

Sentencing Council meeting:
Paper number:

17 June 2022
SC(22)JUN03 – Miscellaneous
Amendments

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1 ISSUE

1.1 This is the second of three meetings to decide the content of this year's annual consultation on miscellaneous changes to guidelines and supporting material.

1.2 At the May meeting the Council considered various possible changes (arising from feedback from users and from legislative changes) and considered whether these could be made with or without consultation. At this meeting the proposed changes will be set out in more detail in order for those decisions to be made. There are further matters arising from legislative changes which will affect the Sentencing children and young people guideline and these will be considered at the July meeting.

1.3 The timetable we aim to keep to is to consult from September to November and consider the responses to the consultation in December and January to enable any changes agreed upon to be made on 1 April 2023.

2 RECOMMENDATION

2.1 The Council is asked to consider what action should be taken in relation to the diverse matters set out in the paper and whether these should be consulted on as part of the miscellaneous amendments consultation.

3 CONSIDERATION

Changes to the Imposition guideline

3.1 This is covered in a separate paper presented by Jessie Stanbrook.

The wording on obligatory disqualification in guidelines.

3.2 The Council agreed to update the wording relating to disqualification in the [drug driving guidance](#) and the [excess alcohol guideline](#) subject to clarifying the relevant dates for each provision (commission of offence, conviction or imposition of disqualification). The changes proposed below would also apply to the [unfit through drink or drugs \(drive/ attempt to drive\)](#) and the [fail to provide specimen for analysis \(drive/attempt to drive\)](#) guidelines.

Suggested additions in red and deletions ~~struck through~~:

- Must endorse and disqualify for at least 12 months
- Must disqualify for at least 2 years if offender has had two or more disqualifications for periods of 56 days or more **imposed** in ~~preceding the~~ **3 years preceding the commission of the current offence** – refer to [disqualification guidance](#) and consult your legal adviser for further guidance
- Must disqualify for at least 3 years if offender has been **convicted** of a relevant offence in ~~preceding the~~ **10 years preceding the commission of the current offence** – consult your legal adviser for further guidance
- [Extend disqualification](#) if imposing immediate custody

3.3 Confusingly the position is different depending on the statutory provision. The requirement in the Road Traffic Offenders Act 1988 s.34(4)(b) to disqualify for at least two years depends on more than one previous disqualification having been **imposed** in the three years preceding the commission of the current offence. Whereas the requirement under s34(3) to disqualify for at least three years, depends on being **convicted** of a relevant offence in the ten years preceding the commission of the current offence.

3.4 A further complication relating to totting disqualifications is the way in which points on the licence are taken into account – for these purposes the points that count are any relating to offences **committed** in the three years up to and including commission of the current offence (s29 RTOA) – see further 3.8 below.

3.5 It may also be helpful to modify the disqualification guidance linked to from the guidelines. Suggested additions in **red** and deletions ~~struck through~~:

1. Obligatory disqualification

Note: The following guidance applies to offences with a 12 month minimum disqualification.

Some offences carry obligatory disqualification for a minimum of 12 months (Road Traffic Offenders Act (“RTOA”) 1988, s.34). The minimum period is automatically increased where there have been certain previous convictions and disqualifications.

An offender must be disqualified for at least two years if ~~he or she has been disqualified~~ **a disqualification** ~~two or more times for a period~~ of at least 56 days **has been imposed on them** in the three years preceding the commission of the offence (RTOA 1988, s.34(4)(b)). The following disqualifications are to be disregarded for the purposes of this provision:

- interim disqualification;
- disqualification where vehicle used for the purpose of crime;
- disqualification for stealing or taking a vehicle or going equipped to steal or take a vehicle.

An offender must be disqualified for at least three years if he or she is convicted of one of the following offences:

- ~~causing death by careless driving when under the influence of drink or drugs;~~
- **driving or attempting to drive while unfit;**
- **driving or attempting to drive with excess alcohol;**

- driving or attempting to drive with concentration of specified controlled drug above specified limit;
- failing to provide a specimen (drive/attempting to drive).

and has within the 10 years preceding the commission of the offence been convicted of any of ~~these~~ those offences or causing death by careless driving when under the influence of drink or drugs (RTOA 1988, s.34(3)):

The individual offence guidelines indicate whether disqualification is mandatory for the offence and the applicable minimum period. **Consult your legal adviser for further guidance.**

3.6 The changes proposed above seek to clarify the present position but also to ensure that the guidance is still accurate when the changes brought about by the Police, Crime, Sentencing and Courts Act 2022 ('PCSC') come into force (the minimum disqualification for causing death by careless driving whilst under the influence of drink or drugs will be 5 years, increasing to 6 years for repeat offending).

3.7 Consulting on the proposed changes would ensure that the wording is clear and helpful to guideline users and would serve to draw attention to the changes.

Question 1: Does the Council agree to consult on the changes proposed for obligatory disqualification?

The wording on discretionary bans in the totting guidance

3.8 At the last meeting the Council agreed to consult on amending the wording in the explanatory materials to the MCSG on 'totting up' disqualifications and discretionary disqualifications. The proposed changes are set out on page 1 of Annex A.

3.9 However, as noted at 3.4 above, the way in which points are taken into account is subtly different to the way previous disqualifications are taken into account and it may also be useful to set this out in the guidance. The ['totting up' guidance](#) currently opens with:

Incurring 12 or more penalty points within a three-year period means a minimum period of disqualification must be imposed (a 'totting up disqualification') – s.35 Road Traffic Offenders Act (RTOA) 1988.

3.10 Section 20 RTOA states:

29.— Penalty points to be taken into account on conviction.

(1) Where a person is convicted of an offence involving obligatory endorsement, the penalty points to be taken into account on that occasion are (subject to subsection (2) below)—

(a) any that are to be attributed to the offence or offences of which he is convicted, disregarding any offence in respect of which an order under section 34 of this Act is made, and

(b) any that were on a previous occasion ordered to be endorsed on his driving record, unless the offender has since that occasion and before the conviction been disqualified under section 35 of this Act.

(2) If any of the offences was committed more than three years before another, the penalty points in respect of that offence shall not be added to those in respect of the other.

3.11 Suggested revised wording:

Incurring 12 or more penalty points means a minimum period of disqualification must be imposed (a 'totting up disqualification') – s.35 Road Traffic Offenders Act (RTOA) 1988. Points are **not** to be taken into account if imposed for a previous offence **committed** more than three years before the **commission** of the current offence – s.29 RTOA 1988

Question 2: Does the Council agree to consult on the changes to the totting up guidance as set out at Annex A and 3.11 above?

