

## Deferred Sentences

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.

**Always consult your legal adviser if you are considering deferring a sentence.**

The court is empowered to defer passing sentence for up to six months ([Sentencing Code, s.5](#)). The court may impose any conditions during the period of deferment that it considers appropriate. These could be specific requirements as set out in the provisions for community sentences, restorative justice activities ([Sentencing Code, s.3](#)) or requirements that are drawn more widely. The purpose of deferment is to enable the court to have regard to the offender's conduct after conviction or any change in his or her circumstances, including the extent to which the offender has complied with any requirements imposed by the court.

The following conditions must be satisfied before sentence can be deferred ([Sentencing Code, s.5](#)):

1. the offender must consent (and in the case of restorative justice activities the other participants must consent);
2. the offender must undertake to comply with requirements imposed by the court; and
3. the court must be satisfied that deferment is in the interests of justice.

**Deferred sentences will be appropriate only in very limited circumstances.**

- deferred sentences are likely to be relevant predominantly in a small group of cases close to either the community or custodial

sentence threshold where, should the offender be prepared to adapt his behaviour in a way clearly specified by the sentencer, the court may be prepared to impose a lesser sentence;

- sentencers should impose specific and measurable conditions that do not involve a serious restriction on liberty;
- the court should give a clear indication of the type of sentence it would have imposed if it had decided not to defer;
- the court should also ensure that the offender understands the consequences of failure to comply with the court's wishes during the deferment period.

If the offender fails to comply with any requirement imposed in connection with the deferment, or commits another offence, he or she can be brought back to court before the end of the deferment period and the court can proceed to sentence.

**Expanded Explanation for sole or primary carer for dependant relatives**

**Effective from:** 01 October 2019

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

This factor is particularly relevant where an offender is on the cusp of custody or where the suitability of a community order is being considered. See also the [Imposition of community and custodial sentences guideline](#).

For offenders on the cusp of custody, imprisonment should not be imposed where there would be an impact on dependants which would make a custodial sentence disproportionate to achieving the aims of sentencing.

Where custody is unavoidable consideration of the impact on dependants may be relevant to the length of the sentence imposed and whether the sentence can be suspended.

For more serious offences where a substantial period of custody is appropriate, this factor will carry less weight.

When imposing a community sentence on an offender with primary caring responsibilities the effect on dependants must be considered in determining suitable requirements.

In addition when sentencing an offender who is pregnant relevant considerations may include:

- any effect of the sentence on the health of the offender and
- any effect of the sentence on the unborn child

The court should ensure that it has all relevant information about dependent children before deciding on sentence.

When an immediate custodial sentence is necessary, the court must consider whether proper arrangements have been made for the care of any dependent children and if necessary consider adjourning sentence for this to be done.

When considering a community or custodial sentence for an offender who has, or may have, caring responsibilities the court should ask the Probation Service to address these issues in a PSR.

Useful information can be found in the [Equal Treatment Bench Book](#) (see in particular Chapter 6 paragraphs 131 to 137)

**Better Case Management Handbook****10.2. Ordering a PSR in the Magistrates' Court on Committal for Sentence**

This guidance applies pending an update to CrimPD 3A.9.

There should be liaison between Crown Courts, Magistrates' Courts and the Probation Service about the resources available so that courts are aware what level of provision is available.

In most areas the Probation Service will now be able to provide Pre-Sentence Reports (PSRs) in all cases which are committed to the Crown Court.

In other areas the Probation Service will not yet be able to provide PSRs in all cases and in such areas the magistrates must reach a decision whether a PSR is necessary applying the following guidance.

The sentencing court must obtain a report on an offender 18 or over unless it considers it unnecessary to do so. Additional conditions apply where the offender is aged under 18.

The purpose of a PSR is to facilitate the administration of justice, and to reduce an offender's likelihood of reoffending and to protect the public and/or victim(s) from further harm. A PSR does this by assisting the court to determine the most suitable method of sentencing an offender<sup>3</sup>.

Unless there is already in existence a recent PSR (not normally more than 6 months old) which is adequate to the new case, the Magistrates' Court will generally order a PSR when committing for sentence where:

- The defendant is of previous good character, or young (under 18, or under 21 and of previous good character or with no previous prison sentence), or otherwise vulnerable, OR
- The defendant has caring responsibilities, OR
- The sentence that might be appropriate in the Crown Court, before credit for plea, is likely to be 3 years or less such that the Crown Court will need to consider a suspended or community sentence, OR
- The defendant has committed a sexual offence (including indecent images) or domestic violence offence OR
- The sentencing court will have to consider whether there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences (dangerousness).

If a report is to be ordered the magistrates should consider if any separate drug or alcohol treatment assessment is also required.

Where a defendant has committed a further offence during the period of a community order or suspended sentence it will usually be sufficient to order a progress report from the supervising officer to supplement an existing PSR.

Ordering a report at the time the case is committed for sentence allows probation maximum time to prepare a quality report, minimises delays, and reduces the risk of the need to adjourn the sentencing hearing. The complexity of reports required for the Crown Court and the limited capacity of the probation service to provide "on the day" reports means that organising a report in advance is much to be preferred.

If the Magistrates' Court refuses to order a PSR the defence should be reminded that they may renew their application to the Crown Court and should do so in writing in advance of the date set for sentence to avoid an ineffective hearing.

In all cases where there may be a guilty plea it is valuable for the defence to liaise with the Probation Service in advance to discuss whether a report may be of assistance and any particular issues that ought to be considered. If there are mental health issues the defence should also liaise with any mental health support service provided at the court.

Magistrates should ensure that arrangements are in place to ensure that the Probation Service is informed of any order for the preparation of a PSR.

## Imposition Guideline

### Note: Deferred Sentences

The court may consider whether it would be appropriate, beneficial and in the interests of justice for sentencing to be deferred for up to six months, and may attach conditions to that deferment.

The purpose of deferment is to enable the court to have regard to the offender's conduct after conviction or any change in their circumstances, including the extent to which the offender has complied with any requirements imposed by the court. Deferring sentence can be a valuable tool to assess whether a potential community or suspended sentence order is appropriate for a particular offender. Deferring sentencing may be particularly appropriate for young adults (18-25 years of age) or those who are in transitional life circumstances. However, deferred sentences will be appropriate only in very limited circumstances. When deferring sentence, the court must be clear what the two potential sentences are depending on whether the deferral period is successfully complied with, or if it is not.

If deferring the sentence is a consideration, please see further guidance on Deferred Sentencing in the drop-down below.

### 1. Thresholds

The circumstances of the offence and the factors assessed by offence-specific guidelines will determine whether the community or custody threshold may be passed. Where no offence specific guideline is available to determine seriousness of the offence, the harm caused by the offence, the culpability of the offender and any previous convictions will be relevant to the assessment, alongside consideration of the General Guideline (link).

A **community order** must not be imposed unless the offence is serious enough to warrant the making of such an order. There is no power to make a community order for a non-imprisonable offence.

Even where the threshold for a community order has been passed, sentencers must consider all available disposals at the time of sentence as a fine or discharge may still be an appropriate penalty. A Band D fine may be an appropriate alternative to a community order in some cases and can achieve the purposes of sentencing.

Sentences should not necessarily escalate from one community order range to the next on each sentencing occasion. The decision as to the appropriate range of community order should be based upon the seriousness of the new offence(s) (which will take into account any previous convictions).

If the offender received a non-custodial disposal for the previous offence, the court should not necessarily move to a custodial sentence for the fresh offence.

A **custodial sentence** must not be imposed unless the offence or the combination of the offence and one or more offences associated with it was so serious that neither a fine alone nor a community sentence can be justified. Prison must only be a punishment for the most serious offences.

Even where the threshold for a custodial sentence has been passed, a custodial sentence should not be imposed where sentencers consider that a community order achieve the purposes of sentencing. Imprisonment should not be imposed where there would be an impact on dependants which would make a custodial sentence disproportionate to achieving the purposes of sentencing.

Relevant previous convictions will be an aggravating factor increasing the seriousness of the offence. They will affect the intensity and length of a community sentence and the length of a custodial sentence. Great caution must be exercised before the existence of relevant previous convictions is used as the sole basis to justify the case passing the custody threshold.

Numerous and frequent previous convictions might indicate an underlying problem (for example, an addiction) that could be addressed more effectively through a community order with relevant requirements and will not necessarily indicate that a custodial sentence is necessary.

## 2. Pre-sentence reports

The court must request and consider a pre-sentence report (PSR) before forming an opinion of the sentence unless, in the circumstances of the case, it considers that it is unnecessary to obtain a pre-sentence report. A pre-sentence report may also be requested by a defence solicitor as part of the [before-plea protocol](#).

A pre-sentence report can be pivotal in helping the court decide whether to impose a custodial or community order and, where relevant, what particular requirements or combination of requirements are most suitable for an individual offender on either a community order or a suspended custodial sentence.

PSRs are necessary in all cases that would benefit from an assessment of one or more of the following: the offender's dangerousness and risk of harm, the nature and causes of the offender's behaviour, the offender's personal circumstances and any factors that may be helpful to the court in considering the offender's suitability for different sentences or requirements.

A pre-sentence report may be unnecessary if a discharge or fine is the most likely sentencing outcome.

A pre-sentence report may be particularly important if the offender is:

- at risk of a custodial sentence of 12 months or less;
- a young adult (18-25 years);
- female (see further information below);
- pregnant (see further information below);
- a sole or primary carer for dependant relative(s);
- from an ethnic minority, cultural minority, and/or faith minority community;
- has disclosed they are transgender;
- has any drug or alcohol addiction issues;
- has a learning disability or mental disorder;
- Or; the court considers there to be a risk that the offender may have been the victim of domestic abuse, trafficking, modern slavery, or been subject to coercion, intimidation or exploitation.

Please refer to the [Equal Treatment Bench Book](#) ([link](#)) for more guidance on how to ensure fair treatment and avoid disparity of outcomes for different groups.

A report will also be mandatory or particularly important for a variety of requirements (please see requirements list below.)

When ordering a PSR, the court must make clear to the offender that it may impose any sentence that the law allows including a custodial sentence, and the court retains its power of committal for sentence to the Crown Court.

### Indication of sentence to Probation

In magistrates' courts, it may be helpful for the court to indicate to Probation the preliminary level of harm and culpability it has found for the offence.

In all courts, it may be helpful for the court to indicate to Probation any specific requirements that Probation should consider the defendant's suitability for should a community or suspended sentence order be imposed; and any issues or concerns the court would specifically like to be considered.

### Adjournments and on committal

Pre-sentence reports can be verbal or written, and may require an adjournment to allow time for the necessary information to be collected by Probation. Please liaise with Probation on whether a quality report



can be delivered on the day and adjourn the case if it cannot be. The need for an adjournment may be reliant on the availability of third parties to gather necessary information.

Where a case is being committed to the Crown Court, a PSR should be requested on committal to allow Probation as much time as possible to prepare a quality report, minimise any delay and reduce the risk of the need to adjourn at the first hearing.

**Magistrates:** Consult your legal adviser before deciding to sentence to custody without a pre-sentence report.

### 3. Purposes and Effectiveness of Sentencing

The court must have regard to the five purposes of sentencing when determining sentence. The weighting each purpose should be given will vary from case to case. Both community and custodial sentences can achieve all the purposes of sentencing.

- The punishment of offenders
- The reduction of crime (including its reduction by deterrence)
- The reform and rehabilitation of offenders
- The protection of the public
- The making of reparation by offenders to persons affected by their offences

The court must ensure that any restriction on the offender's liberty is commensurate with the seriousness of the offence. A restriction on liberty can be achieved by a community or a custodial sentence.

#### Effectiveness

**The court should 'step back', and review whether the sentence it has preliminarily arrived at fulfils the purposes of sentencing.**

Where relevant, the court should ensure that a rehabilitative sentence has been fully considered, which research has shown can reduce the risk of reoffending when compared to a short custodial sentence, therefore fulfilling other purposes of sentencing, such as reduction of crime and protection of the public, through its sentencing.

The effectiveness of a sentence will be based on the individual offender. The [Equal Treatment Bench Book \(link\)](#) covers important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. The Council has issued overarching guidelines for consideration in the [sentencing of offenders with mental disorders, developmental disorders, or neurological impairments \(link\)](#). Courts should review this guideline if it applies to the case.

#### Young Adults Offenders

When sentencing young adult offenders (18-25 years), courts should be aware that age and/or lack of maturity can affect the offender's responsibility for the offence and the effect of the sentence on the offender. When considering a custodial or community sentence for a young adult, the court should ask Probation for a pre-sentence report. In particular young adults are still developing neurologically and consequently may be less able to:

- evaluate the consequences of their actions;
- limit impulsivity; and
- limit risk taking.

Young adults are likely to be susceptible to peer pressure and are more likely to take risks or behave impulsively when in company with their peers. Environment plays a role in neurological development and factors such as adverse childhood experiences including deprivation and/or abuse may affect development.

When considering sentencing options for young adult offenders, courts should be aware that an immature offender may find it particularly difficult to cope with custody and therefore may be more susceptible to self-harm in custody, and that an immature offender may find it particularly difficult to cope with the requirements of a community order without appropriate support. However, there is a greater capacity for

change in immature offenders and they may be more receptive to opportunities to address their offending behaviour and change their conduct.

Courts should be aware that the emotional and developmental age of an offender is of at least equal importance to their chronological age (if not greater).

### Female Offenders

Courts should be aware that female offenders offend for different reasons than men and the impact of custodial sentences on female offenders is different. It is important for the court to ensure that it has sufficient information about a female offender's background. As such, when considering a community or custodial sentence for a female offender, the court should ask Probation for a pre-sentence report. Courts should be aware of the following considerations when sentencing a female offender.

- **Female offending is commonly linked to mental health, substance-misuse, or financial and homelessness issues**, and female offenders are more likely to be victims of domestic abuse or have experienced emotional, physical or sexual abuse as a child. Female offenders sentenced to custody are much more likely than men to suffer from anxiety or depression or attempt suicide.
- **Women from an ethnic minority background in particular have distinct needs from both men from an ethnic minority background, and white women**, and these should be considered before the imposition of a community or custodial sentence.
- **Female offenders are more likely to be primary carers than male offenders**. When mothers are sentenced to custody, only a very small percentage of children remain in their own home. Those dependent children are adversely impacted by having to adjust to new homes, new carers, and new educational establishments and are often separated from siblings. There is an emotional impact for those children resulting in shame, stigma, anger, grief and behavioural changes. Those dependent children consequently have an increased likelihood of committing criminal offences, mental health problems, substance misuse and other social issues.
- **The impact of custody on pregnant women can be harmful for both the mother and the unborn child**. Pregnant women in custody are more likely to have high risk pregnancies with reduced access to specialised maternity services. There may also be difficulties accessing medical assistance and with being transported to hospital when in labour and giving birth.
- **There are only a small number of prisons for female offenders**. Therefore, female offenders are more likely to be imprisoned some distance from support networks of friends and family. This will impact on resettlement when they leave custody.
- **Female offenders are at greater risk than male offenders of leaving custody without accommodation and being unemployed after release**, leaving them vulnerable to further abuse and exploitation. A greater proportion of female offenders are unemployed when released than male offenders.

Courts should consider the research referenced in this guideline that short custodial sentences are generally less effective at reducing reoffending than community sentences, which can seek to better address the underlying causes of offending.

#### 4. Imposition of community orders

A community order can only be imposed if the offence committed is punishable by imprisonment. The maximum term that a community order can be imposed is 3 years.

Community orders can fulfil all the purposes of sentencing. They can have the effect of restricting the offender's liberty while providing punishment in the community, rehabilitation for the offender, and/or ensuring that the offender engages in reparative activities.

The court must ensure that the restriction on the offender's liberty is commensurate with the seriousness of the offence and that the requirements imposed are the most suitable for the offender.

#### Determining the length of a Community Order

In general, courts should impose the shortest term commensurate with the seriousness of the offence. The court imposing a community order must specify the length of that order by specifying the end date by which all requirements in it must have been complied with. This end date must not be more than 3 years after the date of the order.

The court should specify a length of an order which reflects both the seriousness of the offence and the length of time the requirements being imposed necessitate (within which a consideration of the offender's individual circumstances will be necessary).

#### Time remanded in custody or on qualifying curfew before imposing a community order

The court imposing a community order may take any time spent in custody on remand or on a qualifying curfew into account when determining any restrictions on liberty as part of the community order.

The court may make a community order where the offender has been remanded in custody (or subject to a qualifying curfew) for a period equal to, or in excess of, the time that they would have served commensurate with the seriousness of the offence. The rehabilitative, or any other purpose of sentencing, may still justify a community order, which takes the period of custody or curfew into account by reducing the punitive element. Time spent in custody or on a curfew may amount to exceptional circumstances which would make it unjust to impose a requirement for the purposes of punishment.

## 5. Requirements

Community orders must consist of one or more requirements.

**The court must ensure that requirements imposed are the most suitable for the offender. This means that requirements should be suitable according to:**

- the purpose(s) of the sentence;
- the risk of re-offending;
- the needs and rehabilitation of the offender, including any mental health or addiction issues,
- the ability of the offender to comply taking into account the offender's accommodation, employment and family situation including any dependants;
- the availability of the requirements in the local area.

At least one requirement must be imposed for the purpose of punishment and/or a fine imposed must be imposed, unless there are exceptional circumstances which relate to the offence or the offender that would make it unjust in all the circumstances to do so.

**It is a matter for the court to decide which requirements amount to a punishment in each case.**

The court must ensure that where two or more requirements are included, they are compatible with one another and are not excessive when taken together. So far as practicable, any requirements imposed should not conflict or interfere with:

- an offender's religious beliefs;
- the requirements of any other court order to which they may be subject;
- an offender's attendance at work or educational establishment.

### Unpaid work requirement (UPW)

V

An unpaid work requirement requires offenders to undertake work projects in their local community. In some regions, a small proportion of these hours can be spent on education, training or employment activities for eligible offenders.

“Community Payback” is a term used to describe the delivery of an Unpaid Work requirement.

**Volume/length range: Between 40 – 300 hours to be completed within 12 months.**

Work as part of an unpaid work requirement must be suitable for an offender to perform; and if necessary, this suitability should be assessed by Probation. Probation will also be able to advise what type of projects are available in the region. The court must consider whether the offender is in employment, has any disabilities or limitations, has any dependants, or whether there are any other circumstances that may make an unpaid work requirement unsuitable.

If unpaid work hours are not completed within 12 months (unless extended or revoked by the court), the requirement remains ‘live’ and will need to be returned to the court for the operational period to be extended so the remaining hours can be worked. Sentencers should consider this when considering any other requirements to ensure that it is realistic for an offender to complete all unpaid work hours within the operational period.

### Rehabilitation activity requirement (RAR)

V

A rehabilitation activity requirement (RAR) requires the offender to participate in rehabilitative activities designed to address the behaviours and needs that contributed to the offence, and attend supervision appointments with Probation.

The court will specify the maximum number rehabilitative activity days the offender must complete. Post-sentence, Probation will assess the offender and produce a tailored activity plan based on their needs. Activities can include probation-led toolkits or group structured interventions, or referral to external organisations providing rehabilitative services.

**Volume/length range: Minimum of 1 RAR day; no maximum, to be completed within the length of the order.**

A rehabilitation activity requirement should be imposed when the offender has rehabilitative needs that cannot be addressed by other requirements.

The specific type of activities that the offender will be required to participate in will be determined post-sentence by an assessment of these rehabilitative needs, and as such sentencers should consider the number of RAR days recommended by Probation to ensure this number is suitable and proportionate to the level of need and any eligibility requirements for commissioned rehabilitative services that may be relevant.

Structured rehabilitative activity appointments are complemented by supervision appointments with Probation which ensure contact is maintained, Probation can track the offender’s progress in completing activities and offer support where necessary.

The court needs only to specify the number of ‘RAR’ or rehabilitative activity days, and Probation will manage supervision appointments alongside these days.

