association of London Cleansing Officers</p>	 <p>Neil Carret – Chair Association of London Street Cleansing Officers</p>
	 <p>Mark Tufnell CLA Deputy President</p>
	 <p>Jacob Hayler Executive Director Environmental Services Association</p>
 <p>www.hertfordshire.gov.uk/flytipping</p>	 <p>Duncan Jones – Chair Hertfordshire Fly Tipping Group</p>
 <p>Local Authority Recycling Advisory Committee</p>	 <p>Carole Taylor - Chair Local Authority Recycling Advisory Committee</p>
<p>London Environment Directors' Network</p> 	 <p>Chair London Environment Directors Network</p>



<p>LINCOLNSHIRE  <b>Environmental  Crime  Partnership</b></p> 	<p><i>A. Kirkham.</i></p> <p>Ayeisha Kirkham (MCIEH; CEnvH)  Chair – Lincolnshire Environmental  Crime Partnership</p>
 <p><b>Local</b>  <b>Government  Association</b></p>	<p><i>David Renard</i></p> <p>Cllr David Renard  Leader, Swindon Council  Haydon Wick Ward (Conservative)</p> <p>Chairman - Economy, Environment,  Housing and Transport Board  Local Government Association (LGA)</p>
 <p><b>NAWDO</b>  NATIONAL ASSOCIATION OF WASTE DISPOSAL OFFICERS</p>	<p><i>Emma Beal</i></p> <p>Emma Beal – Chair  National Association of Waste Disposal  Officers</p>

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Mr Duncan Jones  
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Your Ref: FTG-SC-02

By email to: [duncan.jones@hertfordshire.gov.uk](mailto:duncan.jones@hertfordshire.gov.uk)

15 October 2021

Dear Mr Jones,

## **Review of the Environmental Offences Definitive Guideline (2014)**

Further to my letter of 3 August, the Sentencing Council met on 24 September and discussed the contents of the letter from Councillor Buckmaster and I am now in a position to respond more fully.

The Council considered the representations in the letter in detail and while it was accepted that fly tipping can be a serious problem, the Council was not convinced that making changes to sentencing guidelines would be the solution to the problem. In addition, the Council noted that some of the suggestions made would potentially be contrary to law.

I provide below a summary of the Council's view in response to each of the points raised in your letter:

### **Court imposed fines and costs versus Fixed Penalty Notices**

The letter suggests that where a fixed penalty notice (FPN) has been offered and a defendant opts to go to court and is convicted, the fine should exceed the maximum FPN available (currently £400). The Council noted the argument in the letter that fines lower than the FPN undermine the purposes of FPNs which are said to include reducing costs for prosecutors and alleviating pressure on courts. The Council was unable to agree with this argument. Guidance to [magistrates on fixed penalty notices](#) contained in the explanatory materials to the magistrates courts sentencing guidelines states:

- the fact that the offender did not take advantage of the penalty (whether that was by requesting a hearing or failing to pay within the specified timeframe) does not increase the seriousness of the offence and must not be regarded as an aggravating factor. The appropriate

sentence must be determined in accordance with the sentencing principles set out in this guidance (including the amount of any fine, which must take an offender's financial circumstances into account), disregarding the availability of the penalty.

Section 125 of the Sentencing Act 2020 requires that the "court must take into account the circumstances of the case including, *in particular* (our italics), the financial circumstances of the offender so far as they are known, or appear, to the court" and this guidance reflects that. The Council considers that it would be unlawful and arbitrary to impose a higher fine than would normally be justified for offences simply because an FPN has been offered. The availability of an FPN does not deprive a person of the right to put the prosecution to proof of its case or to have their sentence determined by a court in accordance with the normal principles.

The Council also noted that, in practice, taking into account costs and the surcharge, the overall amount that an offender convicted in court is required to pay is unlikely to be lower than the FPN in the vast majority of cases. It is also relevant to note that where loss or damage has been caused an application can be made for compensation (indeed this is the first step in the guideline).

### **Introduce stronger means testing, and Court Fine "maximum payment periods"**

The Council noted the suggestion that means declaration forms are not adequately tested by courts and that consequently fines are often being set on the basis of inaccurate information. As quoted in the letter, the guideline does contain guidance on obtaining financial information. If the suggestion is that courts routinely lack the time or resources to test some declarations as fully as they may wish, this is something that is outside the remit of the Council.