Default relevant weekly income amounts

3.12 The Council considered whether to consult on amending the default relevant weekly income (RWI) figures used to calculate fines, and concluded that in the current financial climate it would not be appropriate to do so. However, it was recognised that the information currently on the website in the explanatory materials setting out how the figures were arrived at was out of date and potentially misleading. The proposal is to remove the detailed explanation of how the amounts were calculated and to simplify the explanation in relation to those on low income/ benefits.

3.13 The proposed wording is in Annex A from page 2. The change to the wording will not affect sentences. If the Council were to consult on the change of wording it risks opening a debate about the default RWI figures and the reasons why the Council has chosen not to review them. Therefore, the recommendation is not to consult on this change but simply to log it in the record of minor amendments. Alternatively, the Council may feel that in the interests of transparency, it should consult on the decision not to review the figures at this time.

Question 3: Does the Council agree to remove the explanations of how the default RWI figures were calculated, and to do so without consultation?

Changes required by legislation

3.14 The Council asked for detailed proposals for how changes required by provisions in the PCSC relating to sentencing (most of which come into force on 28 June) could be dealt with in guidelines. In drafting the proposals it has become apparent that some of the changes are not entirely straightforward and the Council may feel it appropriate to consult on

the wording. If that is the case, the issue will remain of what changes should be made to guidelines in the short term.

Assaults on emergency workers

3.15 [Section 2](#) of the PCSC doubles the maximum penalty for assaulting an emergency worker for offences committed on or after 28 June. This is a change that the Council had anticipated when it developed the guideline and referenced in the response to the consultation. Therefore, it is proposed that the necessary changes can be made to the guideline without further consultation.

3.16 The proposal is to change the maximum from 1 year to 2 years and add the highlighted wording at the top of the [guideline](#):

Section 39

Triable only summarily

Maximum: 6 months' custody

Offence range: Discharge – 26 weeks' custody

Racially or religiously aggravated offence – Section 29

Triable either way

Maximum: 2 years' custody

Offence committed against an emergency worker – Section 1

Triable either way

Maximum: 2 years' custody (1 year's custody for offences committed before 28 June 2022)

3.17 Also, at step 3 of the guideline:

ASSAULT ON EMERGENCY WORKER AGGRAVATED OFFENCES

Maximum sentence for the aggravated offence of assault on an emergency worker is 2 years' custody (1 year's custody for offences committed before 28 June 2022)

Question 4: Does the Council agree to make the changes relating to assaults committed against an emergency worker without consultation?

3.18 [Section 3](#) of the PCSC inserts a new s258A (re 16 and 17 year olds), s274A (re 18-20 year olds) and s285A (re 21 and older) in the Sentencing Code. Section 285A is reproduced at page 4 of Annex A.

3.19 The effect of this is that for unlawful act manslaughter where the victim is an emergency worker acting in that capacity, the court must impose a life sentence (unless

there are exceptional circumstances). This provision will apply only very rarely in practice and so it is proposed to make only minor changes to the [guideline](#).

3.20 Firstly, adding the following to the header of the guideline (immediately before the text on the type of manslaughter):

For offences committed on or after 28 June 2022, if the offence was committed against an emergency worker acting in the exercise of functions as such a worker, the court **must** impose a life sentence **unless** the court is of the opinion that there are exceptional circumstances which (a) relate to the offence or the offender, and (b) justify not doing so (sections 274A and 285A of the Sentencing Code).

3.21 Secondly, in statutory aggravating factors at step 2, changing:

Offence was committed against an emergency worker acting in the exercise of functions as such a worker

To:

Offence was committed against an emergency worker acting in the exercise of functions as such a worker. NOTE: For offences committed on or after 28 June 2022, if the offence was committed against an emergency worker acting in the exercise of functions as such a worker, the court **must** impose a life sentence **unless** the court is of the opinion that there are exceptional circumstances which (a) relate to the offence or the offender, and (b) justify not doing so. (sections 274A and 285A of the Sentencing Code)

3.22 It is proposed that these changes could be made without consultation, as they simply reflect the change in the legislation. Additionally or alternatively, the Council may feel that it would be preferable to give more detailed guidance, possibly by adding an exceptional circumstances step to the guideline. If so, proposals will be brought to the July meeting.

Question 5: Does the Council agree to make the changes set out above to the unlawful manslaughter guideline without consultation?

Criminal damage to memorials

3.23 [Section 50](#) of the PCSC inserts subsections 11A to 11D and amends schedule 2 to the Magistrates' Courts Act 1980 which has the effect of excluding criminal damage to memorials from offences which are to be tried summarily if the value involved is not more than £5,000 (for offences committed on or after 28 June 2022). Criminal damage which is to be tried summarily has a maximum sentence of 3 months' custody and/or a £2,500 fine whereas the either way offence has a maximum of 10 years.

3.24 The header of the [guideline](#) where the damage does not exceed £5,000 reads:

**Criminal damage (other than by fire) value not exceeding £5,000/
Racially or religiously aggravated criminal damage**

Crime and Disorder Act 1998, s.30, Criminal Damage Act 1971, s.1(1)

Effective from: 01 October 2019

Criminal damage (other than by fire) value not exceeding £5,000, Criminal Damage Act 1971, s.1 (1)

Triable only summarily

Maximum: Level 4 fine and/or 3 months' custody

Offence range: Discharge – 3 months' custody

Note: Where an offence of criminal damage is **added** to the indictment at the Crown Court (**having not been charged before**) the statutory maximum sentence is 10 years' custody regardless of the value of the damage. In such cases where the value does not exceed £5,000, the exceeding £5,000 guideline should be used but regard should also be had to this guideline.

Racially or religiously aggravated criminal damage, Crime and Disorder Act 1998, s.30

Triable either way

Maximum: 14 years' custody

Option one

3.25 There are several possible ways of reflecting this change; one would be to add the following text to the header of the under £5,000 guideline:

This guideline does **not** apply to an offence committed by destroying or damaging a memorial as defined by s22(11A) - (11D) of the Magistrates' Courts Act 1980 if committed on or after 28 June 2022. In such cases refer to the [Criminal damage over £5,000 guideline](#).

3.26 If sentencers are to be guided to the [over £5,000 guideline](#), this would need to be amended to indicate that it may apply to cases where the value is less than £5,000 if it is an offence committed by destroying or damaging a memorial, for example by adding:

This guideline also applies to cases where the value is less than £5,000 if it is an offence committed by destroying or damaging a memorial as defined by s22(11A) - (11D) of the Magistrates' Courts Act 1980 committed on or after 28 June 2022.