### Programme requirement

V

A programme requirement requires an offender to complete an offending behaviour programme or intervention. These are intensive structured programmes, designed to tackle the attitudes, thinking and behaviours of certain criminogenic needs. Programmes are usually delivered in groups by a trained facilitator.

**Volume/length range: The court must specify the number of days on which the offender must participate in the programme up to the length of the order.**

An accredited programme must be recommended by Probation, as each programme has specific eligibility criteria that must be met and different regions have different programmes.

Probation will specify to the court how many days are required to complete a suitable programme to ensure a suitable programme can be completed.

#### Prohibited activity requirement

V

A prohibited activity requirement prohibits the offender from participating in any activity specified by the court.

**Volume/length range: Duration set by the court, up to the length of the order.**

The court must consult Probation before imposing this requirement.

Electronic monitoring may be considered to monitor compliance with the prohibited activity if it is suitable (see electronic monitoring below).

#### Curfew requirement

V

A curfew requirement requires an offender to remain at a particular place (or places) for a specified period (or periods) of time.

Different places or different curfew periods may be specified for different days. The curfew period should be targeted to reflect the punishment intended, support rehabilitation where relevant, and protect victims and the public.

**Volume/length range: For an offence of which the offender was convicted on or after 28 June 2022: 2 – 20 hours in any 24 hours; maximum 112 hours in any period of 7 days beginning with the day of the week on which the requirement first takes effect; and maximum term 2 years; - or - For an offence of which the offender was convicted before 28 June 2022: 2 – 16 hours in any 24 hours; maximum term 12 months.**

Where the court imposes a curfew requirement, it must also impose an electronic monitoring requirement to monitor compliance, unless in the circumstances of the case, it considers it inappropriate to do so.

In all cases, the court must consider those likely to be affected, such as any dependants.

The court must ensure safeguarding and domestic abuse enquiries are carried out on any proposed curfew address to ensure the accommodation is suitable, others will not be put at risk and the homeowner agrees to the curfew, particularly where vulnerable adults and children are involved. Ordinarily this is a function performed by Probation.

#### Exclusion requirement

V

An exclusion requirement prohibits an offender from going into a particular place or area.

The exclusion zone can include more than one prohibited place/area, more than one exclusion period and different prohibited places/areas for different exclusion periods or different days.

**Volume/length range: Up to 2 years. May either be continuous or only during specified periods.**

Where the court imposes an exclusion requirement, it must also impose an electronic monitoring requirement to monitor compliance, unless in the particular circumstances of the case, it considers it inappropriate to do so (see note on electronic monitoring below).

### Residence requirement

V

A residence requirement provides that the offender must reside at a particular place (i.e. a private address or HMPPS provided temporary accommodation, including an approved premises or Bail accommodation Support Services) for a specified period.

**Volume/length range: Duration set by the court, up to the length of the order. The maximum placement length of an approved premises is 12 weeks.**

The court must consider the home surroundings of the offender before imposing this requirement.

The court is encouraged to engage with Probation to understand what type of HMPPS provided temporary accommodation is available in their region to support these orders.

Where a residence requirement provides that the offender reside at a private address, there is no requirement that the offender to be at the address at a specific time. A curfew requirement would be necessary for this. However, where a residence requirement is for an approved premises (AP), an offender is bound by the rules of the AP, which may include an overnight curfew and drug and/or alcohol testing.

### Foreign travel prohibition requirement

V

An offender is prohibited from travelling to a country (or countries) or territory (or territories) outside the British Islands (that is the United Kingdom, the Channel Islands and the Isle of Man).

**Volume/length range: Duration set by the court, up to a maximum of 12 months.**

Unlikely to be suitable for an offender who does not have a passport, rarely travels, or has no apparent international connections.

### Mental health treatment requirement (MHTR)

V

A mental health treatment requirement provides treatment to an offender with a mental health condition. Treatment may be residential or non-residential and must be provided by or under the direction of a registered medical practitioner or chartered psychologist.

**Volume/length range: Duration set by the court, up to the length of the order.**

The court must be satisfied: (a) that the mental condition of the offender is such as requires and may be susceptible to treatment but is not such as to warrant the making of a hospital or guardianship order; (b) that arrangements for treatment have been or can be made; (c) that the offender has expressed willingness to comply. Probation should be consulted to ensure these factors are met, and to assess the offender to ensure that any eligibility requirements for the treatment are satisfied before imposing this requirement.

MHTRs can be used in combination with other treatment requirements (for example drug and alcohol rehabilitation requirements) for eligible offenders with multiple needs.

### Drug rehabilitation requirement (DRR)

V

A drug rehabilitation requirement (DRR) provides treatment to an offender who is dependent on drugs or has a propensity to misuse drugs. Treatment can be residential or non-residential, and the offender must participate in court reviews of the order, as directed by the court.

**Volume/length range: Duration set by the court, up to the length of the order.**

A drug rehabilitation requirement may be imposed on an offender for whom the court is satisfied that the offender is dependent on or has a propensity to misuse drugs (as defined by s.2 of the Misuse of Drugs Act 1971) where the dependency or propensity requires and may be susceptible to treatment.

The court must ensure that necessary arrangements have been or can be made for the proposed treatment, and the offender must express willingness to comply with the treatment.

Probation should be consulted to ensure these factors are met, and to assess the offender to ensure that any eligibility requirements for the treatment are satisfied before imposing this requirement.

DRRs can be used in combination with other treatment requirements (for example, mental health treatment requirement) for offenders with multiple needs.

### Alcohol treatment requirement (ATR)

V

An alcohol treatment requirement may be imposed on an offender who is dependent on alcohol, where that dependency requires and may be susceptible to treatment. The treatment may be residential or non-residential.

**Volume/length range: Duration set by the court, up to the length of the order.**

An alcohol treatment requirement (ATR) may be imposed on an offender for whom the court is satisfied is dependent on alcohol and this dependency is such that it requires and is susceptible to treatment.

The court must ensure that necessary arrangements have been or can be made for the proposed treatment, and the offender must express willingness to comply with the treatment.

Probation should be consulted to ensure these factors are met, and to assess the offender to ensure that any eligibility requirements for the treatment are satisfied before imposing this requirement.

ATRs can be used in combination with other treatment requirements (for example, mental health treatment requirement) for offenders with multiple needs. However, an ATR cannot be imposed alongside an alcohol abstinence and monitoring requirement (AAMR).

### Alcohol abstinence and monitoring requirement (where available) (AAMR)

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An alcohol abstinence and monitoring requirement imposes a total ban on alcohol consumption and requires the offender to have their compliance with the requirement electronically monitored.

**Volume/length range: Up to 120 days.**

It is generally recommended that an alcohol abstinence and monitoring requirement (AAMR) is not a standalone requirement and sits alongside other measures that support rehabilitation.

The court must be satisfied that the offender is not alcohol dependant. If the offender is alcohol dependant, an ATR may be more appropriate. Probation should be consulted to assess the rehabilitative need and advise on the most relevant and available treatment.

An AAMR cannot be imposed alongside an ATR alcohol treatment requirement.

## Electronic monitoring

V

The **electronic whereabouts monitoring requirement** is a requirement for the offender to submit to electronic monitoring of their whereabouts (other than for the purpose of monitoring compliance with any other requirement included in the order) during a period specified in the order. The electronic compliance monitoring requirement is imposed to monitor compliance with another requirement on an order.

**Volume/length range: Up to 2 years.**

The **electronic whereabouts monitoring requirement** may be imposed without the imposition of another requirement and involves monitoring an offender's whereabouts with the imposition of a GPS tag, save for circumstances in which the consent of a person whose co-operation is required is withheld.

Where the court makes a relevant order imposing a curfew requirement or exclusion requirement it must also impose an electronic compliance monitoring requirement for monitoring compliance with it, save where:

- there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring and that person does not consent; and/or
- -electronic monitoring is unavailable and/or impractical; and/or
- -in the particular circumstances of the case, the court considers it inappropriate to do so.

The court must ensure safeguarding and domestic abuse enquiries are carried out on any proposed curfew address to ensure the accommodation is suitable, others will not be put at risk and the homeowner agrees to the curfew, particularly where vulnerable adults and children are involved. Ordinarily this is a function performed by Probation.

**Please note: A compensation order or ancillary order may be imposed with any requirement/s**

## 6. Community order levels

Offence-specific guidelines refer to three levels of community order based on offence seriousness (low, medium and high). The culpability and harm present in the offence(s) should be considered to identify which of the three sentencing is appropriate.

The seriousness of the offence should be the initial factor in determining the requirement imposed for the purpose of punishment and its corresponding intensity. Any requirement(s) imposed for the purpose of rehabilitation should be determined by, and align with, the offender's needs.

Courts should consider any relevant circumstances of the offender, including their needs and risks, in determining the final requirement or package of requirements. This includes whether these circumstances:

- make a punitive requirement unjust
- affect the assessment or intensity of the appropriate punitive requirement



- make any other requirements appropriate to fulfil any of the other purposes of sentencing.

Courts should tailor community orders for each offender according to their specific circumstances.

In determining the requirement or combination of requirements, consideration should be given to the broad variety of sentences a community order can offer to be most effective for a particular offender, including different lengths of an order. Guidance on determining the length of a community order is given below the table.

The levels table below offers non-exhaustive examples of the intensity of requirements that might be appropriate in each level of community order. For the curfew requirement, the court may vary the number of hours on different days if appropriate according to the circumstances of the offender.

Low	Medium	High
Offences only just cross the community order threshold, where the seriousness of the offence or the nature of the offender's record means that a discharge or fine is inappropriate.	Offences that obviously fall within a sentence of a community order.	Offences only just below the custody threshold, or where the custody threshold is crossed but a community order is more appropriate in the circumstances.
<b>If imposing for the purposes of punishment, suitable requirement ranges might include:</b>		
<ul style="list-style-type: none"> <li>• 40 – 80 hours of unpaid work</li> <li>• Curfew requirement up to 16 hours in any day for up to 4 weeks*</li> <li>• Exclusion requirement, for a few months</li> <li>• Prohibited activity requirement</li> </ul>	<ul style="list-style-type: none"> <li>• 80 – 150 hours of unpaid work</li> <li>• Curfew requirement up to 16 hours in any day for up to 6 months*</li> <li>• Exclusion requirement lasting in the region of 6 months</li> <li>• Prohibited activity requirement</li> </ul>	<ul style="list-style-type: none"> <li>• 150 – 300 hours of unpaid work</li> <li>• Curfew requirement up to 20 hours in any day for up to 24 months</li> <li>• Exclusion requirement lasting in the region of 12 months*</li> <li>• Prohibited activity requirement</li> </ul>
*Maximum of 112 hours in any period of 7 days.		
<b>Any requirement/s imposed for the purpose of rehabilitation should be determined by and aligned with the offender's needs.</b> The court may benefit from Probation's assessment of the offender's needs and suggestion of appropriate rehabilitative interventions.		
<b>If order does not contain a punitive requirement, suggested fine levels are indicated below:</b>		
<b>BAND A FINE</b>	<b>BAND B FINE</b>	<b>BAND C FINE</b>

## 7. Imposition of custodial sentences

A custodial sentence (whether immediate or suspended) can only be considered where the court is satisfied that the seriousness of an offence and all circumstances of the offence and the offender mean that no other sentence is suitable.

The court should ask the following three questions in the following order:

**Is it unavoidable that a custodial sentence be imposed?**

Passing the custody threshold does not mean that a custodial sentence is inevitable. Custody should not be imposed where the purposes of sentencing could be achieved by a community order (for example, a community order may provide sufficient restriction on an offender's liberty, by way of punishment, while allowing rehabilitation to take place to prevent future crime.)

Community orders can be highly punitive. They last longer than shorter custodial sentences. Community orders can restrict an offender's day to day liberties, especially imposed on an offender who may find regular attendance at a specific place or time challenging. Breach can result in significant adverse consequences.

A custodial sentence may become disproportionate to achieving the purposes of sentencing where there would be an impact on dependants, including on unborn children where the offender is pregnant. Courts should avoid the possibility of an offender giving birth in prison unless the imposition of a custodial sentence is unavoidable.

If the purposes of sentencing can be achieved by a community order, or any personal mitigation means that a community order may be a more suitable sentence, please see the [Imposition of Community orders \(link\)](#) section.

### What is the shortest term commensurate with the seriousness of the offence?

If the court is considering an immediate custodial sentence of up to 12 months, it should take into account that research suggests that custodial sentences of up to 12 months are less effective than other disposals at reducing reoffending and can lead to negative outcomes. Any custodial sentence can disrupt employment, education or accommodation and affect support networks by interfering with relationships with friends and family. Factors supporting desistance also can be adversely impacted by custody.

In considering the shortest term, the court must NOT consider any licence or post sentence supervision requirements or any other administrative or statutory consequences of the potential sentence imposed.

### Can the sentence be suspended?

If the shortest term commensurate with the seriousness of the offence is less than 24 months, the court may consider whether it is appropriate to suspend that sentence, so that the offender serves their sentence in the community under the supervision of Probation. If the offender reoffends during the operational period or fails to comply with any requirements during the supervision period of the suspended sentence order, the custodial term will be activated and the offender will be required to serve some or all of the sentence in custody, unless it is unjust to do so, as set out in the [Breach of Suspended Sentence Orders guideline \(link\)](#).

A suspended sentence is a custodial sentence. A suspended sentence **MUST NOT** be imposed as a more severe form of community order. Sentencers should be clear that they would impose an immediate custodial sentence if the power to suspend were not available. If not, a non-custodial sentence, such as a community order, should be imposed.

In weighing any of the following non-exhaustive factors indicating whether to suspend a custodial sentence, the court will usually benefit from Probation's assessment of any relevant circumstances (such as dependents) and whether the offender can be safely managed in the community.

Note: Where a statutory minimum term for an offence is 24 months or less, the court may lawfully impose a suspended sentence order, but in practice this will only rarely be appropriate.

Factors indicating that it <u>may</u> be appropriate to suspend a custodial sentence	Factors indicating that it would <u>not</u> be appropriate to suspend a custodial sentence
Realistic prospect of rehabilitation	Offender presents a risk/danger to the public
Offender does not present high risk of reoffending or harm	The seriousness of the offence means that appropriate punishment can only be achieved by immediate custody
Strong personal mitigation	History of poor compliance with court orders AND unlikely to comply in the future
Immediate custody will result in significant harmful impact upon others	

## 8. Suspended Sentence Orders

A custodial sentence between 14 days and 2 years (also applicable for the aggregate of the terms where the court imposes two or more sentences to be served consecutively) may be suspended for between 6 months and 2 years.

In determining the length of suspension (the operational period), the court should consider whether the time for which a sentence is suspended should reflect the total length of the sentence, and the duration needed for any requirements imposed (the supervision period). A custodial sentence that is suspended should be for the same term that would have applied if the sentence was to be served immediately. Guidance on defining the operational and supervision periods can be found below.

### Requirements of a Suspended Sentence Order

When the court suspends a sentence, it may impose one or more requirements for the offender to undertake in the community. The requirements that may be available are identical to those available for community orders. The court must follow the guidance in the requirements section of this guideline ([link up](#)), including ensuring that any requirements imposed are the most suitable for the offender, and where multiple requirements are imposed, they are compatible with each other and not excessive.

Requirements imposed as part of a suspended sentence order are more likely to be predominantly rehabilitative in purpose, as the imposition of a custodial sentence, even if suspended, is itself both a punishment and a deterrent. Any punitive requirements should not be disproportionate to the length of custodial sentence being suspended. To ensure that the requirements of the suspended sentence are commensurate with offence seriousness, care must be taken to ensure requirements imposed are not excessive. The court wishing to impose onerous or intensive requirements should reconsider whether a community sentence might be more appropriate.

Determining operational and supervision periods of a Suspended Sentence Order

The court making a suspended sentence order must specify the operational period and supervision period of the order.

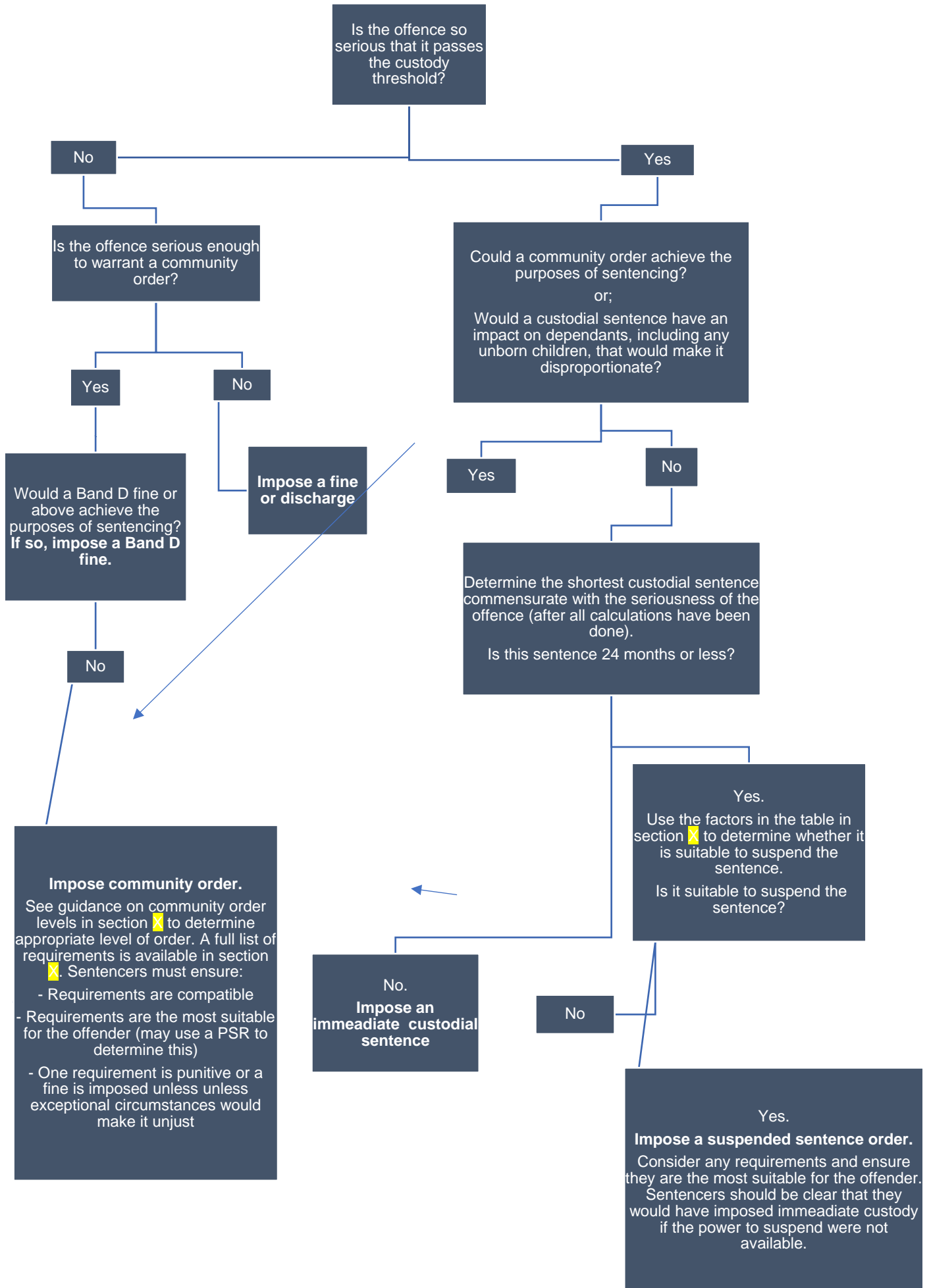
Operational period	<p>The length of time for which a sentence is suspended, during which the offender will be liable to go to custody to serve the suspended custodial term if they commit another offence.</p> <p>This period begins on the day on which the order is made and must be at least 6 months and not more than two years.</p> <p>The length of the operational period should be tailored to the particular circumstances of the case. Non-exhaustive factors which may be relevant when determining length of the operational period are:</p> <ul style="list-style-type: none"> <li>• the length of the custodial term to be suspended;</li> <li>• the nature and duration of any requirements of the order and resulting supervision period;</li> <li>• the risks of reoffending or harm.</li> </ul>
Supervision period	<p>The length of time for an offender to complete any requirements of the suspended sentence order, during which the offender will be liable to go to custody to serve the suspended custodial term if they fail to comply with any of the requirements.</p> <p>This period begins with the day on which the order is made and must be at least 6 months and not more than two years, or the operational period if this is less than two years.</p> <p>Non-exhaustive factors which may be relevant when determining the supervision period include:</p> <ul style="list-style-type: none"> <li>• the length of time required to complete any requirements ;</li> <li>• the length of time required for rehabilitative requirements to be most effective (please consult Probation if necessary).</li> </ul> <p>If the suspended sentence includes an unpaid work requirement, the supervision period for this requirement continues until the offender has completed the number of hours in the requirement but does not continue beyond the operational period.</p>

Time remanded in custody or on qualifying curfew before imposing a suspended sentence order

The court imposing a suspended sentence order should determine the length of the suspended custodial term without reference to any time spent in custody on remand or on a qualifying curfew. When explaining the effect of the sentence, the court should indicate that the time remanded in custody or on a qualifying curfew would be deducted in the event of breach and activation of that sentence.