The Council also noted the assertion that the problem is exacerbated by the failure of courts to collect the financial penalties imposed. While the Council has provided some [guidance](#) about payment of fines, the way in which fines are enforced after the sentence hearing is, again, outside the Council's remit.

The letter proposes "that fly tipping offences should be looked at as *the offence* in the *first* instance, not the person who committed it, or their ability to pay". As constructed, the guideline does require the court to look at the seriousness of the offence before taking into account matters such as previous convictions, and then deciding on the appropriate penalty. It is only at that point, if the penalty is to be a fine, that the offender's financial circumstances become relevant. As outlined above it would be contrary to legislation to disregard those circumstances and therefore the Council could not adopt such a proposal.

### **Community Based Sentences**

The letter suggests that: "If a defendant cannot pay the fine in full, or in part, then we would ask that consideration is given to changing to the Guideline to allow for a much wider use of community based sentences as a matter of

redress". The guideline *does* provide for community orders as an alternative to band D or F fines. This is because offences that fall into those categories are deemed to be serious enough for a community order. It is a matter for the court (where appropriate with input from the National Probation Service in the form of a pre-sentence report) to determine whether a fine or a community sentence would best meet the purposes of sentencing. These are set out in legislation.

Section 57 of the Sentencing Act 2021 states:

- 1) This section applies where—
  - a) a court is dealing with an offender for an offence, and
  - b) the offender is aged 18 or over when convicted.
- 2) The court must have regard to the following purposes of sentencing—
  - a) the punishment of offenders,
  - b) the reduction of crime (including its reduction by deterrence),
  - c) the reform and rehabilitation of offenders,
  - d) the protection of the public, and
  - e) the making of reparation by offenders to persons affected by their offences.

What it is not open to the court to do is to impose a more severe sentence simply because of an offender's inability to pay a fine, nor (in effect) to allow an offender to escape a more severe sentence by virtue of their better ability to meet any financial penalty imposed by way of a fine.

The Council noted the suggestion that community orders should contain an element of reparation focussing on clearing fly tips and litter. Community orders consist of one or more requirements which are specified by the court imposing the order. One such requirement which is often imposed is unpaid work, which may involve various activities including clearing litter. However, the exact activity will depend on the arrangements that the National Probation Service make and is not possible for guidelines – or courts – to specify the precise nature of the activity to be undertaken in a particular case.

### **Use of More Suspended Sentences**

The letter suggests the greater use of suspended sentence orders to deter offenders from further offending. It is important to be clear that a suspended sentence is still a sentence of imprisonment. As such, it *must not* be imposed unless the offence is so serious that neither a fine alone nor a community sentence can be justified. This is important because if the offender re-offends during the currency of the order, or fails to comply with any of the requirements attached to the order, the default position is that the sentence will be activated and they will be sent to prison – and that can only be justified if the elements of the original offence were such that a custodial sentence was justified.

For the most serious offending the guideline does contain custodial sentences and, if appropriate, the court can suspend such a sentence with requirements (such as those that are attached to community orders)

Information on the court's duties and options in imposing community and custodial sentences is set out in the [Imposition of community and custodial sentences](#) guideline.

### **In conclusion**

The Environmental offences guideline contains a total of 12 steps that require the court to consider the seriousness of the offending (including the harm caused by the offending) and the circumstances offender in arriving at the appropriate sentence. In addition to fines, community orders, and custodial sentences, the guideline also provides for compensation and various ancillary orders which may be appropriate, depending on the circumstances of each individual case. The Council is of the view that the guideline is sufficiently able to allow Courts to deal adequately with the full range of such cases before them. It is also worth noting that the guideline applies to a range of environmental offending, not just to fly tipping, and any review of that guideline would have to take into account the full range of offending that it covers and ensure offences are dealt with consistently and proportionately across that full range.

As such, the Council is not yet persuaded that the evidence suggests that the current environmental offences guidelines are not operating effectively, or that their amendment is the solution to the issue of fly tipping. Consequently, and given the Council's limited resources, it did not agree that it should devote significant time and resources to reviewing the guideline. The Council will of course consider any further evidence that you wish to provide.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Steve Wade', written over a horizontal line.