Option two

3.27 However, it could be argued that the under £5,000 guideline would still be appropriate for sentencing low value cases of criminal damage to memorials (which could, for example, be a bunch of flowers), in which case the header could be amended to read:

Criminal damage (other than by fire) value not exceeding £5,000, Criminal Damage Act 1971, s.1 (1)

Triable only summarily (except as noted below*)

Maximum: Level 4 fine and/or 3 months' custody

Offence range: Discharge – 3 months' custody

Note: Where an offence of criminal damage is **added** to the indictment at the Crown Court (**having not been charged before**) the statutory maximum sentence is 10 years' custody regardless of the value of the damage. In such cases where the value does not exceed £5,000, the exceeding £5,000 guideline should be used but regard should also be had to this guideline.

*Triable either way if it is an offence committed by destroying or damaging a memorial as defined by s22(11A) - (11D) of the Magistrates' Courts Act 1980 committed on or after 28 June 2022.

Maximum: 10 years' custody

Racially or religiously aggravated criminal damage, Crime and Disorder Act 1998, s.30

Triable either way

Maximum: 14 years' custody

Option three

3.28 Another solution would be to amend the existing note in both guidelines relating to cases added to the indictment at the Crown Court. For the under £5,000 guideline:

Note: Where an offence of criminal damage:
a) is **added** to the indictment at the Crown Court (**having not been charged before**)
or
b) it is an offence committed by destroying or damaging a memorial as defined by s22(11A) - (11D) of the Magistrates' Courts Act 1980 committed on or after 28 June 2022
the statutory maximum sentence is 10 years' custody regardless of the value of the damage. In such cases where the value does not exceed £5,000, the exceeding £5,000 guideline should be used but regard should also be had to this guideline.

For the exceeding £5,000 guideline:

Note: Where an offence of criminal damage:
a) is **added** to the indictment at the Crown Court (**having not been charged before**)
or
b) it is an offence committed by destroying or damaging a memorial as defined by s22(11A) - (11D) of the Magistrates' Courts Act 1980 committed on or after 28 June 2022
the statutory maximum sentence is 10 years' custody regardless of the value of the damage. In such cases where the value does not exceed £5,000 regard should also be had to the not exceeding £5,000 guideline.

3.29 None of the proposed solutions is entirely satisfactory, but option three has the advantage of being fairly straightforward and giving sentencers the maximum flexibility to sentence according to the seriousness of the offending in individual cases.

3.30 The Council may feel, that as the choice of how to approach this could affect the level of sentence, it would be appropriate to consult. If so, the Council will need to consider how the guideline(s) should reflect the change in the short term (possibly option 2?).

Question 6: Does the Council agree to consult on making the changes in option 3? If so, should any interim changes be made?

Minimum terms – exceptional circumstances

3.31 [Section 124](#) of the PCSC changes the threshold for passing a sentence below the minimum term for repeat offenders for certain offences from ‘unjust in all the circumstances’ to ‘exceptional circumstances’ for offences committed on or after 28 June 2022.

3.32 Step 3 of the [possession of a bladed article/offensive weapon guideline](#) is reproduced on page 5 of Annex A.

3.33 Any changes to step 3 will need to accommodate both tests (at least in the short term). This could be achieved by having the two different tests as dropdowns within step 3. The proposed wording for the exceptional circumstances test is adapted from the firearms and revised terrorism guidelines:

Step 3 – Minimum Terms – second or further relevant offence

When sentencing the offences of:

- possession of an offensive weapon in a public place;
- possession of an article with a blade/point in a public place;
- possession of an offensive weapon on school premises; and
- possession of an article with blade/point on school premises

a court must impose a sentence of at least 6 months’ imprisonment where this is a second or further relevant offence **unless:**

- (If the offence was committed before 28 June 2022) **the court is of the opinion that there are particular circumstances relating to the offence, the previous offence or the offender which make it unjust to do so in all the circumstances;** or
- (If the offence was committed on or after 28 June 2022) **the court is of the opinion that there are exceptional circumstances which relate to the offence or to the offender, and justify not doing so.**

A ‘relevant offence’ includes those offences listed above and the following offences:

- threatening with an offensive weapon in a public place;
- threatening with an article with a blade/point in a public place;
- threatening with an article with a blade/point on school premises; and
- threatening with an offensive weapon on school premises.

Unjust in all of the circumstances

v

In considering whether a statutory minimum sentence would be 'unjust in all of the circumstances' the court must have regard to the particular circumstances of the offence and the offender. If the circumstances of the offence, the previous offence or the offender make it unjust to impose the statutory minimum sentence then the court **must impose either a shorter custodial sentence than the statutory minimum provides or an alternative sentence.**

The offence

Having reached this stage of the guideline the court should have made a provisional assessment of the seriousness of the current offence. In addition, the court must consider the seriousness of the previous offence(s) and the period of time that has elapsed between offences. Where the seriousness of the combined offences is such that it falls far below the custody threshold, or where there has been a significant period of time between the offences, the court may consider it unjust to impose the statutory minimum sentence.

The offender

The court should consider the following factors to determine whether it would be unjust to impose the statutory minimum sentence;

- any strong personal mitigation;
- whether there is a realistic prospect of rehabilitation;
- whether custody will result in significant impact on others.

Exceptional circumstances

v

In considering whether there are exceptional circumstances that would justify not imposing the minimum term the court must have regard to:

- the particular circumstances of the offence **and**
- the particular circumstances of the offender.

either of which may give rise to exceptional circumstances.

Where the issue of exceptional circumstances has been raised the court should give a clear explanation as to why those circumstances have or have not been found.

Principles

The circumstances must truly be exceptional. Circumstances are exceptional if the imposition of the minimum term would result in an arbitrary and disproportionate sentence.

It is important that courts adhere to the statutory requirement and do not too readily accept exceptional circumstances.

The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances, or it may be the collective impact of all of the relevant circumstances.

The mere presence of one or more of the following should not *in itself* be regarded as exceptional:

- One or more lower culpability factors
- One or more mitigating factors
- A plea of guilty

Where exceptional circumstances are found

If there are exceptional circumstances that justify not imposing the statutory minimum sentence then the court must impose either a shorter custodial sentence than the statutory minimum provides or an alternative sentence.