If an offender has spent a significant proportion of the custodial term to be suspended on remand or on a qualifying curfew, the court must consider whether it would be appropriate to impose a suspended sentence order at all, as there would be limited effect of the custodial term in the case of activation. Depending upon the circumstances of the case, immediate custody (which may result in immediate release due to time served) or a community order or discharge may be more appropriate, particularly where there is a good prospect of rehabilitation.

**Sentencing Flow Chart**



Requirements Table ([print](#))

	Requirement	Requirement overview	Volume / Length range	Considerations / Factors to consider
1	<b>Unpaid work requirement (UPW)</b>	<p>An unpaid work requirement requires offenders to undertake work projects in their local community. In some regions, a small proportion of these hours can be spent on education, training or employment activities for eligible offenders.</p> <p>“Community Payback” is a term used to describe the delivery of an Unpaid Work requirement.</p>	Between 40 – 300 hours to be completed within 12 months.	<p>Work as part of an unpaid work requirement must be suitable for an offender to perform; and if necessary, this suitability should be assessed by Probation. Probation will also be able to advise what type of projects are available in the region. The court must consider whether the offender is in employment, has any disabilities or limitations, has any dependants, or whether there are any other circumstances that may make an unpaid work requirement unsuitable.</p> <p>If unpaid work hours are not completed within 12 months (unless extended or revoked by the court), the requirement remains ‘live’ and will need to be returned to the court for the operational period to be extended so the remaining hours can be worked. Sentencers should consider this when considering any other requirements to ensure that it is realistic for an offender to complete all unpaid work hours within the operational period.</p>
2	<b>Rehabilitation activity requirement (RAR)</b>	<p>A rehabilitation activity requirement (RAR) requires the offender to participate in rehabilitative activities designed to address the behaviours and needs that contributed to the offence, and attend supervision appointments with Probation.</p> <p>The court will specify the maximum number rehabilitative activity days the offender must complete. Post-</p>	Minimum of 1 RAR day; no maximum, to be completed within the length of the order.	<p>A rehabilitation activity requirement should be imposed when the offender has rehabilitative needs that cannot be addressed by other requirements.</p> <p>The specific type of activities that the offender will be required to participate in will be determined post-sentence by an assessment of these rehabilitative needs, and as such sentencers should consider the number of RAR days recommended by Probation to ensure this number is suitable and proportionate to the level of need and any eligibility requirements for</p>

		<p>sentence, Probation will assess the offender and produce a tailored activity plan based on their needs. Activities can include probation-led toolkits or group structured interventions, or referral to external organisations providing rehabilitative services.</p>		<p>commissioned rehabilitative services that may be relevant.</p> <p>Structured rehabilitative activity appointments are complemented by supervision appointments with Probation which ensure contact is maintained, Probation can track the offender's progress in completing activities and offer support where necessary.</p> <p>The court needs only to specify the number of 'RAR' or rehabilitative activity days, and Probation will manage supervision appointments alongside these days.</p>
3	<b>Programme requirement</b>	<p>A programme requirement requires an offender to complete an offending behaviour programme or intervention. These are intensive structured programmes, designed to tackle the attitudes, thinking and behaviours of certain criminogenic needs. Programmes are usually delivered in groups by a trained facilitator.</p>	<p>The court must specify the number of days on which the offender must participate in the programme up to the length of the order.</p>	<p>An accredited programme must be recommended by Probation, as each programme has specific eligibility criteria that must be met and different regions have different programmes.</p> <p>Probation will specify to the court how many days are required to complete a suitable programme to ensure a suitable programme can be completed.</p>
4	<b>Prohibited activity requirement</b>	<p>A prohibited activity requirement prohibits the offender from participating in any activity specified by the court.</p>	<p>Duration set by the court, up to the length of the order.</p>	<p>The court must consult Probation before imposing this requirement.</p> <p>Electronic monitoring may be considered to monitor compliance with the prohibited activity if it is suitable (see electronic monitoring below).</p>
5	<b>Curfew requirement</b>	<p>A curfew requirement requires an offender to remain at a particular place (or places) for a specified period (or periods) of time.</p> <p>Different places or different curfew periods may be specified for different days. The curfew period should be targeted to reflect the punishment</p>	<p><b>For an offence of which the offender was convicted on or after 28 June 2022:</b> 2 – 20 hours in any 24 hours; maximum 112 hours in any period of</p>	<p>Where the court imposes a curfew requirement, it must also impose an electronic monitoring requirement to monitor compliance, unless in the circumstances of the case, it considers it inappropriate to do so.</p> <p>In all cases, the court must consider those likely to be affected, such as any dependants.</p>



		intended, support rehabilitation where relevant, and protect victims and the public.	7 days beginning with the day of the week on which the requirement first takes effect; and maximum term 2 years; - or - <b>For an offence of which the offender was convicted before 28 June 2022:</b> 2 – 16 hours in any 24 hours; maximum term 12 months.	The court must ensure safeguarding and domestic abuse enquiries are carried out on any proposed curfew address to ensure the accommodation is suitable, others will not be put at risk and the homeowner agrees to the curfew, particularly where vulnerable adults and children are involved. Ordinarily this is a function performed by Probation.
6	<b>Exclusion requirement</b>	An exclusion requirement prohibits an offender from going into a particular place or area.  The exclusion zone can include more than one prohibited place/area, more than one exclusion period and different prohibited places/areas for different exclusion periods or different days.	Up to 2 years. May either be continuous or only during specified periods.	Where the court imposes an exclusion requirement, it must also impose an electronic monitoring requirement to monitor compliance, unless in the particular circumstances of the case, it considers it inappropriate to do so (see note on electronic monitoring below).
7	<b>Residence requirement</b>	A residence requirement provides that the offender must reside at a particular place (i.e. a private address or HMPPS provided temporary accommodation, including an approved premises or Bail accommodation Support Services) for a specified period.	Duration set by the court, up to the length of the order.  The maximum placement length of an approved premises is 12 weeks.	The court must consider the home surroundings of the offender before imposing this requirement.  The court is encouraged to engage with Probation to understand what type of HMPPS provided temporary accommodation is available in their region to support these orders.  Where a residence requirement provides that the offender reside at a private address, there is no requirement that the offender to be at the address at a specific time. A curfew requirement would be

				necessary for this. However, where a residence requirement is for an approved premises (AP), an offender is bound by the rules of the AP, which may include an overnight curfew and drug and/or alcohol testing.
<b>8</b>	<b>Foreign travel prohibition requirement</b>	An offender is prohibited from travelling to a country (or countries) or territory (or territories) outside the British Islands (that is the United Kingdom, the Channel Islands and the Isle of Man).	Duration set by the court, up to a maximum of 12 months.	Unlikely to be suitable for an offender who does not have a passport, rarely travels, or has no apparent international connections.
<b>9</b>	<b>Mental health treatment requirement</b>	A mental health treatment requirement provides treatment to an offender with a mental health condition. Treatment may be residential or non-residential and must be provided by or under the direction of a registered medical practitioner or chartered psychologist.	Duration set by the court, up to the length of the order.	<p>The court must be satisfied: (a) that the mental condition of the offender is such as requires and may be susceptible to treatment but is not such as to warrant the making of a hospital or guardianship order; (b) that arrangements for treatment have been or can be made; (c) that the offender has expressed willingness to comply. Probation should be consulted to ensure these factors are met, and to assess the offender to ensure that any eligibility requirements for the treatment are satisfied before imposing this requirement.</p> <p>MHTRs can be used in combination with other treatment requirements (for example drug and alcohol rehabilitation requirements) for eligible offenders with multiple needs.</p>
<b>10</b>	<b>Drug rehabilitation requirement</b>	A drug rehabilitation requirement (DRR) provides treatment to an offender who is dependent on drugs or has a propensity to misuse drugs. Treatment can be residential or non-residential, and the offender must participate in court reviews of the order, as	Duration set by the court, up to the length of the order.	<p>A drug rehabilitation requirement may be imposed on an offender for whom the court is satisfied that the offender is dependent on or has a propensity to misuse drugs (as defined by s.2 of the Misuse of Drugs Act 1971) where the dependency or propensity requires and may be susceptible to treatment.</p> <p>The court must ensure that necessary arrangements have</p>

		directed by the court.		<p>been or can be made for the proposed treatment, and the offender must express willingness to comply with the treatment.</p> <p>Probation should be consulted to ensure these factors are met, and to assess the offender to ensure that any eligibility requirements for the treatment are satisfied before imposing this requirement.</p> <p>DRRs can be used in combination with other treatment requirements (for example, mental health treatment requirement) for offenders with multiple needs.</p>
<b>11</b>	<b>Drug Testing requirement</b>	<b>Not yet available to courts.</b>		
<b>12</b>	<b>Alcohol treatment requirement</b>	<p>An alcohol treatment requirement may be imposed on an offender who is dependent on alcohol, where that dependency requires and may be susceptible to treatment.</p> <p>The treatment may be residential or non-residential.</p>	Duration set by the court, up to the length of the order.	<p>An alcohol treatment requirement (ATR) may be imposed on an offender for whom the court is satisfied is dependent on alcohol and this dependency is such that it requires and is susceptible to treatment.</p> <p>The court must ensure that necessary arrangements have been or can be made for the proposed treatment, and the offender must express willingness to comply with the treatment.</p> <p>Probation should be consulted to ensure these factors are met, and to assess the offender to ensure that any eligibility requirements for the treatment are satisfied before imposing this requirement.</p> <p>ATRs can be used in combination with other treatment requirements (for example, mental health treatment requirement) for offenders with multiple needs. However, an ATR cannot be imposed alongside an alcohol abstinence and monitoring requirement (AAMR).</p>
<b>13</b>	<b>Alcohol abstinence and monitoring</b>	An alcohol abstinence and monitoring requirement imposes a	Up to 120 days.	It is generally recommended that an alcohol abstinence and monitoring requirement (AAMR) is

	<p><b>requirement (where available)</b></p>	<p>total ban on alcohol consumption and requires the offender to have their compliance with the requirement electronically monitored.</p>		<p>not a standalone requirement and sits alongside other measures that support rehabilitation.</p> <p>The court must be satisfied that the offender is not alcohol dependant. If the offender is alcohol dependant, an ATR may be more appropriate. Probation should be consulted to assess the rehabilitative need and advise on the most relevant and available treatment.</p> <p>An AAMR cannot be imposed alongside an ATR alcohol treatment requirement.</p>
14	<p><b>Electronic monitoring:</b></p> <ul style="list-style-type: none"> <li>• electronic whereabouts monitoring requirement and</li> <li>• electronic compliance monitoring requirement</li> </ul>	<p>The <b>electronic whereabouts monitoring requirement</b> is a requirement for the offender to submit to electronic monitoring of their whereabouts (other than for the purpose of monitoring compliance with any other requirement included in the order) during a period specified in the order.</p> <p>The <b>electronic compliance monitoring requirement</b> is imposed to monitor compliance with another requirement on an order.</p>	<p>Up to 2 years.</p>	<p>The <b>electronic whereabouts monitoring requirement</b> may be imposed without the imposition of another requirement and involves monitoring an offender's whereabouts with the imposition of a GPS tag, save for circumstances in which the consent of a person whose co-operation is required is withheld.</p> <p>Where the court makes a relevant order imposing a curfew requirement or exclusion requirement it must also impose an <b>electronic compliance monitoring requirement</b> for monitoring compliance with it, save where:</p> <ul style="list-style-type: none"> <li>• there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring and that person does not consent; and/or</li> <li>• electronic monitoring is unavailable and/or impractical; and/or</li> <li>• in the particular circumstances of the case, the court considers it inappropriate to do so.</li> </ul> <p>The court must ensure safeguarding and domestic abuse enquiries are carried out on any proposed curfew address to ensure the accommodation is suitable,</p>

				others will not be put at risk and the homeowner agrees to the curfew, particularly where vulnerable adults and children are involved. Ordinarily this is a function performed by Probation.
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# Facilitation

## Assisting unlawful immigration to the United Kingdom

Immigration Act 1971 section 25

## Helping asylum-seeker to enter the United Kingdom

Immigration Act 1971 section 25A

Triable either way

Maximum: life imprisonment

Offence range: high-level community order – 16 years' custody

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

<b>CULPABILITY</b>	
<b>A-</b> High Culpability	<ul style="list-style-type: none"> <li>• Leading role in a commercial activity</li> <li>• Sophisticated nature of offence/ significant planning</li> <li>• Significant financial gain/ expectation of significant financial gain</li> </ul>
<b>B-</b> Medium culpability	<p>Other cases that fall between categories A and C because:</p> <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> <li>• <del>Significant role in a commercial activity</del></li> <li>• <del>Some planning</del></li> <li>• <del>Some financial gain/ expectation of financial gain</del></li> </ul>
<b>C-</b> Lower culpability	<ul style="list-style-type: none"> <li>• <del>Facilitating a breach of immigration law by family members</del></li> <li>• <del>Humanitarian motivation</del></li> <li>• Non – commercial activity</li> <li>• Minor role in group activity</li> <li>• Involved due to coercion or pressure</li> </ul>



<b>HARM</b>	
Category 1	<ul style="list-style-type: none"> <li>• <del>Endangerment to life</del></li> <li>• Means or route of entry/ arrival involved a high risk of serious injury or death</li> <li>• Facilitating large numbers of individuals to illegally enter/ arrive in the UK</li> <li>• Exploited/ put pressure on others</li> </ul>
Category 2	<ul style="list-style-type: none"> <li>• Means or route of entry/ arrival involved some risk of serious injury or death</li> <li>• Facilitating small numbers of individuals to illegally enter/ arrive in the UK</li> <li>• Facilitating large numbers of individuals to remain unlawfully</li> <li>• <del>Assisted individuals to remain unlawfully</del></li> </ul> <p style="color: red;">Other cases that fall between categories 1 and 3 because:</p> <ul style="list-style-type: none"> <li>• <del>Factors are present in 1 and 3 which balance each other out and/or</del></li> <li>• <del>The harm caused falls between the factors as described in 1 and 3</del></li> <li>• </li> </ul>
Category 3	<ul style="list-style-type: none"> <li>• <del>Isolated incident</del></li> <li>• <del>Facilitated the entry/ arrival of asylum seekers</del></li> <li>• All other cases</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> 14 years' custody <b>Category Range</b> 10 - 16 years' custody	<b>Starting Point</b> 12 years' custody <b>Category Range</b> 9 - 14 years' custody	<b>Starting Point</b> 8 years' custody <b>Category Range</b> 6 - 10 years' custody
<b>Category 2</b>	<b>Starting Point</b> 8 years' custody <b>Category Range</b> 6 - 10 years' custody	<b>Starting Point</b> 5 years' custody <b>Category Range</b> 4 - 7 years' custody	<b>Starting Point</b> 3 years' custody <b>Category Range</b> 2 - 5 years' custody
<b>Category 3</b>	<b>Starting Point</b> 5 years' custody <b>Category Range</b> 4 - 7 years' custody	<b>Starting Point</b> 3 years' custody <b>Category Range</b> 2 - 5 years' custody	<b>Starting Point</b> 18 months' custody <b>Category Range</b> 12 months' custody – 2 years' 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.

**Care should be taken to avoid double counting factors already taken into account in assessing culpability**

**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:*

- ~~Repeat offending (unless charged as separate offences)~~
- Offending conducted over a sustained period of time
- Abuse of position of trust
- Recruited others to take part in offending (unless already taking into account at step 1)
- Significant risk of injury or death to those seeking to rescue individuals

**Factors reducing seriousness or reflecting personal mitigation**

- No recent or relevant convictions
- Good character and/or exemplary conduct
- Remorse
- Sole or primary carer for dependent relatives
- Age/lack of maturity
- Mental disorder or learning disability
- Physical disability or serious medical condition requiring urgent, intensive or long-term treatment
- Offender co-operated with investigation, made early admissions and/or voluntarily reported offending
- Limited understanding of scale of activity

**STEP THREE**

**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 FOUR**

**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 FIVE**

**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 SIX**

**Ancillary orders**

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

**STEP SEVEN**

**Reasons**

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

**STEP EIGHT**

**Consideration for time spent on bail**

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.

# **Possession of false identity documents etc with improper intention**

**Identity Documents Act 2010 section 4**

**Triable either way**

**Maximum: 10 years' imprisonment**

**Offence range: High level community order- 8 years' custody**

DRAFT

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

<b>CULPABILITY</b>	
<b>A-</b>	<ul style="list-style-type: none"> <li>• Possession of a large number of documents used for commercial scale criminal activity</li> <li>• Substantial financial gain/ expectation of substantial financial gain</li> <li>• A leading role where offending is part of a group activity</li> <li>• Sophisticated nature of offence/significant planning</li> </ul>
<b>B-</b>	<ul style="list-style-type: none"> <li>• Possession of multiple documents intended for the use of others</li> <li>• Financial gain/ expectation of financial gain</li> <li>• A lesser role where offending is part of a group activity</li> </ul>
<b>C-</b>	<ul style="list-style-type: none"> <li>• Possession of one or two false documents for own use</li> <li>• Involved due to coercion or pressure</li> </ul>

<b>HARM</b>	
Category 1	<ul style="list-style-type: none"> <li>• Document(s) used to evade immigration controls</li> </ul>
Category 2	<ul style="list-style-type: none"> <li>• Document used to assist criminal activity (other than that described in category 1 or 3)</li> <li>• Document used to evade responsibility for criminal activity</li> </ul>
Category 3	<ul style="list-style-type: none"> <li>• Document used to obtain rights, services or benefits [such as employment, accommodation, bank accounts etc]</li> </ul>
Category 4	<ul style="list-style-type: none"> <li>• All other cases</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> 5 – 8 years' custody	<b>Starting Point</b> 3 years' custody  <b>Category Range</b> 2 – 4 years' custody	<b>Starting Point</b> 2 years' custody  <b>Category Range</b> 18 months – 30 months years' custody
<b>Category 2</b>	<b>Starting Point</b> 3 years' custody  <b>Category Range</b> 2 – 4 years' custody	<b>Starting Point</b> 18 months' custody  <b>Category Range</b> 1 – 2 years' custody	<b>Starting Point</b> 1 year custody  <b>Category Range</b> 6 months' – 18 months' custody
<b>Category 3</b>	<b>Starting Point</b> 18 months' custody  <b>Category Range</b> 1 – 2 years' custody	<b>Starting Point</b> 1 year custody  <b>Category Range</b> 6 months' – 18 months' custody	<b>Starting Point</b> 9 months' custody  <b>Category Range</b> 6 - 12 months' custody
<b>Category 4</b>	<b>Starting Point</b> 1 year custody  <b>Category Range</b> 6 months' – 18 months' custody	<b>Starting Point</b> 9 months' custody  <b>Category Range</b> 6 - 12 months' custody	<b>Starting Point</b> 6 months' custody  <b>Category Range</b> High level CO - 9 months' 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.