**Steve Wade**

**Head of Office of the Sentencing Council**



Mr Steve Wade  
Head of the Office of the  
Sentencing Council  
EB16 East Block  
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WC2A 2LL

Reply to:  
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Herts Fly Tipping Group  
c/o Hertfordshire County Council  
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County Hall  
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Hertford  
SG13 8DN

e-mail: [duncan.jones@hertfordshire.gov.uk](mailto:duncan.jones@hertfordshire.gov.uk)  
My Ref: FTG-SC-03  
Your Ref:  
Date: 22<sup>nd</sup> March 2022

Dear Mr Wade,

### **Review of the Environmental Offences Definitive Guideline (2014)**

Thank you for your letter of the 15<sup>th</sup> October 2021 and the detailed response to the points we raised in our letter of the 2<sup>nd</sup> August 2021.

As you will no doubt appreciate your detailed response required conversations with a range of stakeholders in order to determine whether from our perspective there are grounds for any further dialogue on the matter.

Those deliberations have been completed and as a result we wish to highlight the following points with a view to the Sentencing Council (SC) reconsidering the potential for a review of the Environmental Offences Definitive Guideline (2014):

- a) Whilst we appreciate the SC drawing to our attention to the guidance to magistrates on fixed penalty notices which appears in essence to require magistrates to ignore the availability of an FPN, we note this is guidance. Therefore this suggests that guidance can be updated to take into account current realities in relation to fly tipping and the lack of deterrent impact court judgements are having.
- b) Linked to point a) we note in your letter of the 15<sup>th</sup> October 2021 reference to Section 57 of the Sentencing Council Act 2021. Section 2b explicitly refers to reducing crime including by deterrence. In contrast however, given our consultations with those that represent the majority of frontline enforcement capability across the country, it would be difficult to find anyone that thinks typical court judgements in response to successful prosecutions represent any form of effective deterrent; and on that basis it would appear advisable to revisit this to ensure that the intention is matched by the reality

- c) Community Orders. We note the SC's reference to community orders being available for offences in band D and F fines. However, the point raised in our letter was for more use of such powers based on making such orders available across more bands. Stakeholders do not feel this issue has been addressed and therefore urge you to revisit this to help ensure that the optimum across bands is evident to all.

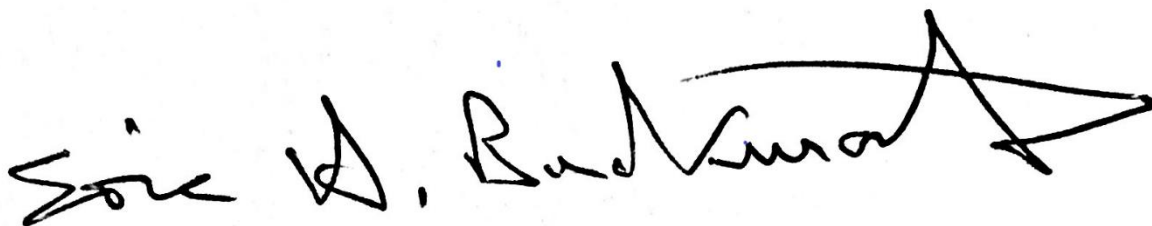
In addition to the above we thank the SC for clarity in relation to means testing as well as the involvement of the National Probation Service with respect to deciding the specifics of work to be undertaken during community service. We will look to advance both issues with the relevant bodies.

In conclusion we are of the view that whilst the SC has addressed the specific points in our letter of the 2<sup>nd</sup> August 2021 we feel that the response does not address the main theme of our efforts, which is that court judgements for fly tipping in no way represent an effective deterrent.

We would further suggest that the SC's response appears not to recognise the strength of feeling in this regard as evidenced by the 158 local authorities, numerous waste partnerships and 10 professional bodies that between them represent both the majority of the enforcement capability in this country as well those stakeholders that continue to have to deal with the scourge of fly tipping.

We look forward to your response.

Yours sincerely,

A handwritten signature in black ink, reading "Eric W. Buckmaster". The signature is written in a cursive style with a large, sweeping flourish at the end.

Cllr Eric Buckmaster  
**Chair – Hertfordshire Waste Partnership**

CC: DEFRA – Under Secretary of State Jo Churchill MP  
DEFRA – National Fly Tipping Prevention Group (Thomas Parrot / Pippa Harper)  
Environment Agency (Peter Kellet / Lee Rawlinson / Simon Hawkins / Alex Chown)  
HM Courts & Tribunals Service (South East) (Suzanne Gadd)  
Keep Britain Tidy (Rachel Scarisbrick)  
London Councils (Katharina Winbeck)  
Magistrates Association (Tom Franklin)  
National Farmers Union (Philippa Arnold / Josh Redford)  
CLA (Tim Woodward)