3.34 For the [threats guideline](#) the changes could be the same. The only difference being that the first part of step 3 would read:

When sentencing these offences a court must impose a sentence of at least 6 months imprisonment **unless**

- (If the offence was committed before 28 June 2022) **the court is of the opinion that there are particular circumstances relating to the offence, the previous offence or the offender which make it unjust to do so in all the circumstances; or**
- (If the offence was committed on or after 28 June 2022) **the court is of the opinion that there are exceptional circumstances which relate to the offence or to the offender, and justify not doing so.**

3.35 The proposed changes go beyond merely updating the statutory wording, and so it is recommended that they are consulted on. If the Council agrees to consult, consideration will need to be given to what changes should be made in the short term. This could possibly be adding a note to step 3 in both guidelines which says:

For offences committed on or after 28 June 2022 the minimum sentence must be imposed unless the court is of the opinion that there are **exceptional circumstances** which relate to the offence or to the offender, and justify not doing so.

Question 7: Does the Council agree to consult on the proposed changes to the bladed articles/offensive weapons guidelines? If so, should a note be added to the guidelines in the interim?

3.36 The same approach could be applied to the [supply of prohibited drugs](#) and [drugs importation](#) guidelines.

Question 8: Should the same approach be applied to the relevant drugs guidelines?

3.37 The domestic burglary guideline (which comes into force on 1 July 2022) is different in that there is no minimum term step in the guideline. The following is included in the header and repeated above the sentence table:

Where sentencing an offender for a qualifying third domestic burglary, the Court must apply section 314 of the Sentencing Code and impose a custodial term of at least

three years, unless it is satisfied that there are particular circumstances which relate to any of the offences or to the offender which would make it unjust to do so.

3.38 In this guideline the legislative change could be accommodated by changing both occurrences to:

Where sentencing an offender for a qualifying third domestic burglary, the Court must apply section 314 of the Sentencing Code and impose a custodial term of at least three years, unless:.

- (If the offence was committed before 28 June 2022) **the court is of the opinion that there are particular circumstances relating to the offence, the previous offence or the offender which make it unjust to do so in all the circumstances;** or
- (If the offence was committed on or after 28 June 2022) **the court is of the opinion that there are exceptional circumstances which relate to the offence or to the offender, and justify not doing so.**

3.39 As this change does not go beyond merely reflecting the legislative change, it is proposed that it could be made without consultation.

Question 9: Should the proposed changes be applied to the domestic burglary guideline without consulting?

Statutory aggravating factor relating to assaults on those providing a public service

3.40 [Section 156](#) PCSC inserts section 68A into the Sentencing Code which creates a statutory aggravating factor where the victim is a person providing a public service for five offences: common assault, ABH, s20, s18 and threats to kill. This duplicates a factor that is already in all of the guidelines that cover these offences.

3.41 The common assault, ABH, s20, s18 guidelines have the existing (non-statutory) aggravating factor 'Offence committed against those working in the public sector or providing a service to the public or against a person coming to the assistance of an emergency worker'. The threats to kill guideline has the factor 'Offence committed against those working in the public sector or providing a service to the public'.

3.42 A similar factor with the same expanded explanation also appears in the following guidelines: affray; attempted murder; threatening with bladed article/ offensive weapon; disorderly behaviour with intent (s4A Public Order Act); disorderly behaviour (s5 Public Order Act); Drunk and disorderly; Harassment/stalking (fear of violence); Harassment/stalking; Manslaughter (diminished responsibility); Manslaughter (loss of control); Manslaughter (unlawful act); Owner or person in charge of a dog dangerously out of control; Owner or person in charge of a dog dangerously out of control- person injured; Owner or person in charge of a dog dangerously out of control assistance dog injured;

Owner or person in charge of a dog dangerously out of control death caused; threatening behaviour (s4 Public Order Act).

3.43 The common assault, ABH and s20 guidelines also cover the racially or religiously aggravated version of these offences, so for these guidelines the (non-statutory) aggravating factor would still be relevant. The threats to kill and s18 guidelines apply only to offences covered by the new statutory aggravating factor, so the existing factor could be redundant (though not immediately as the new factor applies to convictions on or after 28 June).

3.44 It is proposed to add the following statutory aggravating factor and expanded explanation to the relevant guidelines:

- Offence was committed against person providing a public service, performing a public duty or providing services to the public

Effective in relation to convictions on or after 28 June 2022

Care should be taken to avoid double counting factors including those already taken into account in assessing culpability or harm or those inherent in the offence

See below for the statutory provisions.

- **Note the requirement for the court to state that the offence has been so aggravated.**
- **Note this statutory factor only applies to certain violent offences as listed below.**
- **For other offences the aggravating factor relating to offences committed against those working in the public sector or providing a service to the public can be applied where relevant.**

The Sentencing Code states:

68A Assaults on those providing a public service etc

(1) This section applies where—

- (a) a court is considering the seriousness of an offence listed in subsection (3), and
- (b) the offence is not aggravated under section 67(2).

(2) If the offence was committed against a person providing a public service, performing a public duty or providing services to the public, the court—

- (a) must treat that fact as an aggravating factor, and
- (b) must state in open court that the offence is so aggravated.

(3) The offences referred to in subsection (1) are—

- (a) an offence of common assault or battery, except where section 1 of the Assaults on Emergency Workers (Offences) Act 2018 applies;
- (b) an offence under any of the following provisions of the Offences against the Person Act 1861—
 - (i) section 16 (threats to kill);

- (ii) section 18 (wounding with intent to cause grievous bodily harm);
- (iii) section 20 (malicious wounding);
- (iv) section 47 (assault occasioning actual bodily harm);
- (c) an inchoate offence in relation to any of the preceding offences.

(4) In this section—

- (a) a reference to providing services to the public includes a reference to providing goods or facilities to the public;
- (b) a reference to the public includes a reference to a section of the public.

(5) Nothing in this section prevents a court from treating the fact that an offence was committed against a person providing a public service, performing a public duty or providing services to the public as an aggravating factor in relation to offences not listed in subsection (3).

(6) This section has effect in relation to a person who is convicted of the offence on or after the date on which section 156 of the Police, Crime, Sentencing and Courts Act 2022 comes into force.

3.45 The expanded explanation for the existing (non-statutory) aggravating factor could be amended as follows (additions in red):

This reflects:

- the fact that people in public facing roles are more exposed to the possibility of harm and consequently more vulnerable and/or
- the fact that someone is working in the public interest merits the additional protection of the courts.

This applies whether the victim is a public or private employee or acting in a voluntary capacity.

Care should be taken to avoid double counting where the statutory aggravating factor relating to emergency workers **or to those providing a public service, performing a public duty or providing services to the public** applies.