**Care should be taken to avoid double counting factors already taken into**

**account in assessing culpability****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:*

- Offending conducted over a sustained period
- Involvement of others through pressure, influence
- Offender not lawfully present in the UK
- Obtained document from a forger – unless already taken into account at step one

**Factors reducing seriousness or reflecting personal mitigation**

- No recent or relevant convictions
- Good character and/or exemplary conduct
- Remorse
- Sole or primary carer for dependent relatives
- Age/lack of maturity
- Mental disorder or learning disability
- Physical disability or serious medical condition requiring urgent, intensive or long-term treatment
- Offender co-operated with investigation, made early admissions and/or voluntarily reported offending
- Limited understanding of scale of activity



**STEP THREE****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 FOUR****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 FIVE****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 SIX****Ancillary orders**

In all cases, the court must consider whether to make a compensation order and/or other ancillary orders.

**STEP SEVEN****Reasons**

Section 52 of the Sentencing Code imposes a duty to give reasons for, and explain the effect of, the sentence.

**STEP EIGHT****Consideration for time spent on bail**

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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Case Name	Details	Sentence	
<p><i>R. v Kuosmanen (Paavo Topias)</i> [2004]EWCA Crim1861</p>	<p>The applicant (K) applied for leave to appeal against a sentence of five years' imprisonment imposed for three counts of having a false instrument with intent. Customs officers found 250 counterfeit passports and other identity documents on K's person. K had agreed to deliver the documents for a third party. Held, refusing the application, that a sentence of five years' imprisonment did accord the appropriate credit for the early guilty plea. The instant case concerned 250 passports, forged in a sophisticated way, which had been imported in a professional operation. The sheer scale of the operation meant that a starting point of seven years would not have been inappropriate. The judge had referred to K's plea at the outset of his sentencing remarks, therefore it was clear that he had taken it into account.</p>	<p>7 years (before credit)</p>	<p>A1</p>
<p><i>In Cheema</i> [2002] EWCA Crim 325, [2002] 2 Cr App R (S) 79 (356),</p>	<p>The Court of Appeal considered a sentence of three years appropriate under the previous legislation of the Forgery and Counterfeiting Act 1981 for having custody or control of 12 false passports, intending that they would be used as genuine passports.</p>	<p>3 years</p>	<p>B1</p>
<p><i>Carneiro</i> [2007] EWCA Crim 2170</p>	<p>Pleaded (full credit) D was an Algerian who had overstayed on a visitor's visa which expired in 2008. D was stopped at the Channel Tunnel whilst on a coach to Germany. He had on him a Belgian ID document and a bank card, both in the same false name. His explanation for the bank card was that he had used the account of an Algerian to operate as self-employed. He had purchased the ID document off the Internet to visit a German woman he met online and whom he may have been intending to marry to obtain legitimate EU immigration status. D was of good character. The Judge emphasised the importance of preserving the integrity of the UK's borders. Held. The Judge was right to consider the time D had been an overstayer. D had been unlawfully living and working in the UK for over five years and, although caught leaving the UK, his intention was to return. D had a counterfeit document which would have been used to enable him to continue his long-assumed false identity.</p>	<p>The Judge must have started at <b>27 months</b>. He was entitled to do so. 18 months was not excessive.</p>	<p>C1</p>
<p><i>Kolawole</i> [2004] EWCA Crim 3047</p>	<p>Rose LJ indicated that where a passport had been used to gain entry to the United Kingdom or to evade immigration controls, even a person of good character who pleads guilty should normally receive a sentence of between 12 months and 18 months for a single offence.</p>	<p>18-27 months pre GP</p>	<p>C1</p>

<p><a href="#">Lasgaa [2014] EWCA Crim 1822</a></p>	<p>Guilty plea</p> <p>L had entered the United Kingdom in 2008 under a visitor's visa which did not entitle him to work. After the visa expired, he became an unlawful overstayer. He worked as a self-employed painter and decorator and, in order to do so, used a bank account in an assumed name. In 2014 he left the UK to travel to Germany. He was stopped by border control who found him to be in possession of a counterfeit Belgian identity document and a debit card. Both were in the same name as the bank account being used by L. L admitted that he had intended to travel to Germany to marry a German woman he met on the internet, return to the UK and then establish himself legally in the UK as the husband of a European Union national. The sentencing judge emphasised the importance of preserving the integrity of the country's borders. He accepted that L was of previous good character and had pleaded guilty at the first opportunity, but identified as aggravating features the fact that L had been an illegal overstayer and that he had had another false document, namely the debit card, in his possession.</p> <p>L had for more than five years been living and working in the UK when he had no right to do so. Although he was using his counterfeit identity document to leave the country, his clear intention was to return.</p> <p>A starting point of 27 months' custody before giving credit for the guilty plea was significantly longer than the upper end of the range indicated in <i>Kolawole</i>. It resulted in a sentence of 18 months' imprisonment, which was undoubtedly high. However, the sentence was neither wrong in principle nor manifestly excessive.</p>	27 months'	C1
<p>R v Oryem (Emmanuel) [2016] EWCA Crim 1699</p>	<p>Plea. The offender was attempting to purchase a £5k watch using a bank card in someone else's name and showed false identification to the shop supervisor. Due to a concern about the documents the police were called and the offender arrested. The offender admitted that he had gone to the shop to commit fraud and that the documents were fakes. He said he had done so for a friend, who he described and the police subsequently found and arrested.</p> <p>The offender was sentenced to 20 months imprisonment for fraud and 12 months concurrent for the ID document offence. On appeal the fraud sentence was reduced to 15 months to reflect the fact that full credit for his plea should have been given. As the other sentence was to run concurrent and was less than 15 months the Court did not reduce it, so it is a little unclear whether this sentence did or did not include a reduction for plea.</p>	12 months	C2

<p>R v Isufi [2020] EWCA Crim 703</p>	<p>Plea. The applicant had been convicted in Germany for supplying cannabis and was wanted on a warrant by the German authorities. He had been sentenced in that jurisdiction to a term of imprisonment of 4 years and 3 months but had failed to surrender to custody and was on the run. He was arrested by the police on the German warrant on 26 January 2019 in East London. He had clearly not learnt any lessons from his earlier conviction and sentence because he was found to be carrying a shoulder bag containing 994 grams of cocaine with a purity of 86%. The police officers then went on to search his home address and found stocks of cocaine. The quantities of cocaine found on the premises were of an average of 58% purity. Its wholesale value was estimated to be around £70,000, with a street value in the region of £163,000. Also found at the applicant's address were forged identity documents comprising a driving licence, passports and an ID card were all of which were in the name of an Italian national but displayed photographs of the applicant.</p> <p>On the first count of possessing a controlled Class A drug with intent to supply, contrary to <u>section 5(2)</u> of the Misuse of Drugs Act 1971, he was sentenced to 9 years' imprisonment. On the second, of possession of an identity document with improper intention, contrary to <u>section 4</u> of the Identity Documents Act 2010, he was sentenced to 9 months' imprisonment to be served concurrently. Appeal dismissed</p>	<p>9 months after plea. 25 % credit given. Sentence before reduction <b>12 months</b></p>	<p>C2</p>
<p>R v Hidri [2019] EWCA Crim 1618</p>	<p>Plea. Three Albanians stopped in car. All had false driving licences. D, a passenger, was aged 28 and of good character.</p> <p>Mr Asghar submitted that recent decisions of this Court such as <u>R v Aderemi [2018] EWCA Crim 1502</u> and <u>R v Mehmeti [2019] EWCA Crim 751</u>, draw a distinction between cases where a false identity document is used for immigration purposes, for example, to enter the country illegally and where a false identity document is used for other purposes such as to obtain work. The former category of cases is regarded more seriously by the courts and attracts a more severe sentence; the latter category (into which this case fell) would attract a sentence of around 6 months on an early guilty plea. The judge's sentence wrongly put this case into the former category. We accept these submissions.</p> <p>Accordingly, in our judgment, this case fell into less serious category of case than the judge seems to have thought. Whilst, as the single judge recognised, each case is different, and 6 months' imprisonment is not in any sense a tariff in this sort of case, there is nothing in the facts of this case which would justify treating this appellant more harshly than others who have used false documents other than for immigration purposes. He has no known previous convictions. He was not the driver</p>	<p>9 months</p>	<p>C2/3?</p>

	and he pleaded guilty at the earliest opportunity. We start at 9 months, not 15, so with plea <b>6 months</b> not 10.		
<a href="#">Mehmeti [2019] EWCA Crim 751</a>	D pleaded to possession of an identity document with improper intention. D was driving his vehicle when police indicated that they wanted him to stop. D carried on driving for a time before stopping the vehicle. When asked for his driving licence, D gave police a counterfeit licence with a false name. D ran from the scene and had to be chased on foot for about ten minutes before being apprehended. In D's police interview, he admitted to entering the UK illegally as an Albanian citizen. D had one previous conviction in 2016 for possessing criminal property when he and a co-accused were found in possession of £100,000 <sub>1</sub> in cash, three mobile phones and a counterfeit Greek driving licence. D received 12 months' imprisonment and admitted at the time to having entered the UK illegally. The Judge noted that having been deported from the UK following his previous conviction, D had once again entered the UK illegally and had acquired another false driving licence.	The document was not used for immigration reasons. 15 months was too long. We start at <b>9 months</b> , so with plea, 6 months not 10.	C2/ 3?
<a href="#">R v Lumanaj [2021] EWCA Crim 725</a>	D pleaded. D was driving a vehicle that collided with a pedestrian. At the scene he told the police his name and showed them a photograph on his phone of a Greek driving licence matching the name he gave. Police took him to his home address to inspect the original. The licence was false and subsequent fingerprint testing identified D as an Albanian national who was unlawfully at large having previously been recalled to prison for a third time for breaching the terms of his licence. He was also driving without a licence or insurance. D was aged 19 at the time of the offence and had one previous conviction for four offences of possessing false identity documents for which he was imprisoned for 6 months. D was found to have no legal standing in the UK and had arrived no later than June 2020. Since then, he had been living under several different names. In his sentencing remarks, the judge said that the use of a photograph of the fake licence was a way to further avoid detection and prevent the police from inspecting the hard copy. The judge treated the previous conviction for similar offences as an aggravating feature which merited an uplift of nine months to a starting point of 27 months. He gave full credit for the guilty plea. Held. Given D's previous offending, it is reasonable to infer that he has repeatedly relied upon having a false licence with him while continuing to drive. The previous offending seriously aggravated the index offence. Although a significant uplift in sentence was required, a sentence of 3 years after trial was manifestly excessive. Instead that sentence should have been <b>2 years</b> which, after allowing for the guilty plea, should be reduced to 16 months. Therefore, with discount for plea, 16 months.	2 years	C2/ 3?
<a href="#">Ovieriakhi [2009] EWCA Crim 452</a>	The offender pleaded guilty.	In our view a sentence of twelve months'	C3

	<p>The circumstances of this case present a not unfamiliar picture. The appellant, a woman of good character, lawfully enters the UK. She then remains longer than the time permitted. Next, she obtains a false passport in a name similar to her own in order to obtain a job. The work that she obtains is worthwhile and necessary. She embarks on this course of conduct because of her family difficulties and because, although she could obtain a job in Nigeria, work in the United Kingdom pays more.</p> <p>In our judgment the present case falls into the category of case considered in <u>Mutede</u>, <u>Carneiro</u> and <u>Olasunkanmi</u>. Despite what was said in <u>Adebayo</u>, there is a valid distinction to be made between use of a false passport to gain entry and its use to gain work.</p>	<p>imprisonment was excessive. We shall substitute for it a sentence of six months' imprisonment. <b>Pre GP 9 months</b></p>	
<p><a href="#">Acheampong [2015] EWCA Crim 1894</a></p>	<p>Guilty plea. Cynthia has never applied for a visa to come into the United Kingdom and there is no record of her entry into this country. However, she undoubtedly did enter this country unlawfully. In June 2014 an investigation revealed that Cynthia was working at a care home in Sunderland using the identity of her sister Doreen. It appears from the pre-sentence report that she had been using her sister's identity for very nearly two years by the time she was discovered.</p> <p>In this case, the passport was not false. Further, the passport was not used to gain entry into the United Kingdom; it was used instead to gain work. Cynthia, however, as the judge pointed out, had never been lawfully entitled to be in the United Kingdom or to work here. In our judgment, this places the case above the category of case which includes R v Ovieriakhi , where a 6-month sentence was imposed by the Court of Appeal, and closer to the R v Kolawole category.</p> <p>However, it was a case which involved a genuine British passport which had been lent to her dishonestly by her sister. It therefore did not involve any contact with those who forge passports and sell them. It did not involve any contact with that dishonest and damaging trade. We consider that that aspect of the case justifies reducing the sentencing bracket below the R v Kolawole bracket and towards that adopted in R v Ovieriakhi . The fact that the passport was not used to gain entry is some mitigation and, in the words used by the court in R v Ovieriakhi , an offender who has “done no more with the passport than to try to gain work to maintain herself and her family” is some mitigation to be taken into account.</p> <p>In all the circumstances, we consider that if the judge had had R v Ovieriakhi before him, he would very likely have come to the same conclusion that we have come to and imposed a sentence based on a sentence before discount for plea of 12 months, which he would then have discounted for the early plea to 8 months.</p>	<p>Sentence before discount for plea of <b>12 months</b></p>	<p>C3</p>

<a href="#">Aderemi [2018] EWCA Crim 1502</a>	D pleaded to possession of an ID document (section 4(1) and (2)) and working when disqualified (4 months concurrent, no appeal). In 2013, D arrived in the UK on a student's visa to attend university. He didn't attend there. In 2014, his leave to remain was revoked. D remained. On 16 August 2017, D went to a recruitment agency and showed them a false Dutch ID card, which it was inferred he had obtained quite recently. He was checked out and the ID was considered suspicious. On 1 September 2017, D went to another agency and he was able to work in a brewery for about 10 weeks earning about £2,875. He was arrested and co-operated with the police. He said he paid a friend £350 for the ID. D was aged 38 and of good character. Held. The use of the ID card was limited to obtaining work.	We start at <b>12 months</b> , so 9 months with the mitigation, making 6 months with the plea	C3
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## Immigration offences

These data tables provide statistics on the outcomes and demographics of offenders sentenced for offences covered by the Sentencing Council draft guidelines for immigration offences.

**Section 1: Assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25)**

<a href="#">Table 1 1</a>	Number of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), all courts, 2011-2021
<a href="#">Table 1 2</a>	Number and proportion of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sentence outcome, 2011-2021
<a href="#">Table 1 3</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), 2011-2021
<a href="#">Table 1 4</a>	Sentence lengths received by adult offenders sentenced to immediate custody for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), 2011-2021
<a href="#">Table 1 5</a>	Demographics of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021
<a href="#">Table 1 6</a>	Number and proportion of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity and sentence outcome, 2021
<a href="#">Table 1 7</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021
<a href="#">Table 1 8</a>	Sentence lengths received by adult offenders sentenced to immediate custody for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021

**Section 2: Facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A)**

<a href="#">Table 2 1</a>	Number of adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), Crown Court, 2011-2021
<a href="#">Table 2 2</a>	Number and proportion of adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), by sentence outcome, 2011-2021
<a href="#">Table 2 3</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A) 2017-2021
<a href="#">Table 2 4</a>	Sentence lengths received by adult offenders sentenced to immediate custody for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), 2011-2021
<a href="#">Table 2 5</a>	Demographics of adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity 2017-2021
<a href="#">Table 2 6</a>	Number and proportion of adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity and sentence outcome 2017-2021
<a href="#">Table 2 7</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity 2017-2021
<a href="#">Table 2 8</a>	Sentence lengths received by adult offenders sentenced to immediate custody for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity 2017-2021

**Section 3: Seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A)**

<a href="#">Table 3 1</a>	Number of adult offenders sentenced for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), all courts, 2011-2021
<a href="#">Table 3 2</a>	Number and proportion of adult offenders sentenced for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), by sentence outcome, 2011-2021
<a href="#">Table 3 3</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A) 2017-2021
<a href="#">Table 3 4</a>	Sentence lengths received by adult offenders sentenced to immediate custody for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), 2011-2021
<a href="#">Table 3 5</a>	Demographics of adult offenders sentenced for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), by sex, age and ethnicity 2017-2021
<a href="#">Table 3 6</a>	Number and proportion of adult offenders sentenced for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), by sex, age and ethnicity and sentence outcome 2017-2021
<a href="#">Table 3 7</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), by sex, age and ethnicity 2017-2021
<a href="#">Table 3 8</a>	Sentence lengths received by adult offenders sentenced to immediate custody for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), by sex, age and ethnicity 2017-2021

**Section 4: Possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4)**

<a href="#">Table 4 1</a>	Number of adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), Crown Court, 2011-2021
<a href="#">Table 4 2</a>	Number and proportion of adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), by sentence outcome, 2011-2021
<a href="#">Table 4 3</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), 2011-2021
<a href="#">Table 4 4</a>	Sentence lengths received by adult offenders sentenced to immediate custody for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), 2011-2021
<a href="#">Table 4 5</a>	Demographics of adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), by sex, age and ethnicity, 2021
<a href="#">Table 4 6</a>	Number and proportion of adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), by sex, age and ethnicity and sentence outcome, 2021
<a href="#">Table 4 7</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), by sex, age and ethnicity, 2021
<a href="#">Table 4 8</a>	Sentence lengths received by adult offenders sentenced to immediate custody for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), by sex, age and ethnicity, 2021

**Section 5: Possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6)**

<a href="#">Table 5 1</a>	Number of adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), all courts, 2011-2021
<a href="#">Table 5 2</a>	Number and proportion of adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), by sentence outcome, 2011-2021
<a href="#">Table 5 3</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), 2011-2021
<a href="#">Table 5 4</a>	Sentence lengths received by adult offenders sentenced to immediate custody for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), 2011-2021
<a href="#">Table 5 5</a>	Demographics of adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), by sex, age and ethnicity, 2021
<a href="#">Table 5 6</a>	Number and proportion of adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), by sex, age and ethnicity and sentence outcome, 2021
<a href="#">Table 5 7</a>	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), by sex, age and ethnicity, 2021
<a href="#">Table 5 8</a>	Sentence lengths received by adult offenders sentenced to immediate custody for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), by sex, age and ethnicity, 2021

## Notes

### Data sources and quality

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

These data reflect the original sentencing outcome and do not include any changes on appeal from either magistrates' courts or the Crown Court. Sentence outcomes may be reduced, increased, changed or the conviction quashed (resulting in the sentence falling away) on appeal, and so users should note that these statistics might not be accurate when considering, for example, the highest sentence for an offence. Published statistics on the outcome of individual cases referred under the Unduly Lenient Sentence scheme (for appealing certain eligible offences) can be found here:

<https://www.gov.uk/government/publications/unduly-lenient-sentence-annual-case-outcomes-data>

However, there are no available published statistics broken down by offence regarding the appeal outcomes from other routes of appeal, although quarterly volumes of criminal appeals against magistrates' decisions dealt with at the Crown Court are published in table C11 of the MoJ's Criminal Court Statistics Quarterly publication here:

<https://www.gov.uk/government/collections/criminal-court-statistics>

Annual volumes of appeals heard at the Court of Appeal Criminal Division, by type and result, are published in the Royal Courts of Justice Annual Tables within MoJ's Civil Justice Statistics quarterly: January to March publication, which can be found here:

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

Figures presented for 2020 and 2021 include the time period from March 2020 in which restrictions were initially placed on the criminal justice system due to the COVID-19 pandemic, and the ongoing courts' recovery since. These restrictions resulted in reduction of court activity to adhere to new rules on movement and social interaction and the prioritisation of certain types of cases that are more likely to result in custody. Despite these restrictions having now been eased, we have seen a continued impact on the courts as they recover from the impact of the pandemic on processes and prioritisation. This means that the figures presented on an offence specific basis may be reflecting these restrictions and subsequent impacts to varying degrees depending on the offence in question and whether these cases continued to be heard throughout the time period. Therefore, it is important to note that certain trends might mostly 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.