3.46 There seems little point in consulting on these changes which are largely technical and are unlikely to have any impact on sentencing.

Question 10: Should the proposed changes to accommodate the new statutory aggravating factor for assaults on those providing a public service be applied to the relevant guidelines without consulting?

Explanatory materials SHPOs

3.47 [Section 175](#) PCSC makes changes to section 343 of the Sentencing Code regarding sexual harm prevention orders (SHPOs) which will enable courts to include positive requirements in SHPOs. There is, as yet, no date appointed for when this change will take effect. The Council has published revised guidance on SHPOs in sexual offences guidelines following consultation as follows:

Sentencing Code s345

To make an SHPO, the court must be satisfied that the offender presents a risk of sexual harm to the public (or particular members of the public) and that an order is necessary to protect against this risk. The only prohibitions which can be imposed by an SHPO are those which are necessary for the purpose of protecting the public from sexual harm from the offender.

The order may have effect for a fixed period (not less than five years) or until further order, with the exception of a foreign travel prohibition which must be a fixed period of no more than five years (renewable). Different time periods may be specified for individual restrictions and requirements.

Where an SHPO is made in respect of an offender who is already subject to an SHPO, the earlier SHPO ceases to have effect. If the offender is already subject to a Sexual Offences Prevention Order or Foreign Travel Order made in Scotland or Northern Ireland, that order ceases to have effect unless the court orders otherwise.

Chapter 2 of Part 11 of the Sentencing Code sets out further matters related to making SHPOs [link to be provided].

3.48 The explanatory materials to the MCSG contains [guidance on SHPOs](#) as an ancillary order. It includes the following statements:

The order may include only negative prohibitions; there is no power to impose positive obligations.

The order may have effect for a fixed period (not less than five years) or until further order.

3.49 When section 175 PCSC comes into force the first sentence will be incorrect and can be removed. The second statement could be expanded immediately to include the text agreed for sexual offences:

with the exception of a foreign travel prohibition which must be a fixed period of no more than five years (renewable). Different time periods may be specified for individual restrictions and requirements.

3.50 Another very minor change that can be made is to change references to the 'national probation service' to the 'probation service' (as noted in the paper on the Imposition guideline). That same correction will be made wherever it appears in guidelines, expanded explanations and explanatory materials.

3.51 Any substantive changes have already been consulted on and so it is proposed that there is no need to consult further.

Question 11: Should the proposed changes to the guidance on SHPOs be made without consulting?

Explanatory materials FBOs

3.52 The explanatory materials to the MCSG contains some [guidance on football banning orders](#). [Section 190](#) of the PCSC has amended Schedule 1 to the Football Spectators Act

1989 (reproduced from page 6 of Annex A) which sets out the offences for which a football banning order can be imposed. The changes are already in force.

3.53 The changes principally affect the following section in the guidance:

disorderly behaviour – Public Order Act 1986, s.5 – committed: (a) during a period relevant to a football match (see below) at any premises while the offender was at, or was entering or leaving or trying to enter or leave, the premises; (b) on a journey to or from a football match and the court makes a declaration that the offence related to football matches; or (c) during a period relevant to a football match (see below) and the court makes a declaration that the offence related to that match;

3.54 This could be amended to read:

public order offences – Public Order Act 1986, s. 3, 3A, 4, 4A or 5 – committed: (a) during a period relevant to a football match (see below) at any premises while the offender was at, or was entering or leaving or trying to enter or leave, the premises; (b) on a journey to or from a football match and the court makes a declaration that the offence related to football matches; or (c) during a period relevant to a football match (see below) and the court makes a declaration that the offence related to that match;

3.55 Also, the following could be added:

any offence under section 31 of the Crime and Disorder Act 1998 (racially or religiously aggravated public order offences) which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation,

any offence under section 1 of the Malicious Communications Act 1988 (offence of sending letter, electronic communication or article with intent to cause distress or anxiety) which the court has stated that the offence is aggravated by hostility of any of the types mentioned in section 66(1) of the Sentencing Code (racial hostility etc), and which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation,

any offence under section 127(1) of the Communications Act 2003 (improper use of public telecommunications network) which the court has stated that the offence is aggravated by hostility of any of the types mentioned in section 66(1) of the Sentencing Code (racial hostility etc), and which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation.

3.56 The proposed changes merely reflect changes to legislation but it may be helpful to consult on them to ensure that the information is set out in a way that is helpful to users of the MCSG.

Question 12: Should the proposed changes to the guidance on football banning orders be consulted on?

Other changes not previously considered

3.57 Feedback (via the website) from a magistrate has questioned the use of the term BAME in the [mental disorders guideline](#), it occurs twice in paragraph 5. [Central Government guidance](#) is now not to use that term. The government's preferred style is to write about ethnic or ethnic minority 'groups' and people from ethnic minority 'backgrounds' but not to use the term ethnic minority 'communities'. In addition 'gender and race' might be better expressed as 'gender and ethnicity'. Suggested revised wording:

It is important that courts are aware of relevant cultural, ethnicity and gender considerations of offenders within a mental health context. This is because a range of evidence suggests that people from ~~BAME communities~~ **ethnic minority backgrounds** may be more likely to experience stigma attached to being labelled as having a mental health concern, may be more likely to have experienced difficulty in accessing mental health services and in acknowledging a disorder and seeking help, may be more likely to enter the mental health services via the courts or the police rather than primary care and are more likely to be treated under a section of the MHA. In addition, female offenders are more likely to have underlying mental health needs and the impact therefore on females from ~~BAME communities~~ **ethnic minority backgrounds** in particular is likely to be higher, given the intersection between gender and ~~race~~ **ethnicity**. Moreover, refugees and asylum seekers may be more likely to experience mental health problems than the general population. Further information can be found at Chapters [six](#) and [eight](#) of the Equal Treatment Bench Book.

3.58 These changes to terminology could be made without consultation as they are not substantive, but the Council may feel that consulting on them would draw attention to the changes.

Question 13: Should the proposed changes to the mental disorders guideline be made and should they be consulted on?

4 IMPACT AND RISKS

4.1 The impact on sentencing of the majority of the proposals in this paper will be relatively minor. The most significant changes are those necessitated by legislative changes.

4.2 The proposed changes are largely technical and most are unlikely to be of wide interest, but they present an opportunity to show that the Council is responsive to feedback and makes every effort to keep guidelines relevant and up to date. There is also the possibility that the Council may be criticised for the way in which the legislative changes are dealt with.

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The wording on discretionary bans in the totting guidance see para 3.8 of paper

Current wording	Proposed wording
<p><u>Discretionary disqualification:</u> In some cases in which the court is considering discretionary disqualification, the offender may already have sufficient penalty points on his or her licence that he or she would be liable to a ‘totting up’ disqualification if further points were imposed. In these circumstances, the court should impose penalty points rather than discretionary disqualification so that the minimum totting up disqualification period applies (see ‘totting up’).</p>	<p>Discretionary disqualification: In some cases in which the court is considering discretionary disqualification, the offender may already have sufficient penalty points on his or her licence that he or she would be liable to a ‘totting up’ disqualification if further points were imposed. In these circumstances, unless the court is of the view that the offence should be marked by a period of discretionary disqualification in excess of the minimum totting up disqualification period, the court should impose penalty points rather than discretionary disqualification so that the minimum totting up disqualification period applies (see ‘totting up’).</p>
<p><u>Totting up:</u> The court should first consider the circumstances of the offence, and determine whether the offence should attract a discretionary period of disqualification. But the court must note the statutory obligation to disqualify those repeat offenders who would, were penalty points imposed, be liable to the mandatory “totting” disqualification, and should ordinarily prioritise the “totting” disqualification ahead of a discretionary disqualification.</p>	<p>Totting up: The court should first consider the circumstances of the offence, and determine whether the offence should attract a discretionary period of disqualification. But the court must note the statutory obligation to disqualify those repeat offenders who would, were penalty points imposed, be liable to the mandatory “totting” disqualification and, unless the court is of the view that the offence should be marked by a period of discretionary disqualification in excess of the minimum totting up disqualification period, the court should impose penalty points rather than discretionary disqualification so that the minimum totting up disqualification period applies.</p>

Default relevant weekly income amounts see para 3.13 of paper

Current wording	Proposed wording
<p><u>3. Definition of relevant weekly income</u></p> <p>Where there is no information on which a determination can be made, the court should proceed on the basis of an assumed relevant weekly income of £440. This is derived from national median pre-tax earnings*; a gross figure is used as, in the absence of financial information from the offender, it is not possible to calculate appropriate deductions.</p> <p>Where there is some information that tends to suggest a significantly lower or higher income than the recommended £440 default sum, the court should make a determination based on that information. A court is empowered to remit a fine in whole or part if the offender subsequently provides information as to means (Sentencing Code, s.127). The assessment of offence seriousness and, therefore, the appropriate fine band and the position of the offence within that band are not affected by the provision of this information.</p> <p>*(This figure is a projected estimate based upon the 2012-13 Survey of Personal Incomes using economic assumptions consistent with the Office for Budget Responsibility's March 2015 economic and fiscal outlook. The latest actual figure available is for 2012-13, when median pre-tax income was £404 per week details can be found in an HMRC report. (This link goes to an external website. It will not work if you are offline.))</p>	<p>Where there is no information on which a determination can be made, the court should proceed on the basis of an assumed relevant weekly income of £440.</p> <p>Where there is some information that tends to suggest a significantly lower or higher income than the recommended £440 default sum, the court should make a determination based on that information. A court is empowered to remit a fine in whole or part if the offender subsequently provides information as to means (Sentencing Code, s.127). The assessment of offence seriousness and, therefore, the appropriate fine band and the position of the offence within that band are not affected by the provision of this information.</p>
<p><u>5. Approach to offenders on low income</u></p> <p>An offender whose primary source of income is state benefit will generally receive a base level of benefit (for example, jobseeker's allowance, a relevant disability benefit or income support) and may also be eligible for supplementary benefits depending on his or her individual circumstances (such as child tax credits, housing benefit, council tax benefit and similar). In some cases these benefits may have been replaced by Universal Credit. If relevant weekly income were defined as the amount of benefit received, this would usually result in higher fines being imposed on offenders with a higher level of need; in most circumstances that would not properly</p>	<p>The income of an offender whose primary source of income is state benefit (for example, Universal Credit) will have an income related to their level of need. If relevant weekly income were defined as the amount of benefit received, this would usually result in higher fines being imposed on offenders with a higher level of need; in most circumstances that would not properly balance the seriousness of the offence with the financial circumstances of the offender. Similar issues can arise where an offender is in receipt of a low earned income since this may trigger eligibility for means related benefits such as Universal Credit. It will not always be possible to determine with any confidence whether such a person's</p>

balance the seriousness of the offence with the financial circumstances of the offender. While it might be possible to exclude from the calculation any allowance above the basic entitlement of a single person, that could be complicated and time consuming. Similar issues can arise where an offender is in receipt of a low earned income since this may trigger eligibility for means related benefits such as working tax credits and housing benefit depending on the particular circumstances. It will not always be possible to determine with any confidence whether such a person's financial circumstances are significantly different from those of a person whose primary source of income is state benefit.

For these reasons, a simpler and fairer approach to cases involving offenders in receipt of low income (whether primarily earned or as a result of benefit) is to identify an amount that is deemed to represent the offender's relevant weekly income.

While a precise calculation is neither possible nor desirable, it is considered that an amount that is approximately half-way between the base rate for jobseeker's allowance and the net weekly income of an adult earning the minimum wage for 30 hours per week represents a starting point that is both realistic and appropriate; this is currently **£120**. The calculation is based on a 30 hour working week in recognition of the fact that many of those on minimum wage do not work a full 37 hour week and that lower minimum wage rates apply to younger people.

With effect from 1 October 2014, the minimum wage is £6.50 per hour for an adult aged 21 or over. Based on a 30 hour week, this equates to approximately £189 after deductions for tax and national insurance. To ensure equivalence of approach, the level of jobseeker's allowance for a single person aged 18 to 24 has been used for the purpose of calculating the mid point; this is currently £57.90. The figure will be updated in due course in accordance with any changes to benefit and minimum wage levels.

financial circumstances are significantly different from those of a person whose primary source of income is state benefit. For these reasons, a simpler and fairer approach to cases involving offenders in receipt of low income (whether primarily earned or as a result of benefit) is to identify an amount that is deemed to represent the offender's relevant weekly income; this is currently **£120**.

Unlawful act manslaughter see para 3.18 of paper

Section 3 of the PCSC Act 2022 inserts new s258A (re 16 and 17 year olds), s274A (re 18-20 year olds) and s285A (re 21 and older) in the Sentencing Code.

285A Required life sentence for manslaughter of emergency worker

(1) This section applies where—

(a) a person aged 21 or over is convicted of a relevant offence,

(b) the offence was committed—

(i) when the person was aged 16 or over, and

(ii) on or after the relevant commencement date, and

(c) the offence was committed against an emergency worker acting in the exercise of functions as such a worker.