Summary only offences are almost always sentenced in magistrates' courts, although there are limited circumstances in which they would be sentenced in the Crown Court. Where summary only offences are recorded as being sentenced in the Crown Court we are aware that in some instances this may be due to data recording issues. It is not always possible to investigate individual cases, therefore users should treat such data with caution.

From September 2020, some cases started to be recorded on the new Common Platform (CP) case management system, but could not initially be included in the CPD. Data processing development is now complete and the CPD has been revised to include these cases. As such, volumes for 2020 may not be consistent with figures previously published.

Further details of the processes by which the Ministry of Justice validate the records in the Court Proceedings Database can be found within the guide to their Criminal Justice Statistics publication which can be downloaded via the link:

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

### Volumes of sentences

The data presented in this bulletin only include cases where the specified offence was the principal offence committed. When an offender has been found guilty of two or more offences this is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe. Although the offender will receive a sentence for each of the offences that they are convicted of, it is only the sentence for the principal offence that is presented in this bulletin.

### Sentence outcomes

The outcomes presented are the final sentence outcomes, after taking into account all factors of the case, including whether a guilty plea was made. This is because the sentence length information available in the Court Proceedings Database is the final sentence imposed, after any reduction for guilty plea. Sentence outcomes presented in these tables are therefore not directly comparable to outcomes in the sentencing guideline tables, which instead show starting point sentences before a guilty plea has been entered.

The sentence outcome shown is the most severe sentence or order given for the principal offence (i.e. the principal sentence); secondary sentences given for the principal offence are not included in the tables.

### Offender demographics

The proportions reflected amongst those for whom data were provided may not reflect the demographics of the full population sentenced.

Due to the small number of offenders sentenced for some offences, care should be taken when comparing figures across different groups. This is particularly true where there are only a small number of offenders within a specific demographic group, as small numerical changes can present as large percentage changes when they are calculated using small volumes. This should be considered when comparing percentages across groups.

#### Ethnicity

The availability of information relating to ethnicity is constrained by data coverage. For offenders sentenced for less serious offences which are mostly sentenced at magistrates' courts, ethnicity data are less readily available: there are different police processes in place for these offences and often offenders are sentenced without attending a police station or the court, meaning there is little or no opportunity to collect ethnicity data. For offenders sentenced for more serious offences that appear in the Crown Court (triable-either-way and indictable only offences), there are more available data on ethnicity as the likelihood of offenders attending a custody interview is higher. Overall, this means that coverage is inconsistent across different offences. Statistics for offences with lower coverage should also be treated with caution, as it is less likely that the available data on ethnicity are representative of all offenders sentenced for those offences.

Ethnicity is the self-identified ethnicity as defined by the individual. The ethnicity categories used in these data tables for self-identified ethnicity are: 'Asian', 'black', 'mixed', 'other', 'white' and 'not recorded/not known' (referred to as the 5+1 classification). The 'not recorded/not known' category includes all offenders for whom ethnicity information is not available, either because they have chosen not to state their ethnicity or because no information has been recorded. Prior to May 2020, ethnicity was collected using the 16+1 classification which was used in the 2001 census. Since May 2020, this has been replaced by the 18+1 classification used in the 2011 Census. The data collected using the 18+1 format are then aggregated into the 5+1 classification for analysis. This has caused two key changes to the data presented in our publications:

- 1) The data now capture a further two ethnicity classifications: Gypsy or Irish Traveller which falls into the broader category of 'white' and Arab which falls into the broader category of 'other'. These ethnic groups are captured in the data from 2021 onwards.
- 2) The movement of the Chinese ethnicity classification from the broad category of 'Chinese and other' into 'Asian'. Due to the small number of offenders sentenced who identified as Chinese, this change has had little impact on overall trends presented in the data. This change has been applied to the whole timeseries presented, to allow for continued comparison across years. However, it means that the 'Chinese and other' category has been renamed 'other' within our data tables to account for this change.

More information on the 18+1 classification can be found here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691544/self-defined-ethnicity-18plus1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691544/self-defined-ethnicity-18plus1.pdf)

#### Age

In the CPD, prior to 2017, adults of unknown ages were defaulted to 25. From 2017 onwards, the majority of records where the age is unknown have been grouped within an 'age unknown' variable; however, there may still be some cases where the age is unknown and has therefore defaulted to 25.

The sentencing guidelines only directly apply to adults aged 18 years or over at the date of conviction, although exceptions apply where stated. However, in the CPD, the age of the offender is calculated from the sentence date. Users should be aware this means there could be a small number of offenders aged under 18 included within the published figures as adults for whom the guideline did not apply at sentencing, if they turned 18 between the date of conviction and the date of sentence.

### General conventions

The following conventions have been applied to the data:

- Percentages derived from the data have been provided in the tables to the nearest whole percentage, except when the nearest whole percentage is zero. In some instances, this may mean that percentages shown do not add up to 100 per cent.
- Where the nearest whole per cent is zero, the convention '<0.5' has been used.
- Where totals have been provided, these have been calculated using unrounded data and then rounded.

### Uses made of the data

Data provided in the Council's range of statistical bulletins and tables are used to inform public debate of the Council's work.

### Background information

Further information on the Sentencing Council and its work, as well as information on general sentencing practice in England and Wales can be found on the Council's website at:

<https://sentencingcouncil.org.uk>

The Ministry of Justice publishes a quarterly statistical publication, Criminal Justice Statistics, which includes a chapter focusing on sentencing in England and Wales. This chapter includes information on the number of offenders sentenced by offence group and by demographic factors such as age, sex and self-identified ethnicity. The full publication can be accessed via the Ministry of Justice website at:

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

Detailed sentencing data from the Ministry of Justice's Court Proceedings Database can be accessed via the data tool published alongside the annual Criminal Justice Statistics publication. The latest tool enables data covering the last five years to be viewed by offence, sex, age range and ethnicity, and can be accessed via the following link (for example, see the 'Outcomes by Offence data tool'):

<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2021>

### Contact points for further information

Statistical contact:

Email: [research@sentencingcouncil.gov.uk](mailto:research@sentencingcouncil.gov.uk)

Press Office

enquiries: Kathryn Montague

Tel: 020 7071 5792

**Table 1.1: Number of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), all courts, 2011-2021<sup>1</sup>**[Index](#)

<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Magistrates' court	2	0	1	1	0	1	2	0	0	0	1
Crown Court	204	179	208	231	236	263	235	226	184	107	141
<b>Total</b>	<b>206</b>	<b>179</b>	<b>209</b>	<b>232</b>	<b>236</b>	<b>264</b>	<b>237</b>	<b>226</b>	<b>184</b>	<b>107</b>	<b>142</b>

<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Magistrates' court	1%	0%	<0.5%	<0.5%	0%	<0.5%	1%	0%	0%	0%	1%
Crown Court	99%	100%	100%	100%	100%	100%	99%	100%	100%	100%	99%
<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>

Source: Court Proceedings Database, Ministry of Justice

## 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 1.2: Number and proportion of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sentence outcome, 2011-2021<sup>1</sup>**[Index](#)

Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Absolute and conditional discharge	2	0	0	0	0	0	0	0	0	0	0
Fine	1	0	0	0	3	0	0	0	0	0	0
Community sentence	2	8	0	2	0	1	0	2	2	0	0
Suspended sentence	45	28	32	60	33	41	31	21	20	8	16
Immediate custody	155	143	177	170	200	220	201	203	160	99	124
Otherwise dealt with <sup>2</sup>	1	0	0	0	0	2	5	0	2	0	2
<b>Total</b>	<b>206</b>	<b>179</b>	<b>209</b>	<b>232</b>	<b>236</b>	<b>264</b>	<b>237</b>	<b>226</b>	<b>184</b>	<b>107</b>	<b>142</b>

Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Absolute and conditional discharge	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Fine	<0.5%	0%	0%	0%	1%	0%	0%	0%	0%	0%	0%
Community sentence	1%	4%	0%	1%	0%	<0.5%	0%	1%	1%	0%	0%
Suspended sentence	22%	16%	15%	26%	14%	16%	13%	9%	11%	7%	11%
Immediate custody	75%	80%	85%	73%	85%	83%	85%	90%	87%	93%	87%
Otherwise dealt with <sup>2</sup>	<0.5%	0%	0%	0%	0%	1%	2%	0%	1%	0%	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>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

## 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 1.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), 2011-2021<sup>1,2,3</sup>**[Index](#)

ACSL (years)	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Mean	1.7	1.8	1.9	2.0	2.0	2.5	2.8	3.1	3.3	2.8	3.2
Median	1.3	1.3	1.3	1.5	1.5	2.0	2.1	2.6	2.7	2.5	2.6
Indeterminates as percentage of custodial sentences <sup>4</sup>	-	-	-	-	-	-	-	-	-	-	-

- = not applicable

Source: Court Proceedings Database, Ministry of Justice

## Notes:

- 1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.
- 2) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 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 2011-2012, 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 1.4: Sentence lengths received by adult offenders sentenced to immediate custody for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), 2011-2021<sup>1,2</sup>**

[Index](#)

Sentence length (years) <sup>3</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Less than 2 years	125	114	140	119	142	116	100	77	52	39	32
2 to 4	18	20	24	38	42	73	59	83	68	45	68
4 to 6	11	6	4	11	9	22	25	30	26	12	15
6 to 8	1	2	3	2	2	6	15	9	10	1	7
8 to 10	0	1	6	0	5	3	2	3	4	2	1
10 to 12	0	0	0	0	0	0	0	1	0	0	1
12 to 14	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>155</b>	<b>143</b>	<b>177</b>	<b>170</b>	<b>200</b>	<b>220</b>	<b>201</b>	<b>203</b>	<b>160</b>	<b>99</b>	<b>124</b>

Sentence length (years) <sup>3</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Less than 2 years	81%	80%	79%	70%	71%	53%	50%	38%	33%	39%	26%
2 to 4	12%	14%	14%	22%	21%	33%	29%	41%	43%	45%	55%
4 to 6	7%	4%	2%	6%	5%	10%	12%	15%	16%	12%	12%
6 to 8	1%	1%	2%	1%	1%	3%	7%	4%	6%	1%	6%
8 to 10	0%	1%	3%	0%	3%	1%	1%	1%	3%	2%	1%
10 to 12	0%	0%	0%	0%	0%	0%	0%	<0.5%	0%	0%	1%
12 to 14	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>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.

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) 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 or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

DELETE IF NO INDETERMINATES 4) This includes life sentences and, for the period 2011-2012, Imprisonment for Public Protection (IPPs), and Extended Sentences for Public Protection (EPPs). IPP and EPP sentences were introduced in 2005 and abolished in 2012.

[Index](#)**Table 1.5: Demographics of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021**

<b>Sex</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>1</sup></b>
Female	15	11%
Male	127	89%
Not recorded/not known	0	
<b>Total</b>	<b>142</b>	<b>100%</b>

<b>Age group</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>1</sup></b>
18 to 20	4	3%
21 to 24	14	10%
25 to 29	19	13%
30 to 39	47	33%
40 to 49	37	26%
50 to 59	19	13%
60 to 69	2	1%
70 and over	0	0%
Not recorded/not known	0	
<b>Total</b>	<b>142</b>	<b>100%</b>

<b>Ethnicity<sup>2</sup></b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>1</sup></b>
Asian	7	13%
Black	3	5%
Mixed	4	7%
Other	7	13%
White	35	63%
Not recorded/not known <sup>3</sup>	86	
<b>Total</b>	<b>142</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

## Notes:

- 1) Percentage calculations do not include cases where sex, age group or ethnicity was unknown.
- 2) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.
- 3) For a proportion of adults sentenced (61%), their ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.

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Table 1.6: Number and proportion of adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, and sentence outcome, 2021

[Index](#)

Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Female	0	0	0	8	7	0	15
Male	0	0	0	8	117	2	127
Not recorded/not known	0	0	0	0	0	0	0

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
18 to 20	0	0	0	1	3	0	4
21 to 24	0	0	0	0	14	0	14
25 to 29	0	0	0	1	18	0	19
30 to 39	0	0	0	7	39	1	47
40 to 49	0	0	0	5	32	0	37
50 to 59	0	0	0	2	16	1	19
60 to 69	0	0	0	0	2	0	2
70 and over	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity <sup>2</sup>	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Asian	0	0	0	0	6	1	7
Black	0	0	0	1	2	0	3
Mixed	0	0	0	0	4	0	4
Other	0	0	0	0	7	0	7
White	0	0	0	3	32	0	35
Not recorded/not known	0	0	0	12	73	1	86

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Female	0%	0%	0%	53%	47%	0%	100%
Male	0%	0%	0%	6%	92%	2%	100%
Not recorded/not known	-	-	-	-	-	-	-

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
18 to 20	0%	0%	0%	25%	75%	0%	100%
21 to 24	0%	0%	0%	0%	100%	0%	100%
25 to 29	0%	0%	0%	5%	95%	0%	100%
30 to 39	0%	0%	0%	15%	83%	2%	100%
40 to 49	0%	0%	0%	14%	86%	0%	100%
50 to 59	0%	0%	0%	11%	84%	5%	100%
60 to 69	0%	0%	0%	0%	100%	0%	100%
70 and over	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity <sup>2</sup>	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Asian	0%	0%	0%	0%	86%	14%	100%
Black	0%	0%	0%	33%	67%	0%	100%
Mixed	0%	0%	0%	0%	100%	0%	100%
Other	0%	0%	0%	0%	100%	0%	100%
White	0%	0%	0%	9%	91%	0%	100%
Not recorded/not known	0%	0%	0%	14%	85%	1%	100%

Source: Court Proceedings Database, Ministry of Justice

-- No proportions have been calculated as no offenders were sentenced.

Notes:

1) 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 volume and proportions should be treated with caution.

2) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.



**Table 1.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021<sup>2</sup>**

[Index](#)

Sex	ACSL (years)	
	Mean	Median
Female	2.8	2.0
Male	3.2	2.6
Not recorded/not known	-	-

Age group	Mean	Median
18 to 20	*	*
21 to 24	3.2	3.0
25 to 29	2.5	2.5
30 to 39	3.1	2.6
40 to 49	3.2	2.5
50 to 59	4.1	3.9
60 to 69	*	*
70 and over	-	-
Not recorded/not known	-	-

Ethnicity <sup>3</sup>	Mean	Median
Asian	4.2	4.0
Black	*	*
Mixed	*	*
Other	3.2	2.7
White	3.2	3.0
Not recorded/not known	3.1	2.5

Source: Court Proceedings Database, Ministry of Justice

\* = ACSL has not been calculated where the number of offenders sentenced to a determinate immediate custodial sentence is fewer than 5.

- = No offenders were sentenced to a determinate immediate custodial sentence.

Notes:

1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.

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

3) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

Table 1.8: Sentence lengths received by adult offenders sentenced to immediate custody for assisting unlawful immigration to a member state or the UK (Immigration Act 1971, s25), by sex, age and ethnicity, 2021<sup>1</sup>

[Index](#)

Sex	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
Female	4	2	1	0	0	0	0	7
Male	28	66	14	7	1	1	0	117
Not recorded/not known	0	0	0	0	0	0	0	0

Age group	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
18 to 20	3	0	0	0	0	0	0	3
21 to 24	0	13	0	1	0	0	0	14
25 to 29	6	12	0	0	0	0	0	18
30 to 39	11	19	7	2	0	0	0	39
40 to 49	9	17	3	2	1	0	0	32
50 to 59	3	6	5	2	0	0	0	16
60 to 69	0	1	0	0	0	1	0	2
70 and over	0	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0	0

Ethnicity <sup>3</sup>	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
Asian	1	2	2	1	0	0	0	6
Black	1	1	0	0	0	0	0	2
Mixed	0	3	1	0	0	0	0	4
Other	3	1	3	0	0	0	0	7
White	4	22	5	0	1	0	0	32
Not recorded/not known	23	39	4	6	0	1	0	73

Sex	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
Female	57%	29%	14%	0%	0%	0%	0%	100%
Male	24%	56%	12%	6%	1%	1%	0%	100%
Not recorded/not known	-	-	-	-	-	-	-	-

Age group	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
18 to 20	100%	0%	0%	0%	0%	0%	0%	100%
21 to 24	0%	93%	0%	7%	0%	0%	0%	100%
25 to 29	33%	67%	0%	0%	0%	0%	0%	100%
30 to 39	28%	49%	18%	5%	0%	0%	0%	100%
40 to 49	28%	53%	9%	6%	3%	0%	0%	100%
50 to 59	19%	38%	31%	13%	0%	0%	0%	100%
60 to 69	0%	50%	0%	0%	0%	50%	0%	100%
70 and over	-	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-	-

Ethnicity <sup>3</sup>	Number of adults sentenced to each sentence length (years) <sup>2</sup>							Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	8 to 10	10 to 12	12 to 14	
Asian	17%	33%	33%	17%	0%	0%	0%	100%
Black	50%	50%	0%	0%	0%	0%	0%	100%
Mixed	0%	75%	25%	0%	0%	0%	0%	100%
Other	43%	14%	43%	0%	0%	0%	0%	100%
White	13%	69%	16%	0%	3%	0%	0%	100%
Not recorded/not known	32%	53%	5%	8%	0%	1%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

- = No proportions have been calculated as no offenders were sentenced to immediate custody.

Notes:

- 1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.
- 2) 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 or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.
- 3) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

**Table 2.1: Number of adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), Crown Court, 2011-2021<sup>1</sup>**[Index](#)

<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Crown Court	2	0	2	0	7	2	9	6	3	2	2
<b>Total</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>7</b>	<b>2</b>	<b>9</b>	<b>6</b>	<b>3</b>	<b>2</b>	<b>2</b>

Source: Court Proceedings Database, Ministry of Justice

## 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 2.2: Number and proportion of adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), by sentence outcome, 2011-2021<sup>1</sup>**[Index](#)

Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Absolute and conditional discharge	0	0	0	0	0	1	0	0	0	0	0
Fine	0	0	0	0	0	0	0	0	0	0	0
Community sentence	0	0	0	0	0	0	0	0	0	0	0
Suspended sentence	0	0	0	0	1	0	0	1	0	0	0
Immediate custody	2	0	2	0	6	1	8	4	3	2	2
Otherwise dealt with <sup>2</sup>	0	0	0	0	0	0	1	1	0	0	0
<b>Total</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>7</b>	<b>2</b>	<b>9</b>	<b>6</b>	<b>3</b>	<b>2</b>	<b>2</b>

Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Absolute and conditional discharge	0%	-	0%	-	0%	50%	0%	0%	0%	0%	0%
Fine	0%	-	0%	-	0%	0%	0%	0%	0%	0%	0%
Community sentence	0%	-	0%	-	0%	0%	0%	0%	0%	0%	0%
Suspended sentence	0%	-	0%	-	14%	0%	0%	17%	0%	0%	0%
Immediate custody	100%	-	100%	-	86%	50%	89%	67%	100%	100%	100%
Otherwise dealt with <sup>2</sup>	0%	-	0%	-	0%	0%	11%	17%	0%	0%	0%
<b>Total</b>	<b>100%</b>	<b>-</b>	<b>100%</b>	<b>-</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

## 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 2.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), 2017-2021<sup>1,2,3,4</sup>**

[Index](#)

<b>ACSL (years)</b>	<b>2017-2021</b>
Mean	3.8
Median	3.5
Indeterminates as percentage of custodial sentences <sup>5</sup>	-

- = not applicable

Source: Court Proceedings Database, Ministry of Justice

**Notes:**

- 1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.
- 2) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 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) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.
- 5) 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 2011-2012, 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 2.4: Sentence lengths received by adult offenders sentenced to immediate custody for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), 2011-2021<sup>1,2</sup>**[Index](#)

Sentence length (years) <sup>3</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Less than 2 years	2	0	1	0	2	0	3	0	2	0	0
2 to 4	0	0	1	0	0	1	1	4	1	2	0
4 to 6	0	0	0	0	2	0	2	0	0	0	0
6 to 8	0	0	0	0	2	0	2	0	0	0	2
Greater than 8 years	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>6</b>	<b>1</b>	<b>8</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>2</b>

Sentence length (years) <sup>3</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Less than 2 years	100%	-	50%	-	33%	0%	38%	0%	67%	0%	0%
2 to 4	0%	-	50%	-	0%	100%	13%	100%	33%	100%	0%
4 to 6	0%	-	0%	-	33%	0%	25%	0%	0%	0%	0%
6 to 8	0%	-	0%	-	33%	0%	25%	0%	0%	0%	100%
Greater than 8 years	0%	-	0%	-	0%	0%	0%	0%	0%	0%	0%
<b>Total</b>	<b>100%</b>	<b>-</b>	<b>100%</b>	<b>-</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

## Notes:

1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.