(2) The court must impose a sentence of imprisonment for life unless the court is of the opinion that there are exceptional circumstances which—

(a) relate to the offence or the offender, and

(b) justify not doing so.

(3) For the purposes of subsection (1)(c) the circumstances in which an offence is to be taken as committed against a person acting in the exercise of functions as an emergency worker include circumstances where the offence takes place at a time when the person is not at work but is carrying out functions which, if done in work time, would have been in the exercise of functions as an emergency worker.

(4) In this section “relevant offence” means the offence of manslaughter, but does not include—

(a) manslaughter by gross negligence, or

(b) manslaughter mentioned in section 2(3) or 4(1) of the Homicide Act 1957 or section 54(7) of the Coroners and Justice Act 2009 (partial defences to murder).

(5) In this section—

“emergency worker” has the meaning given by section 68;

“relevant commencement date” means the date on which section 3 of the Police, Crime, Sentencing and Courts Act 2022 (required life sentence for manslaughter of emergency worker) comes into force.

(6) An offence the sentence for which is imposed under this section is not to be regarded as an offence the sentence for which is fixed by law.

(7) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (1)(b) to have been committed on the last of those days.”

[Possession of a bladed article/offensive weapon guideline](#) see para 3.32 of paper

Step 3 – Minimum Terms – second or further relevant offence

When sentencing the offences of:

- possession of an offensive weapon in a public place;
- possession of an article with a blade/point in a public place;
- possession of an offensive weapon on school premises; and
- possession of an article with blade/point on school premises

a court must impose a sentence of at least 6 months' imprisonment where this is a second or further relevant offence **unless the court is of the opinion that there are particular circumstances relating to the offence, the previous offence or the offender which make it unjust to do so in all the circumstances.**

A 'relevant offence' includes those offences listed above and the following offences:

- threatening with an offensive weapon in a public place;
- threatening with an article with a blade/point in a public place;
- threatening with an article with a blade/point on school premises; and
- threatening with an offensive weapon on school premises.

Unjust in all of the circumstances

In considering whether a statutory minimum sentence would be 'unjust in all of the circumstances' the court must have regard to the particular circumstances of the offence and the offender. If the circumstances of the offence, the previous offence or the offender make it unjust to impose the statutory minimum sentence then the court **must impose either a shorter custodial sentence than the statutory minimum provides or an alternative sentence.**

The offence

Having reached this stage of the guideline the court should have made a provisional assessment of the seriousness of the current offence. In addition, the court must consider the seriousness of the previous offence(s) and the period of time that has elapsed between offences. Where the seriousness of the combined offences is such that it falls far below the custody threshold, or where there has been a significant period of time between the offences, the court may consider it unjust to impose the statutory minimum sentence.

The offender

The court should consider the following factors to determine whether it would be unjust to impose the statutory minimum sentence;

- any strong personal mitigation;
- whether there is a realistic prospect of rehabilitation;
- whether custody will result in significant impact on others.

Football Spectators Act 1989 c. 37 see para 3.52 of paper

Schedule 1 OFFENCES

para. 1

This Schedule applies to the following offences:

(a) any offence under [14J(1), 19(6), 20(10) or 21C(2)]² of this Act [or section 68(1) or (5) of the [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) by virtue of section 106 of the [Policing and Crime Act 2009](#)]³ ,

(b) any offence under section 2 or 2A of the [Sporting Events \(Control of Alcohol etc.\) Act 1985](#) (alcohol, containers and fireworks) committed by the accused at any football match to which this Schedule applies or while entering or trying to enter the ground,

(c) any offence under [section 4, 4A or 5 of the [Public Order Act 1986](#)]⁴ ([fear or provocation of violence, or]⁵ harassment, alarm or distress) or any provision of [Part 3 or 3A]⁶ of that Act [(hatred by reference to race etc)]⁷ committed during a period relevant to a football match to which this Schedule applies at any premises while the accused was at, or was entering or leaving or trying to enter or leave, the premises,

(d) any offence involving the use or threat of violence by the accused towards another person committed during a period relevant to a football match to which this Schedule applies at any premises while the accused was at, or was entering or leaving or trying to enter or leave, the premises,

(e) any offence involving the use or threat of violence towards property committed during a period relevant to a football match to which this Schedule applies at any premises while the accused was at, or was entering or leaving or trying to enter or leave, the premises,

(f) any offence involving the use, carrying or possession of an offensive weapon or a firearm committed during a period relevant to a football match to which this Schedule applies at any premises while the accused was at, or was entering or leaving or trying to enter or leave, the premises,

(g) any offence under section 12 of the [Licensing Act 1872](#) (persons found drunk in public places, etc.) of being found drunk in a highway or other public place committed while the accused was on a journey to or from a football match to which this Schedule applies being an offence as respects which the court makes a declaration that the offence related to football matches,

(h) any offence under section 91(1) of the [Criminal Justice Act 1967](#) (disorderly behaviour while drunk in a public place) committed in a highway or other public place while the accused was on a journey to or from a football match to which this Schedule applies being an offence as respects which the court makes a declaration that the offence related to football matches,

(j) any offence under section 1 of the [Sporting Events \(Control of Alcohol etc.\) Act 1985](#) (alcohol on coaches or trains to or from sporting events) committed while the accused was on a journey to or from a football match to which this Schedule applies being an offence as respects which the court makes a declaration that the offence related to football matches,

(k) any offence under [section 4, 4A or 5 of the [Public Order Act 1986](#)]⁸ ([fear or

provocation of violence, or]⁹ harassment, alarm or distress) or any provision of [Part 3 or 3A]⁶ of that Act [(hatred by reference to race etc)]⁷ committed while the accused was on a journey to or from a football match to which this Schedule applies being an offence as respects which the court makes a declaration that the offence related to football matches,

(l) any offence under [section 4, 5 or 5A of the Road Traffic Act 1988]¹⁰ (driving etc. when under the influence of drink or drugs or with an alcohol concentration above the prescribed limit [or with a concentration of a specified controlled drug above the specified limit]¹¹) committed while the accused was on a journey to or from a football match to which this Schedule applies being an offence as respects which the court makes a declaration that the offence related to football matches,

(m) any offence involving the use or threat of violence by the accused towards another person committed while one or each of them was on a journey to or from a football match to which this Schedule applies being an offence as respects which the court makes a declaration that the offence related to football matches,