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) 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 or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

DELETE IF NO INDETERMINATES 4) This includes life sentences and, for the period 2011-2012, Imprisonment for Public Protection (IPPs), and Extended Sentences for Public Protection (EPPs). IPP and EPP sentences were introduced in 2005 and abolished in 2012.

**Table 2.5: Demographics of adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, 2017-2021<sup>1,2</sup>**

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<b>Sex</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>3</sup></b>
Female	1	5%
Male	21	95%
Not recorded/not known	0	
<b>Total</b>	<b>22</b>	<b>100%</b>

<b>Age group</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>3</sup></b>
18 to 20	0	0%
21 to 24	1	5%
25 to 29	1	5%
30 to 39	8	36%
40 to 49	10	45%
50 to 59	2	9%
60 to 69	0	0%
70 and over	0	0%
Not recorded/not known	0	
<b>Total</b>	<b>22</b>	<b>100%</b>

<b>Ethnicity<sup>4</sup></b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>3</sup></b>
Asian	2	40%
Black	0	0%
Mixed	1	20%
Other	1	20%
White	1	20%
Not recorded/not known <sup>5</sup>	17	
<b>Total</b>	<b>22</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

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) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.

3) Percentage calculations do not include cases where sex, age group or ethnicity was unknown.

4) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

5) For a proportion of adults sentenced (77%), their ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.

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Table 2.6: Number and proportion of adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, and sentence outcome, 2017-2021<sup>1</sup>

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Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Female	0	0	0	0	1	0	1
Male	0	0	0	1	18	2	21
Not recorded/not known	0	0	0	0	0	0	0

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
18 to 20	0	0	0	0	0	0	0
21 to 24	0	0	0	0	1	0	1
25 to 29	0	0	0	0	1	0	1
30 to 39	0	0	0	0	7	1	8
40 to 49	0	0	0	1	8	1	10
50 to 59	0	0	0	0	2	0	2
60 to 69	0	0	0	0	0	0	0
70 and over	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity <sup>4</sup>	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Asian	0	0	0	0	2	0	2
Black	0	0	0	0	0	0	0
Mixed	0	0	0	1	0	0	1
Other	0	0	0	0	1	0	1
White	0	0	0	0	1	0	1
Not recorded/not known	0	0	0	0	15	2	17

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Female	0%	0%	0%	0%	100%	0%	100%
Male	0%	0%	0%	5%	86%	10%	100%
Not recorded/not known	-	-	-	-	-	-	-

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
18 to 20	-	-	-	-	-	-	-
21 to 24	0%	0%	0%	0%	100%	0%	100%
25 to 29	0%	0%	0%	0%	100%	0%	100%
30 to 39	0%	0%	0%	0%	88%	13%	100%
40 to 49	0%	0%	0%	10%	80%	10%	100%
50 to 59	0%	0%	0%	0%	100%	0%	100%
60 to 69	-	-	-	-	-	-	-
70 and over	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity <sup>4</sup>	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Asian	0%	0%	0%	0%	100%	0%	100%
Black	-	-	-	-	-	-	-
Mixed	0%	0%	0%	100%	0%	0%	100%
Other	0%	0%	0%	0%	100%	0%	100%
White	0%	0%	0%	0%	100%	0%	100%
Not recorded/not known	0%	0%	0%	0%	88%	12%	100%

Source: Court Proceedings Database, Ministry of Justice

- = No proportions have been calculated as no offenders were sentenced.

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) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.
- 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 volume and proportions should be treated with caution.
- 4) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.



**Table 2.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, 2017-2021** <sup>1,2,3,4</sup>

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Sex	ACSL (years)	
	Mean	Median
Female	*	*
Male	3.9	3.5
Not recorded/not known	-	-

Age group	Mean	Median
18 to 20	-	-
21 to 24	*	*
25 to 29	*	*
30 to 39	2.6	3.0
40 to 49	5.2	6.5
50 to 59	*	*
60 to 69	-	-
70 and over	-	-
Not recorded/not known	-	-

Ethnicity <sup>5</sup>	Mean	Median
Asian	*	*
Black	-	-
Mixed	-	-
Other	*	*
White	*	*
Not recorded/not known	4.0	3.6

Source: Court Proceedings Database, Ministry of Justice

\* = ACSL has not been calculated where the number of offenders sentenced to a determinate immediate custodial sentence is fewer than 5.

- = No offenders were sentenced to a determinate immediate custodial sentence.

Notes:

1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.

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

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) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.

5) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

**Table 2.8: Sentence lengths received by adult offenders sentenced to immediate custody for facilitating entry of asylum seekers to the UK (Immigration Act 1971, s25A), by sex, age and ethnicity, 2017-2021<sup>1,2,3</sup>**

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Sex	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
Female	1	0	0	0	0	1
Male	4	8	2	4	0	18
Not recorded/not known	0	0	0	0	0	0

Age group	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
18 to 20	0	0	0	0	0	0
21 to 24	1	0	0	0	0	1
25 to 29	0	1	0	0	0	1
30 to 39	2	5	0	0	0	7
40 to 49	2	0	2	4	0	8
50 to 59	0	2	0	0	0	2
60 to 69	0	0	0	0	0	0
70 and over	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0

Ethnicity <sup>5</sup>	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
Asian	0	2	0	0	0	2
Black	0	0	0	0	0	0
Mixed	0	0	0	0	0	0
Other	0	1	0	0	0	1
White	1	0	0	0	0	1
Not recorded/not known	4	5	2	4	0	15

Sex	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
Female	100%	0%	0%	0%	0%	100%
Male	22%	44%	11%	22%	0%	100%
Not recorded/not known	-	-	-	-	-	-

Age group	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
18 to 20	-	-	-	-	-	-
21 to 24	100%	0%	0%	0%	0%	100%
25 to 29	0%	100%	0%	0%	0%	100%
30 to 39	29%	71%	0%	0%	0%	100%
40 to 49	25%	0%	25%	50%	0%	100%
50 to 59	0%	100%	0%	0%	0%	100%
60 to 69	-	-	-	-	-	-
70 and over	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-

Ethnicity <sup>5</sup>	Number of adults sentenced to each sentence length (years) <sup>4</sup>					Total
	Less than 2 years	2 to 4	4 to 6	6 to 8	Greater than 8 years	
Asian	0%	100%	0%	0%	0%	100%
Black	-	-	-	-	-	-
Mixed	-	-	-	-	-	-
Other	0%	100%	0%	0%	0%	100%
White	100%	0%	0%	0%	0%	100%
Not recorded/not known	27%	33%	13%	27%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

- = No proportions have been calculated as no offenders were sentenced to immediate custody.

Notes:

1) The statutory maximum sentence has increased to life imprisonment under the Nationality and Borders Act 2022, however, during the time period covered, the statutory maximum was 14 years' custody.

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) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.

4) 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 or equal to 2 years, and '2 to 4' includes sentence lengths over 2 years, and up to and including 4 years.

5) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

**Table 3.1: Number of adult offenders sentenced for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), all courts, 2011-2021<sup>1</sup>**

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<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Magistrates' court	3	3	1	1	0	0	2	0	0	2	0
Crown Court	92	55	52	39	20	30	20	12	6	4	5
<b>Total</b>	<b>95</b>	<b>58</b>	<b>53</b>	<b>40</b>	<b>20</b>	<b>30</b>	<b>22</b>	<b>12</b>	<b>6</b>	<b>6</b>	<b>5</b>

<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Magistrates' court	3%	5%	2%	3%	0%	0%	9%	0%	0%	33%	0%
Crown Court	97%	95%	98%	98%	100%	100%	91%	100%	100%	67%	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>

Source: Court Proceedings Database, Ministry of Justice

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 seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement<sup>1</sup> action by deceptive means (Immigration Act 1971, s24A), by sentence outcome, 2011-2021<sup>1</sup>**

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Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Absolute and conditional discharge	0	0	1	0	0	0	0	0	0	0	0
Fine	0	0	0	0	0	0	0	0	0	0	0
Community sentence	2	1	1	0	0	1	1	0	0	0	0
Suspended sentence	15	11	9	7	4	7	5	1	1	0	1
Immediate custody	78	44	42	32	16	22	16	11	3	6	4
Otherwise dealt with <sup>2</sup>	0	2	0	1	0	0	0	0	2	0	0
<b>Total</b>	<b>95</b>	<b>58</b>	<b>53</b>	<b>40</b>	<b>20</b>	<b>30</b>	<b>22</b>	<b>12</b>	<b>6</b>	<b>6</b>	<b>5</b>

Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Absolute and conditional discharge	0%	0%	2%	0%	0%	0%	0%	0%	0%	0%	0%
Fine	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Community sentence	2%	2%	2%	0%	0%	3%	5%	0%	0%	0%	0%
Suspended sentence	16%	19%	17%	18%	20%	23%	23%	8%	17%	0%	20%
Immediate custody	82%	76%	79%	80%	80%	73%	73%	92%	50%	100%	80%
Otherwise dealt with <sup>2</sup>	0%	3%	0%	3%	0%	0%	0%	0%	33%	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>

Source: Court Proceedings Database, Ministry of Justice

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 seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), 2017-2021<sup>1,2,3,4</sup>**

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ACSL (months)	2017-2021
Mean	10.2
Median	9.5
Indeterminates as percentage of custodial sentences <sup>5</sup>	-

Source: Court Proceedings Database, Ministry of Justice

- = not applicable

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 statutory maximum sentence for this offence is 2 years' custody.
- 3) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 4) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.
- 5) 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 2011-2012, 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 3.4: Sentence lengths received by adult offenders sentenced to immediate custody for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), 2011-2021** <sup>1,2</sup>

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<b>Sentence length (months)</b> <sup>3</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Less than 6 months	12	13	8	5	1	2	6	3	0	2	1
6 to 12	47	22	22	23	11	9	9	5	2	1	2
12 to 18	16	7	12	3	3	10	0	3	1	3	1
18 to 24	2	2	0	1	1	1	1	0	0	0	0
<b>Total</b>	<b>77</b>	<b>44</b>	<b>42</b>	<b>32</b>	<b>16</b>	<b>22</b>	<b>16</b>	<b>11</b>	<b>3</b>	<b>6</b>	<b>4</b>

<b>Sentence length (months)</b> <sup>3</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Less than 6 months	16%	30%	19%	16%	6%	9%	38%	27%	0%	33%	25%
6 to 12	61%	50%	52%	72%	69%	41%	56%	45%	67%	17%	50%
12 to 18	21%	16%	29%	9%	19%	45%	0%	27%	33%	50%	25%
18 to 24	3%	5%	0%	3%	6%	5%	6%	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>

Source: Court Proceedings Database, Ministry of Justice

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) Excludes 1 case of seek/ obtain leave to enter/ remain in UK or secure avoidance of enforcement action by deceptive means in 2011 where the data suggested that the sentence was above the statutory maximum for this offence. 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 'Less than 6 months' includes sentence lengths less than or equal to 6 months, and '6 to 12' includes sentence lengths over 6 months, and up to and including 12 months.

**Table 3.5: Demographics of adult offenders sentenced for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), by sex, age and ethnicity, 2017-2021<sup>1,2</sup>**

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Sex	Number of adults sentenced	Percentage of all adults sentenced <sup>3</sup>
Female	11	22%
Male	40	78%
Not recorded/not known	0	
<b>Total</b>	<b>51</b>	<b>100%</b>

Age group	Number of adults sentenced	Percentage of all adults sentenced <sup>3</sup>
18 to 20	0	0%
21 to 24	0	0%
25 to 29	5	10%
30 to 39	24	47%
40 to 49	19	37%
50 to 59	2	4%
60 to 69	1	2%
70 and over	0	0%
Not recorded/not known	0	
<b>Total</b>	<b>51</b>	<b>100%</b>

Ethnicity <sup>4</sup>	Number of adults sentenced	Percentage of all adults sentenced <sup>3</sup>
Asian	3	19%
Black	4	25%
Mixed	0	0%
Other	5	31%
White	4	25%
Not recorded/not known <sup>5</sup>	35	
<b>Total</b>	<b>51</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

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) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.

3) Percentage calculations do not include cases where sex, age group or ethnicity was unknown.

4) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

5) For a proportion of adults sentenced (69%), their ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.

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Table 3.6: Number and proportion of adult offenders sentenced for seeking or obtaining leave to enter or remaining in UK or secure avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), by sex, age and ethnicity, and sentence outcome, 2017-2021<sup>1,2</sup>

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Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Female	0	0	0	4	7	0	11
Male	0	0	1	4	33	2	40
Not recorded/not known	0	0	0	0	0	0	0

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
18 to 20	0	0	0	0	0	0	0
21 to 24	0	0	0	0	0	0	0
25 to 29	0	0	0	2	3	0	5
30 to 39	0	0	1	4	18	1	24
40 to 49	0	0	0	1	17	1	19
50 to 59	0	0	0	1	1	0	2
60 to 69	0	0	0	0	1	0	1
70 and over	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity <sup>4</sup>	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Asian	0	0	0	0	3	0	3
Black	0	0	0	1	3	0	4
Mixed	0	0	0	0	0	0	0
Other	0	0	0	0	5	0	5
White	0	0	0	0	4	0	4
Not recorded/not known	0	0	1	7	25	2	35

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Female	0%	0%	0%	36%	64%	0%	100%
Male	0%	0%	3%	10%	83%	5%	100%
Not recorded/not known	-	-	-	-	-	-	-

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
18 to 20	-	-	-	-	-	-	-
21 to 24	-	-	-	-	-	-	-
25 to 29	0%	0%	0%	40%	60%	0%	100%
30 to 39	0%	0%	4%	17%	75%	4%	100%
40 to 49	0%	0%	0%	5%	89%	5%	100%
50 to 59	0%	0%	0%	50%	50%	0%	100%
60 to 69	0%	0%	0%	0%	100%	0%	100%
70 and over	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity <sup>4</sup>	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>3</sup>	
Asian	0%	0%	0%	0%	100%	0%	100%
Black	0%	0%	0%	25%	75%	0%	100%
Mixed	-	-	-	-	-	-	-
Other	0%	0%	0%	0%	100%	0%	100%
White	0%	0%	0%	0%	100%	0%	100%
Not recorded/not known	0%	0%	3%	20%	71%	6%	100%

Source: Court Proceedings Database, Ministry of Justice

- = No proportions have been calculated as no offenders were sentenced.

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) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.
- 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 volume and proportions should be treated with caution.
- 4) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.



**Table 3.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), by sex, age and ethnicity, 2017-2021<sup>1,2,3,4</sup>**

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Sex	ACSL (months)	
	Mean	Median
Female	9.7	9.0
Male	10.3	10.0
Not recorded/not known	-	-

Age group	Mean	Median
18 to 20	-	-
21 to 24	-	-
25 to 29	*	*
30 to 39	11.1	11.0
40 to 49	9.2	8.0
50 to 59	*	*
60 to 69	*	*
70 and over	-	-
Not recorded/not known	-	-

Ethnicity <sup>5</sup>	Mean	Median
Asian	*	*
Black	*	*
Mixed	-	-
Other	14.4	14.0
White	*	*
Not recorded/not known	8.9	8.0

Source: Court Proceedings Database, Ministry of Justice

\* = ACSL has not been calculated where the number of offenders sentenced to a determinate immediate custodial sentence is fewer than 5.

- = No offenders were sentenced to a determinate immediate custodial sentence.

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) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.

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

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

5) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

**Table 3.8: Sentence lengths received by adult offenders sentenced to immediate custody for seeking or obtaining leave to enter or remaining in UK or securing avoidance of enforcement action by deceptive means (Immigration Act 1971, s24A), by sex, age and ethnicity, 2017-2021<sup>1,2,3</sup>**

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Sex	Number of adults sentenced to each sentence length (years) <sup>4</sup>				
	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
Female	2	4	1	0	7
Male	10	15	7	1	33
Not recorded/not known	0	0	0	0	0

Age group	Number of adults sentenced to each sentence length (years) <sup>4</sup>				
	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
18 to 20	0	0	0	0	0
21 to 24	0	0	0	0	0
25 to 29	0	3	0	0	3
30 to 39	5	7	6	0	18
40 to 49	7	7	2	1	17
50 to 59	0	1	0	0	1
60 to 69	0	1	0	0	1
70 and over	0	0	0	0	0
Not recorded/not known	0	0	0	0	0

Ethnicity <sup>5</sup>	Number of adults sentenced to each sentence length (years) <sup>4</sup>				
	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
Asian	0	1	2	0	3
Black	0	2	0	1	3
Mixed	0	0	0	0	0
Other	0	2	3	0	5
White	3	1	0	0	4
Not recorded/not known	9	13	3	0	25

Sex	Proportion of adults sentenced to each sentence length (years) <sup>4</sup>				
	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
Female	29%	57%	14%	0%	100%
Male	30%	45%	21%	3%	100%
Not recorded/not known	-	-	-	-	-

Age group	Proportion of adults sentenced to each sentence length (years) <sup>4</sup>				
	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
18 to 20	-	-	-	-	-
21 to 24	-	-	-	-	-
25 to 29	0%	100%	0%	0%	100%
30 to 39	28%	39%	33%	0%	100%
40 to 49	41%	41%	12%	6%	100%
50 to 59	0%	100%	0%	0%	100%
60 to 69	0%	100%	0%	0%	100%
70 and over	-	-	-	-	-
Not recorded/not known	-	-	-	-	-

Ethnicity <sup>5</sup>	Proportion of adults sentenced to each sentence length (years) <sup>4</sup>				
	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
Asian	0%	33%	67%	0%	100%
Black	0%	67%	0%	33%	100%
Mixed	-	-	-	-	-
Other	0%	40%	60%	0%	100%
White	75%	25%	0%	0%	100%
Not recorded/not known	36%	52%	12%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

- = No proportions have been calculated as no offenders were sentenced to immediate custody.

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) These statistics are provided for the period 2017-2021, rather than for a single year, due to the small number of offenders sentenced for this offence each year.

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

4) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 6 months' includes sentence lengths less than or equal to 6 months, and '6 to 12' includes sentence lengths over 6 months, and up to and including 12 months.

5) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

**Table 4.1: Number of adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), Crown Court, 2011-2021<sup>1,2</sup>**[Index](#)

<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Crown Court	605	860	857	719	678	669	624	407	359	235	245

Source: Court Proceedings Database, Ministry of Justice

## Notes:

1) Figures shown here differ from those published by the MoJ, as there are 20 cases of possessing false identity documents etc with improper intention in the CPD between 2011-2021 which indicate that the offenders were sentenced in the magistrates' courts. 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 4.2: Number and proportion of adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010 s4), by sentence outcome, 2011-2021<sup>1,2</sup>**

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<b>Outcome</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Absolute and conditional discharge	7	1	6	5	3	1	3	4	2	1	2
Fine	2	1	1	3	4	1	1	1	1	1	0
Community sentence	17	23	29	19	16	14	10	8	16	14	21
Suspended sentence	68	119	126	134	128	107	121	72	58	64	55
Immediate custody	508	714	693	558	524	541	485	320	280	153	166
Otherwise dealt with <sup>3</sup>	3	2	2	0	3	5	4	2	2	2	1
<b>Total</b>	<b>605</b>	<b>860</b>	<b>857</b>	<b>719</b>	<b>678</b>	<b>669</b>	<b>624</b>	<b>407</b>	<b>359</b>	<b>235</b>	<b>245</b>

<b>Outcome</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Absolute and conditional discharge	1%	<0.5%	1%	1%	<0.5%	<0.5%	<0.5%	1%	1%	<0.5%	1%
Fine	<0.5%	<0.5%	<0.5%	<0.5%	1%	<0.5%	<0.5%	<0.5%	<0.5%	<0.5%	0%
Community sentence	3%	3%	3%	3%	2%	2%	2%	2%	4%	6%	9%
Suspended sentence	11%	14%	15%	19%	19%	16%	19%	18%	16%	27%	22%
Immediate custody	84%	83%	81%	78%	77%	81%	78%	79%	78%	65%	68%
Otherwise dealt with <sup>3</sup>	<0.5%	<0.5%	<0.5%	0%	<0.5%	1%	1%	<0.5%	1%	1%	<0.5%
<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>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures shown here differ from those published by the MoJ, as there are 20 cases of possessing false identity documents etc with improper intention in the CPD between 2011-2021 which indicate that the offenders were sentenced in the magistrates' courts. 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 4.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), 2011-2021<sup>1,2,3,4</sup>**

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ACSL (months)	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Mean	9.0	9.3	8.6	8.7	8.4	8.7	8.7	8.4	7.5	7.7	8.5
Median	8.0	8.0	8.0	8.0	8.0	7.0	8.0	6.0	6.0	6.0	6.0
Indeterminates as percentage of custodial sentences <sup>5</sup>	-	-	-	-	-	-	-	-	-	-	-

Source: Court Proceedings Database, Ministry of Justice

- = not applicable

Notes:

- 1) Figures shown here differ from those published by the MoJ, as there are 20 cases of possessing false identity documents etc with improper intention in the CPD between 2011-2021 which indicate that the offenders were sentenced in the magistrates' courts. 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) Excludes 1 case of possessing false identity documents etc with improper intention in 2019 where the data suggested that the sentence was above the statutory maximum for this offence. The statutory maximum sentence for this offence is 10 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) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 5) 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 2011-2012, 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 4.4: Sentence lengths received by adult offenders sentenced to immediate custody for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), 2011-2021<sup>1,2,3</sup>**

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Sentence length (years) <sup>4</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Less than 1 year	450	632	640	514	476	474	425	288	258	137	146
1 to 2	56	76	42	39	43	59	54	27	17	15	15
2 to 3	1	2	7	2	3	5	6	1	4	1	3
3 to 4	1	3	1	0	0	2	0	3	0	0	2
4 to 5	0	0	1	1	1	0	0	1	0	0	0
5 to 6	0	1	2	1	0	1	0	0	0	0	0
6 to 7	0	0	0	0	1	0	0	0	0	0	0
7 to 8	0	0	0	1	0	0	0	0	0	0	0
Greater than 8 years	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>508</b>	<b>714</b>	<b>693</b>	<b>558</b>	<b>524</b>	<b>541</b>	<b>485</b>	<b>320</b>	<b>279</b>	<b>153</b>	<b>166</b>

Sentence length (years) <sup>4</sup>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Less than 1 year	89%	89%	92%	92%	91%	88%	88%	90%	92%	90%	88%
1 to 2	11%	11%	6%	7%	8%	11%	11%	8%	6%	10%	9%
2 to 3	<0.5%	<0.5%	1%	<0.5%	1%	1%	1%	<0.5%	1%	1%	2%
3 to 4	<0.5%	<0.5%	<0.5%	0%	0%	<0.5%	0%	1%	0%	0%	1%
4 to 5	0%	0%	<0.5%	<0.5%	<0.5%	0%	0%	<0.5%	0%	0%	0%
5 to 6	0%	<0.5%	<0.5%	<0.5%	0%	<0.5%	0%	0%	0%	0%	0%
6 to 7	0%	0%	0%	0%	<0.5%	0%	0%	0%	0%	0%	0%
7 to 8	0%	0%	0%	<0.5%	0%	0%	0%	0%	0%	0%	0%
Greater than 8 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>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures shown here differ from those published by the MoJ, as there are 20 cases of possessing false identity documents etc with improper intention in the CPD between 2011-2021 which indicate that the offenders were sentenced in the magistrates' courts. 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) Excludes 1 case of possessing false identity documents etc with improper intention in 2019 where the data suggested that the sentence was above the statutory maximum for this offence. The statutory maximum sentence for this offence is 10 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) 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 or equal to 1 year, and '1 to 2' includes sentence lengths over 1 year, and up to and including 2 years.

**Table 4.5: Demographics of adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), by sex, age and ethnicity, 2021<sup>1</sup>**[Index](#)

<b>Sex</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>2</sup></b>
Female	18	7%
Male	227	93%
Not recorded/not known	0	
<b>Total</b>	<b>245</b>	<b>100%</b>

<b>Age group</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>2</sup></b>
18 to 20	14	6%
21 to 24	36	15%
25 to 29	64	26%
30 to 39	75	31%
40 to 49	34	14%
50 to 59	16	7%
60 to 69	6	2%
70 and over	0	0%
Not recorded/not known	0	
<b>Total</b>	<b>245</b>	<b>100%</b>

<b>Ethnicity<sup>3</sup></b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>2</sup></b>
Asian	7	5%
Black	28	19%
Mixed	8	5%
Other	15	10%
White	93	62%
Not recorded/not known <sup>4</sup>	94	
<b>Total</b>	<b>245</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

## Notes:

1) Figures shown here differ from those published by the MoJ, as there are 20 cases of possessing false identity documents etc with improper intention in the CPD between 2011-2021 which indicate that the offenders were sentenced in the magistrates' courts. 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) Percentage calculations do not include cases where sex, age group or ethnicity was unknown.

3) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

4) For a proportion of adults sentenced (38%), their ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.

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Table 4.6: Number and proportion of adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), by sex, age and ethnicity, and sentence outcome, 2021

[Index](#)

Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
Female	0	0	5	5	7	1	18
Male	2	0	16	50	159	0	227
Not recorded/not known	0	0	0	0	0	0	0

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
18 to 20	1	0	3	2	8	0	14
21 to 24	0	0	3	8	24	1	36
25 to 29	0	0	4	9	51	0	64
30 to 39	0	0	5	18	52	0	75
40 to 49	0	0	5	10	19	0	34
50 to 59	1	0	1	5	9	0	16
60 to 69	0	0	0	3	3	0	6
70 and over	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity <sup>3</sup>	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
Asian	0	0	1	2	4	0	7
Black	0	0	3	5	20	0	28
Mixed	0	0	0	4	4	0	8
Other	0	0	1	4	10	0	15
White	0	0	6	18	69	0	93
Not recorded/not known	2	0	10	22	59	1	94

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
Female	0%	0%	28%	28%	39%	6%	100%
Male	1%	0%	7%	22%	70%	0%	100%
Not recorded/not known	-	-	-	-	-	-	-

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
18 to 20	7%	0%	21%	14%	57%	0%	100%
21 to 24	0%	0%	8%	22%	67%	3%	100%
25 to 29	0%	0%	6%	14%	80%	0%	100%
30 to 39	0%	0%	7%	24%	69%	0%	100%
40 to 49	0%	0%	15%	29%	56%	0%	100%
50 to 59	6%	0%	6%	31%	56%	0%	100%
60 to 69	0%	0%	0%	50%	50%	0%	100%
70 and over	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity <sup>3</sup>	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>2</sup>	
Asian	0%	0%	14%	29%	57%	0%	100%
Black	0%	0%	11%	18%	71%	0%	100%
Mixed	0%	0%	0%	50%	50%	0%	100%
Other	0%	0%	7%	27%	67%	0%	100%
White	0%	0%	6%	19%	74%	0%	100%
Not recorded/not known	2%	0%	11%	23%	63%	1%	100%

Source: Court Proceedings Database, Ministry of Justice

-- No proportions have been calculated as no offenders were sentenced.

Notes:

- 1) Figures shown here differ from those published by the MoJ, as there are 20 cases of possessing false identity documents etc with improper intention in the CPD between 2011-2021 which indicate that the offenders were sentenced in the magistrates' courts. 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) 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 volume and proportions should be treated with caution.
- 3) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.



**Table 4.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), by sex, age and ethnicity, 2021<sup>1,2,3</sup>**

[Index](#)

Sex	ACSL (months)	
	Mean	Median
Female	7.0	6.0
Male	8.6	6.0
Not recorded/not known	-	-

Age group	Mean	Median
18 to 20	7.9	5.0
21 to 24	6.9	6.0
25 to 29	7.5	6.0
30 to 39	9.4	6.0
40 to 49	10.6	12.0
50 to 59	8.9	8.0
60 to 69	*	*
70 and over	-	-
Not recorded/not known	-	-

Ethnicity <sup>4</sup>	Mean	Median
Asian	*	*
Black	10.9	8.0
Mixed	*	*
Other	7.1	5.0
White	8.0	6.0
Not recorded/not known	8.4	7.0

Source: Court Proceedings Database, Ministry of Justice

\* = ACSL has not been calculated where the number of offenders sentenced to a determinate immediate custodial sentence is fewer than 5.

- = No offenders were sentenced to a determinate immediate custodial sentence.

Notes:

1) Figures shown here differ from those published by the MoJ, as there are 20 cases of possessing false identity documents etc with improper intention in the CPD between 2011-2021 which indicate that the offenders were sentenced in the magistrates' courts. 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) The statutory maximum sentence for this offence is 10 years' custody.

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

4) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

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Table 4.8: Sentence lengths received by adult offenders sentenced to immediate custody for possessing false identity documents etc with improper intention (Identity Documents Act 2010, s4), by sex, age and ethnicity, 2021<sup>1,2</sup>

[Index](#)

Sex	Number of adults sentenced to each sentence length (years) <sup>3</sup>									Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	6 to 7	7 to 8	Greater than 8 years	
Female	7	0	0	0	0	0	0	0	0	7
Male	139	15	3	2	0	0	0	0	0	159
Not recorded/not known	0	0	0	0	0	0	0	0	0	0

Age group	Number of adults sentenced to each sentence length (years) <sup>3</sup>									Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	6 to 7	7 to 8	Greater than 8 years	
18 to 20	7	1	0	0	0	0	0	0	0	8
21 to 24	24	0	0	0	0	0	0	0	0	24
25 to 29	47	3	1	0	0	0	0	0	0	51
30 to 39	44	5	1	2	0	0	0	0	0	52
40 to 49	15	3	1	0	0	0	0	0	0	19
50 to 59	6	3	0	0	0	0	0	0	0	9
60 to 69	3	0	0	0	0	0	0	0	0	3
70 and over	0	0	0	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0	0	0	0

Ethnicity <sup>4</sup>	Number of adults sentenced to each sentence length (years) <sup>3</sup>									Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	6 to 7	7 to 8	Greater than 8 years	
Asian	3	1	0	0	0	0	0	0	0	4
Black	17	2	0	1	0	0	0	0	0	20
Mixed	3	1	0	0	0	0	0	0	0	4
Other	9	1	0	0	0	0	0	0	0	10
White	62	4	2	1	0	0	0	0	0	69
Not recorded/not known	52	6	1	0	0	0	0	0	0	59

- = No proportions have been calculated as no offenders were sentenced to immediate custody.

Notes:

- 1) Figures shown here differ from those published by the MoJ, as there are 20 cases of possessing false identity documents etc with improper intention in the CPD between 2011-2021 which indicate that the offenders were sentenced in the magistrates' courts. 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) The statutory maximum sentence for this offence is 10 years' custody.
- 3) 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 or equal to 1 year, and '1 to 2' includes sentence lengths over 1 year, and up to and including 2 years.
- 4) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

Sex	Proportion of adults sentenced to each sentence length (years) <sup>3</sup>									Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	6 to 7	7 to 8	Greater than 8 years	
Female	100%	0%	0%	0%	0%	0%	0%	0%	0%	100%
Male	87%	9%	2%	1%	0%	0%	0%	0%	0%	100%
Not recorded/not known	-	-	-	-	-	-	-	-	-	-

Age group	Proportion of adults sentenced to each sentence length (years) <sup>3</sup>									Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	6 to 7	7 to 8	Greater than 8 years	
18 to 20	88%	13%	0%	0%	0%	0%	0%	0%	0%	100%
21 to 24	100%	0%	0%	0%	0%	0%	0%	0%	0%	100%
25 to 29	92%	6%	2%	0%	0%	0%	0%	0%	0%	100%
30 to 39	85%	10%	2%	4%	0%	0%	0%	0%	0%	100%
40 to 49	79%	16%	5%	0%	0%	0%	0%	0%	0%	100%
50 to 59	67%	33%	0%	0%	0%	0%	0%	0%	0%	100%
60 to 69	100%	0%	0%	0%	0%	0%	0%	0%	0%	100%
70 and over	-	-	-	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-	-	-	-

Ethnicity <sup>4</sup>	Proportion of adults sentenced to each sentence length (years) <sup>3</sup>									Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	6 to 7	7 to 8	Greater than 8 years	
Asian	75%	25%	0%	0%	0%	0%	0%	0%	0%	100%
Black	85%	10%	0%	5%	0%	0%	0%	0%	0%	100%
Mixed	75%	25%	0%	0%	0%	0%	0%	0%	0%	100%
Other	90%	10%	0%	0%	0%	0%	0%	0%	0%	100%
White	90%	6%	3%	1%	0%	0%	0%	0%	0%	100%
Not recorded/not known	88%	10%	2%	0%	0%	0%	0%	0%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

**Table 5.1: Number of adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), all courts, 2011-2021<sup>1</sup>**[Index](#)

<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Magistrates' court	72	113	89	98	69	87	77	65	64	42	51
Crown Court	168	125	129	93	87	78	54	45	23	26	26
<b>Total</b>	<b>240</b>	<b>238</b>	<b>218</b>	<b>191</b>	<b>156</b>	<b>165</b>	<b>131</b>	<b>110</b>	<b>87</b>	<b>68</b>	<b>77</b>

<b>Court</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Magistrates' court	30%	47%	41%	51%	44%	53%	59%	59%	74%	62%	66%
Crown Court	70%	53%	59%	49%	56%	47%	41%	41%	26%	38%	34%
<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>

Source: Court Proceedings Database, Ministry of Justice

## 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 5.2: Number and proportion of adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), by sentence outcome, 2011-2021<sup>1</sup>**

[Index](#)

<b>Outcome</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Absolute and conditional discharge	4	7	5	5	6	5	4	4	2	5	2
Fine	18	29	23	36	26	24	23	16	24	13	16
Community sentence	27	37	35	36	25	31	23	20	20	19	13
Suspended sentence	24	29	40	25	30	25	25	20	7	9	21
Immediate custody	163	130	115	86	69	78	54	49	30	22	23
Otherwise dealt with <sup>2</sup>	4	6	0	3	0	2	2	1	4	0	2
<b>Total</b>	<b>240</b>	<b>238</b>	<b>218</b>	<b>191</b>	<b>156</b>	<b>165</b>	<b>131</b>	<b>110</b>	<b>87</b>	<b>68</b>	<b>77</b>

<b>Outcome</b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Absolute and conditional discharge	2%	3%	2%	3%	4%	3%	3%	4%	2%	7%	3%
Fine	8%	12%	11%	19%	17%	15%	18%	15%	28%	19%	21%
Community sentence	11%	16%	16%	19%	16%	19%	18%	18%	23%	28%	17%
Suspended sentence	10%	12%	18%	13%	19%	15%	19%	18%	8%	13%	27%
Immediate custody	68%	55%	53%	45%	44%	47%	41%	45%	34%	32%	30%
Otherwise dealt with <sup>2</sup>	2%	3%	0%	2%	0%	1%	2%	1%	5%	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>

Source: Court Proceedings Database, Ministry of Justice

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 5.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), 2011-2021<sup>1,2,3</sup>**[Index](#)

ACSL (months)	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Mean	8.1	6.5	6.6	6.1	7.2	6.2	6.0	5.4	5.4	4.5	5.5
Median	8.0	6.0	6.0	6.0	6.0	5.0	5.5	4.7	4.5	4.0	4.0
Indeterminates as percentage of custodial sentences <sup>4</sup>	-	-	-	-	-	-	-	-	-	-	-

Source: Court Proceedings Database, Ministry of Justice

- = not applicable

## Notes:

- 1) Excludes 1 case of possessing false identity documents etc without reasonable excuse in 2020 where the data suggested that the sentence was above the statutory maximum for this offence. The statutory maximum sentence for this offence is 2 years' custody.
- 2) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 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 2011-2012, 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 5.4: Sentence lengths received by adult offenders sentenced to immediate custody for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), 2011-2021<sup>1,2</sup>**[Index](#)

<b>Sentence length (months)<sup>3</sup></b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Less than 6 months	75	83	75	64	44	50	35	35	23	17	18
6 to 12	76	37	32	16	17	22	15	12	5	4	3
12 to 18	11	9	8	3	5	4	4	2	1	0	1
18 to 24	1	1	0	3	3	2	0	0	1	0	1
<b>Total</b>	<b>163</b>	<b>130</b>	<b>115</b>	<b>86</b>	<b>69</b>	<b>78</b>	<b>54</b>	<b>49</b>	<b>30</b>	<b>21</b>	<b>23</b>

<b>Sentence length (months)<sup>3</sup></b>	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Less than 6 months	46%	64%	65%	74%	64%	64%	65%	71%	77%	81%	78%
6 to 12	47%	28%	28%	19%	25%	28%	28%	24%	17%	19%	13%
12 to 18	7%	7%	7%	3%	7%	5%	7%	4%	3%	0%	4%
18 to 24	1%	1%	0%	3%	4%	3%	0%	0%	3%	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>

Source: Court Proceedings Database, Ministry of Justice

## Notes:

- 1) Excludes 1 case of possessing false identity documents etc without reasonable excuse in 2020 where the data suggested that the sentence was above the statutory maximum for this offence. The statutory maximum sentence for this offence is 2 years' custody.
- 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) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 6 months' includes sentence lengths less than or equal to 6 months, and '6 to 12' includes sentence lengths over 6 months, and up to and including 12 months.

**Table 5.5: Demographics of adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), by sex, age and ethnicity, 2021**

[Index](#)

<b>Sex</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>1</sup></b>
Female	5	7%
Male	69	93%
Not recorded/not known	3	
<b>Total</b>	<b>77</b>	<b>100%</b>

<b>Age group</b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>1</sup></b>
18 to 20	4	5%
21 to 24	14	18%
25 to 29	18	23%
30 to 39	23	30%
40 to 49	12	16%
50 to 59	6	8%
60 to 69	0	0%
70 and over	0	0%
Not recorded/not known	0	
<b>Total</b>	<b>77</b>	<b>100%</b>

<b>Ethnicity<sup>2</sup></b>	<b>Number of adults sentenced</b>	<b>Percentage of all adults sentenced<sup>1</sup></b>
Asian	9	16%
Black	6	11%
Mixed	3	5%
Other	7	13%
White	31	55%
Not recorded/not known <sup>3</sup>	21	
<b>Total</b>	<b>77</b>	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

Notes:

- 1) Percentage calculations do not include cases where sex, age group or ethnicity was unknown.
- 2) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.
- 3) For a proportion of adults sentenced (27%), their ethnicity was either not recorded or it was not known. Therefore the proportions amongst those for whom data was provided may not reflect the demographics of the full population, and these figures should be treated with caution.