(n) any offence involving the use or threat of violence towards property committed while the accused was on a journey to or from a football match to which this Schedule applies being an offence as respects which the court makes a declaration that the offence related to football matches,

(o) any offence involving the use, carrying or possession of an offensive weapon or a firearm committed while the accused was on a journey to or from a football match to which this Schedule applies being an offence as respects which the court makes a declaration that the offence related to football matches,

(p) any offence under the Football (Offences) Act 1991,

(q) any offence under [section 4, 4A or 5 of the Public Order Act 1986]¹² ([fear or provocation of violence, or]¹³ harassment, alarm or distress) [...] ¹⁴ –

(i) which does not fall within paragraph (c) or (k) above,

(ii) which was committed during a period relevant to a football match to which this Schedule applies, and

(iii) as respects which the court makes a declaration that the offence related to that match or to that match and any other football match which took place during that period,

(r) any offence involving the use or threat of violence by the accused towards another person–

(i) which does not fall within paragraph (d) or (m) above,

(ii) which was committed during a period relevant to a football match to which this Schedule applies, and

(iii) as respects which the court makes a declaration that the offence related to that match or to that match and any other football match which took place during that period,

(s) any offence involving the use or threat of violence towards property–

(i) which does not fall within paragraph (e) or (n) above,

(ii) which was committed during a period relevant to a football match to which this Schedule applies, and

- (iii) as respects which the court makes a declaration that the offence related to that match or to that match and any other football match which took place during that period,
- (t) any offence involving the use, carrying or possession of an offensive weapon or a firearm—
 - (i) which does not fall within paragraph (f) or (o) above,
 - (ii) which was committed during a period relevant to a football match to which this Schedule applies, and
 - (iii) as respects which the court makes a declaration that the offence related to that match or to that match and any other football match which took place during that period.
- (u) any offence under [section 166](#) of the [Criminal Justice and Public Order Act 1994](#) (sale of tickets by unauthorised persons) which relates to tickets for a football match [,]¹⁵
- (v) any offence under any provision of [Part 3 or 3A](#) of the [Public Order Act 1986](#) (hatred by reference to race etc)—
 - (i) which does not fall within paragraph (c) or (k), and
 - (ii) as respects which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation,
- (w) any offence under [section 31](#) of the [Crime and Disorder Act 1998](#) (racially or religiously aggravated public order offences) as respects which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation,
- (x) any offence under [section 1](#) of the [Malicious Communications Act 1988](#) (offence of sending letter, electronic communication or article with intent to cause distress or anxiety)—
 - (i) which does not fall within paragraph (d), (e), (m), (n), (r) or (s),
 - (ii) as respects which the court has stated that the offence is aggravated by hostility of any of the types mentioned in [section 66\(1\)](#) of the Sentencing Code (racial hostility etc), and
 - (iii) as respects which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation,
- (y) any offence under [section 127\(1\)](#) of the [Communications Act 2003](#) (improper use of public telecommunications network)—
 - (i) which does not fall within paragraph (d), (e), (m), (n), (r) or (s),
 - (ii) as respects which the court has stated that the offence is aggravated by hostility of any of the types mentioned in [section 66\(1\)](#) of the Sentencing Code (racial hostility etc), and
 - (iii) as respects which the court makes a declaration that the offence related to a football match, to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with a football organisation.

¹⁵1

Notes

- 1 Existing Sch.1 substituted for a new Sch.1 consisting of paras.1 to 4 by Football (Disorder) Act 2000 c. 25 [Sch.1 para.5](#) (August 28, 2000: as 2000/2125)
- 2 Words inserted by Policing and Crime Act 2009 c. 26 [Pt 8 c.2 s.107\(a\)](#) (April 1, 2010)
- 3 Words inserted by Policing and Crime Act 2009 c. 26 [Pt 8 c.2 s.107\(b\)](#) (April 1, 2010)
- 4 Word inserted by Police, Crime, Sentencing and Courts Act 2022 c. 32 [Pt 10 c.5 s.190\(3\)\(a\)](#) (April 28, 2022: insertion has effect subject to 2022 c.32 s.190(12))
- 5 Words inserted by Police, Crime, Sentencing and Courts Act 2022 c. 32 [Pt 10 c.5 s.190\(3\)\(b\)](#) (April 28, 2022: insertion has effect subject to 2022 c.32 s.190(12))
- 6 Words substituted by Criminal Justice and Immigration Act 2008 c. 4 [Sch.26\(2\) para.26\(a\)](#) (July 14, 2008)
- 7 Words substituted by Criminal Justice and Immigration Act 2008 c. 4 [Sch.26\(2\) para.26\(b\)](#) (July 14, 2008)
- 8 Word inserted by Police, Crime, Sentencing and Courts Act 2022 c. 32 [Pt 10 c.5 s.190\(4\)\(a\)](#) (April 28, 2022: insertion has effect subject to 2022 c.32 s.190(12))
- 9 Words inserted by Police, Crime, Sentencing and Courts Act 2022 c. 32 [Pt 10 c.5 s.190\(4\)\(b\)](#) (April 28, 2022: insertion has effect subject to 2022 c.32 s.190(12))
- 10 Words substituted by Crime and Courts Act 2013 c. 22 [Sch.22 para.15\(a\)](#) (March 2, 2015: substitution has effect as SI 2014/3268 subject to savings and transitional provisions as specified in 2013 c.22 s.15 and Sch.8)
- 11 Words inserted by Crime and Courts Act 2013 c. 22 [Sch.22 para.15\(b\)](#) (March 2, 2015: insertion has effect as SI 2014/3268 subject to savings and transitional provisions as specified in 2013 c.22 s.15 and Sch.8)
- 12 Words inserted by Police, Crime, Sentencing and Courts Act 2022 c. 32 [Pt 10 c.5 s.190\(5\)\(a\)](#) (April 28, 2022: insertion has effect subject to 2022 c.32 s.190(12))
- 13 Words inserted by Police, Crime, Sentencing and Courts Act 2022 c. 32 [Pt 10 c.5 s.190\(5\)\(b\)](#) (April 28, 2022: insertion has effect subject to 2022 c.32 s.190(12))
- 14 Words repealed by Police, Crime, Sentencing and Courts Act 2022 c. 32 [Pt 10 c.5 s.190\(5\)\(c\)](#) (April 28, 2022: repeal has effect subject to 2022 c.32 s.190(12))
- 15 Added by Police, Crime, Sentencing and Courts Act 2022 c. 32 [Pt 10 c.5 s.190\(6\)](#) (April 28, 2022: insertion has effect subject to 2022 c.32 s.190(12))

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