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Table 5.6: Number and proportion of adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), by sex, age and ethnicity, and sentence outcome, 2021

[Index](#)

Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Female	0	1	1	2	0	1	5
Male	2	15	11	19	21	1	69
Not recorded/not known	0	0	1	0	2	0	3

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
18 to 20	0	2	0	1	0	1	4
21 to 24	0	3	7	1	3	0	14
25 to 29	1	2	4	6	5	0	18
30 to 39	1	3	1	8	9	1	23
40 to 49	0	3	0	4	5	0	12
50 to 59	0	3	1	1	1	0	6
60 to 69	0	0	0	0	0	0	0
70 and over	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity <sup>2</sup>	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Asian	0	3	3	2	1	0	9
Black	0	1	2	2	1	0	6
Mixed	0	0	0	1	1	1	3
Other	0	2	2	1	2	0	7
White	1	4	4	12	10	0	31
Not recorded/not known	1	6	2	3	8	1	21

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Female	0%	20%	20%	40%	0%	20%	100%
Male	3%	22%	16%	28%	30%	1%	100%
Not recorded/not known	0%	0%	33%	0%	67%	0%	100%

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
18 to 20	0%	50%	0%	25%	0%	25%	100%
21 to 24	0%	21%	50%	7%	21%	0%	100%
25 to 29	6%	11%	22%	33%	28%	0%	100%
30 to 39	4%	13%	4%	35%	39%	4%	100%
40 to 49	0%	25%	0%	33%	42%	0%	100%
50 to 59	0%	50%	17%	17%	17%	0%	100%
60 to 69	-	-	-	-	-	-	-
70 and over	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity <sup>2</sup>	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with <sup>1</sup>	
Asian	0%	33%	33%	22%	11%	0%	100%
Black	0%	17%	33%	33%	17%	0%	100%
Mixed	0%	0%	0%	33%	33%	33%	100%
Other	0%	29%	29%	14%	29%	0%	100%
White	3%	13%	13%	39%	32%	0%	100%
Not recorded/not known	5%	29%	10%	14%	38%	5%	100%

Source: Court Proceedings Database, Ministry of Justice

- = No proportions have been calculated as no offenders were sentenced.

Notes:

1) 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.

2) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.



**Table 5.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), by sex, age and ethnicity, 2021<sup>1,2</sup>**

[Index](#)

Sex	ACSL (months)	
	Mean	Median
Female	-	-
Male	5.7	4.0
Not recorded/not known	*	*

Age group	Mean	Median
18 to 20	-	-
21 to 24	*	*
25 to 29	4.2	5.0
30 to 39	5.0	3.0
40 to 49	10.0	7.0
50 to 59	*	*
60 to 69	-	-
70 and over	-	-
Not recorded/not known	-	-

Ethnicity <sup>3</sup>	Mean	Median
Asian	*	*
Black	*	*
Mixed	*	*
Other	*	*
White	4.0	4.1
Not recorded/not known	7.3	4.5

Source: Court Proceedings Database, Ministry of Justice

\* = ACSL has not been calculated where the number of offenders sentenced to a determinate immediate custodial sentence is fewer than 5.

- = No offenders were sentenced to a determinate immediate custodial sentence.

Notes:

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

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

3) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

**Table 5.8: Sentence lengths received by adult offenders sentenced to immediate custody for possessing false identity documents etc without reasonable excuse (Identity Documents Act 2010, s6), by sex, age and ethnicity, 2021<sup>1</sup>**

[Index](#)

Sex	Number of adults sentenced to each sentence length (months) <sup>2</sup>				
	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
Female	0	0	0	0	<b>0</b>
Male	16	3	1	1	<b>21</b>
Not recorded/not known	2	0	0	0	<b>2</b>

Age group	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
18 to 20	0	0	0	0	<b>0</b>
21 to 24	3	0	0	0	<b>3</b>
25 to 29	5	0	0	0	<b>5</b>
30 to 39	7	1	1	0	<b>9</b>
40 to 49	2	2	0	1	<b>5</b>
50 to 59	1	0	0	0	<b>1</b>
60 to 69	0	0	0	0	<b>0</b>
70 and over	0	0	0	0	<b>0</b>
Not recorded/not known	0	0	0	0	<b>0</b>

Ethnicity <sup>3</sup>	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
Asian	1	0	0	0	<b>1</b>
Black	1	0	0	0	<b>1</b>
Mixed	1	0	0	0	<b>1</b>
Other	1	0	1	0	<b>2</b>
White	9	1	0	0	<b>10</b>
Not recorded/not known	5	2	0	1	<b>8</b>

Sex	Proportion of adults sentenced to each sentence length (months) <sup>2</sup>				
	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
Female	-	-	-	-	-
Male	76%	14%	5%	5%	<b>100%</b>
Not recorded/not known	100%	0%	0%	0%	<b>100%</b>

Age group	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
18 to 20	-	-	-	-	-
21 to 24	100%	0%	0%	0%	<b>100%</b>
25 to 29	100%	0%	0%	0%	<b>100%</b>
30 to 39	78%	11%	11%	0%	<b>100%</b>
40 to 49	40%	40%	0%	20%	<b>100%</b>
50 to 59	100%	0%	0%	0%	<b>100%</b>
60 to 69	-	-	-	-	-
70 and over	-	-	-	-	-
Not recorded/not known	-	-	-	-	-

Ethnicity <sup>3</sup>	Less than 6 months	6 to 12	12 to 18	18 to 24	Total
Asian	100%	0%	0%	0%	<b>100%</b>
Black	100%	0%	0%	0%	<b>100%</b>
Mixed	100%	0%	0%	0%	<b>100%</b>
Other	50%	0%	50%	0%	<b>100%</b>
White	90%	10%	0%	0%	<b>100%</b>
Not recorded/not known	63%	25%	0%	13%	<b>100%</b>

Source: Court Proceedings Database, Ministry of Justice

- = No proportions have been calculated as no offenders were sentenced to immediate custody.

Notes:

- 1) The statutory maximum sentence for this offence is 2 years' custody.
- 2) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 6 months' includes sentence lengths less than or equal to 6 months, and '6 to 12' includes sentence lengths over 6 months, and up to and including 12 months.
- 3) Ethnicity is the self-identified ethnicity as defined by the individual, and is categorised using the 5+1 self-identified classification based on the 18+1 classification used in the 2011 Census.

# Sentencing Council



## Sentencing Council Annual report

2022/23

DRAFT - v3

# Sentencing Council Annual report

## 2022/23

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

This report is presented to Parliament pursuant to Section 119(2) of the Coroners and Justice Act 2009



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# Foreword

## by the Chairman



New portrait  
to come

I am pleased to introduce the Sentencing Council's annual report for 2022/23. It is the Council's 13th report and my first as Chairman.

I took up the post of

Chairman of the Council in August 2022 as successor to Lord Justice Tim Holroyde. Tim has played a significant role in the life of the Sentencing Council. He served as a judicial member from April 2015. In August 2018 he was appointed as Chairman of the Council. He stepped down from that position in June 2022 when he was appointed as Vice President of the Court of Appeal Criminal Division last year. In that capacity he is continuing his membership of the Council. I am delighted that the Council has retained his unrivalled expertise in sentencing. I would like to thank Tim for his period of office between 2018 and 2022 during which time the Council went from strength to strength. That was due in no small measure to his skilled and inspirational leadership.

### Developing and revising guidelines

Since the Council's inception in 2010, we have developed guidelines covering virtually all major offences seen regularly by the courts. With our revised motoring offence guidelines coming into effect in July 2023 and a consultation planned on aggravated vehicle taking guidelines in the coming year, we are on the verge of having replaced all guidelines produced by our predecessor body, the Sentencing Guidelines Council.

During 2022/23 the Council published new and revised offence specific definitive guidelines covering six types of offences.

First, we revised and brought up to date existing guidelines for arranging or facilitating the commission of a child sex offence and causing or inciting a child to engage in sexual activity. The revisions followed what was said by the Court of Appeal in two cases: *Privett and Others* [2020] EWCA Crim 557; *Reed and Others* [2021] EWCA Crim 572. These decisions gave guidance on how to approach the assessment of harm in cases where the child was a fiction or the offender was thwarted in his intention for some reason. The revised guidelines, which came into effect on 31 May 2022, advise judges and magistrates to identify the category of harm on the basis of the sexual activity the offender intended even in cases where no child exists or no sexual activity

takes place. At the same time, we made a series of minor amendments to provide clarity on aspects of other existing sexual offences guidelines.

Second, we published a new guideline for the offence of sexual communication with a child, which came into effect on 1 July 2022.

Third, we published revised guidelines for sentencing domestic, non-domestic and aggravated burglary offences. They came into effect on 1 July 2022. The original guidelines (in force from 16 January 2022) contained only two levels of harm and culpability respectively. The revised guidelines provided three levels of harm and culpability. The harm and culpability factors in the revised guideline allow sentencers fully to reflect the distress suffered by victims of burglary.

Fourth, we published guidelines revising the terrorism guidelines introduced in 2018. The revisions reflected the increases in maximum sentences and other changes introduced by the Counter-Terrorism and Border Security Act 2019 and the Counter-Terrorism and Sentencing Act 2021. These revised guidelines, which came into effect on 1 October 2022, also provided guidance for judges sentencing offenders who meet the criteria for the new serious terrorism sentence.

Fifth, we published two new guidelines for sentencing retailers, one for large organisations and the other for individual shop owners, who fail to ensure that adequate safeguards are in place to prevent the sale of knives to under 18s either in-store or online. This is a summary offence. Under these guidelines large organisations

whose culpability was high could face a fine of up to £1 million. The Council believes that the penalties under the new guidelines are substantial enough to bring home to both management and shareholders the need to operate within the law. The guidelines came into force on 1 April 2023.

Sixth, we published revisions to the guidelines for sentencing offenders convicted of child cruelty offences. The guidelines were updated to reflect changes in legislation. They created a new very high culpability level to reflect new maximum sentences for causing or allowing a child to die or suffer serious physical harm and for cruelty to a child introduced by the Police, Crime, Sentencing and Courts (PCSC) Act 2022. These revised guidelines also came into force on 1 April 2023.

We also made changes to various guidelines following our second annual consultation on miscellaneous amendments. Every year, the Council consults on changes to guidelines that we consider to be significant enough to warrant consultation but not so significant that a new guideline is required. Proposed changes are drawn from case law, commentary on sentencing and feedback from guideline users, as well as from work we have done on other guidelines. These miscellaneous amendments were in force from 1 April 2023.

The Council launched six consultations during the reporting year, including for the child cruelty and sale of knives guidelines that came into effect in April and the second tranche of miscellaneous amendments.

On 7 July 2022 we opened a consultation on proposals for 12 new and revised guidelines for motoring offences. Our proposals reflected the increase in maximum penalties for causing death by dangerous driving and causing death by careless driving while under the influence of drink or drugs introduced by the PCSC Act 2022. They also reflected new offences created since the Sentencing Guidelines Council guidelines were published in 2008, including causing serious injury by careless driving.

Between 10 May and 1 August 2022 we consulted on proposals to reflect increases in maximum sentences introduced by the Animal Welfare (Sentencing) Act 2021. We sought views on two draft guidelines: the first covered the most serious offences, including causing unnecessary suffering, tail docking and animal fighting; the second covered neglect and ill treatment of animals.

Our other consultation looked at the overarching guideline on totality, which sets out the approach for sentencing an offender for more than one offence or where the offender is already serving a sentence. The consultation sought views on a series of changes we are proposing in response to research carried out with sentencers in 2021. Both this and the animal cruelty guidelines were published in May 2023 to come into effect on 1 July 2023, along with the motoring offences guidelines.

Any guideline prepared by the Council must be published as a draft guideline in respect of which the Council is obliged to consult widely. The results of any consultation are vital to the Council's work, and we consider those results with

great care. We are always grateful to the people and organisations who give their valuable expertise and time to contribute to our consultations, and who help us to make improvements before publishing definitive guidelines.

### **Understanding the Council's impact**

In addition to publishing guidelines, the Council is required to monitor and evaluate their operation and effect.

Once guidelines have been implemented, we assess the impact they may have had on sentencing and whether they have been implemented as the Council intended.

Where possible, we collect data both before and after a new guideline has come into effect. Analysis of data from these collections helps us explore what might be influencing outcomes and to understand how the guideline has been implemented in practice. In January 2023 we launched a data collection exercise in all magistrates' courts and all locations of the Crown Court. This six-month study covered a number of offences and asked sentencers to identify the culpability and harm factors they took into account and which aggravating and mitigating factors they considered relevant, to explain the sentence imposed by reference to the starting point and note any reduction for a plea of guilty.

Any data collection exercise of this kind is an imposition on magistrates and judges. It became apparent as the exercise progressed that it was placing too great a burden on sentencers. Consequently we reduced the number of offences to which

the data collection applied. We remain grateful to all those magistrates and judges who provide data in relation to their sentences. It is of critical importance to all aspects of the Council's work.

Each of the definitive guidelines we published and offence specific guideline consultations we launched during the reporting year was accompanied by a resource assessment. In these assessments we estimate the effects of the guidelines on the resource requirements of the prison, probation and youth justice services. They allow us and our stakeholders to understand better the consequences of our proposed or definitive guidelines.

There is more information on the Council's analysis and research work in chapter 2 and elsewhere throughout this report.

### **Setting our direction**

Enhancing and strengthening the data and evidence that underpin our work, and making sure that all our work is evidence based, were among the objectives we set ourselves when we launched the Council's five-year strategy in November 2021. The strategy identified five priorities that would shape our work between 2021 and 2026. The chapters of this report set out our progress against each of these priorities. Producing and revising guidelines remains the Council's core focus, and chapter 1 details the guideline development work we have completed throughout the year. The progress we have made in enhancing and strengthening the evidence base of our guidelines is detailed in chapter 2. Allied to this work is the efforts we have made to reinforce our connections and exchange

knowledge with academics who share an interest in our work. In January 2023, with The City Law School and the Sentencing Academy, we hosted the second of what we hope will become a regular series of academic seminars designed to identify potential areas for research and strengthen relationships. There is a report of the seminar on pages 31-2.

Chapter 3 looks at the work we have done this year to meet our objective to explore issues of equality and diversity relevant to our work. Our action plan for meeting this objective extends the work we have already been doing around equality and diversity. This year we published research examining the language, concepts and factors of guidelines for any potential impact that could unintentionally lead to disparities in sentencing. We published the findings and recommendations of this research on 10 January 2023. There is more on this project on pages 39-42.

Our fourth strategic objective outlines the Council's commitment to considering and collating evidence on effectiveness of sentencing in preventing reoffending. Effectiveness is a complex concept. Our founding legislation provides that, in developing guidelines, the Council must have regard to the cost of different sentences and their relative effectiveness in preventing re-offending. It does not specify how we should have regard to this factor. In September 2022 we published an externally commissioned review of current literature on effectiveness of sentencing, the findings of which will allow the Council to consider the most up-to-date evidence when we develop and revise sentencing guidelines. See pages 46-7 for more.

In our fifth strategic objective, the Council made a commitment to improve confidence in sentencing among the public, including victims, witnesses and defendants. Our challenge here is not just to help people understand more about sentencing but to counter the steady stream of misunderstandings and common myths about sentencing that are repeated in the media.

Chapter 5 sets out the work we have done throughout the year in this regard. This work has included publishing the findings of research we commissioned to explore what drives the public's attitudes to and understanding of the criminal justice system and to suggest how the Council might reinforce and improve public confidence. The findings and recommendations stemming from this research are on pages 52-3.

### **The people behind the guidelines**

I served previously as a judicial member of the Council between April 2012 and April 2015. Though the faces are different, the depth of expertise and experience around the table is still as great as it was then when Sir Brian Leveson was the Chairman. I would like to thank all members for their warm welcome and for the good grace and good humour with which they have approached our work this year. It is only in the last few months that we have begun to emerge from the problems created by the pandemic.

We have seen a number of changes in personnel throughout 2022/23. I extend my gratitude and that of my Council colleagues to those members who have left the Council, and wish them well for

the future. Mrs Justice Maura McGowan and Her Honour Judge Rebecca Crane left the Council in early 2023, both having served two terms. Rosina Cottage left in summer 2022, also having served two terms as defence representative, and Dr Alpa Parmar, who served as an academic member, left us early in the year.

We have also welcomed four new members to the Council. In July 2022 Dr Elaine Freer succeeded Dr Parmar as the academic representative; in May 2022, Stephen Leake joined us as the district judge representative; in August 2022 Richard Wright KC was appointed to provide the defence community's perspective and, most recently, in January 2023, Mr Justice Wall joined the Council as a judicial member.

Finally, I would like to pay tribute to the staff of the Office of the Sentencing Council. They are the Council's most valuable resource, and I have been greatly impressed by their expertise, professionalism and dedication.



**Lord Justice William Davis  
Chairman**

July 2023

# Introduction

The Sentencing Council is an independent, non-departmental public body of the Ministry of Justice (MoJ). It was set up by Part 4 of the Coroners and Justice Act 2009 to promote greater transparency and consistency in sentencing, while maintaining the independence of the judiciary.

The aims of the Sentencing Council are to:

- promote a clear, fair and consistent approach to sentencing
- produce analysis and research on sentencing, and
- work to improve public confidence in sentencing

On 4 November 2021, the Council published a five-year strategy and supporting work plan, which were developed following a public consultation held to mark the Council's 10th anniversary in 2020. The strategy commits the Council to five objectives.

- To promote consistency and transparency in sentencing through the development and revision of sentencing guidelines.
- To ensure that all our work is evidence-based and to enhance and strengthen the data and evidence that underpin it.

- To explore and consider issues of equality and diversity relevant to our work and take any necessary action in response within our remit.
- To consider and collate evidence on effectiveness of sentencing and seek to enhance the ways in which we raise awareness of the relevant issues.
- To work to strengthen confidence in sentencing by improving public knowledge and understanding of sentencing, including among victims, witnesses and offenders, as well as the general public.

This annual report documents the work undertaken by the Council between 1 April 2022 and 31 March 2023 in the context of the five strategic objectives.

Also included, in accordance with the Coroners and Justice Act 2009, are two reports considering the impact of sentencing factors (pages 58-62) and non-sentencing factors (pages 63-6) on the resources required in the prison, probation and youth justice services to give effect to sentences imposed by the courts in England and Wales.

For information on past Sentencing Council activity, please refer to our earlier annual reports, which are available on our website at: [sentencingcouncil.org.uk](https://www.sentencingcouncil.org.uk)

# Key events 2022/23

2022		
May	9	Animal cruelty offences statistical bulletin published
	10	Animal cruelty offences consultation opened; consultation paper and resource assessment published
	16	Sexual offences data tables published
	17	Sexual offences sentencing guidelines and response to consultation published
	18	Burglary offences data tables published
	19	Burglary offences sentencing guidelines and response to consultation published
	23	District Judge (Magistrates' Courts) Stephen Leake appointed to the Sentencing Council
	31	Sale of knives etc by retailers to persons under 18 statistical bulletin published
	31	Sexual offences sentencing guidelines came into effect
June	12	Sale of knives etc by retailers to persons under 18 consultation opened
	13	Sentencing Council business plan 2022/23 published
July	1	Dr Elaine Freer appointed to the Sentencing Council
	1	Sentencing guidelines for sexual communication with a child and burglary offences came into effect
	6	Motoring offences statistical bulletin published
	7	Motoring offences consultation opened; consultation paper and resource assessment published
	20	Sentencing Council annual report 2021/22 laid in Parliament and published
	26	Terrorism offences data tables published

<b>2022</b>		
	27	Terrorism offences sentencing guidelines and response to consultation published
	27	Council statement on broadcasting of Crown Court sentencing remarks issued
	29	Data release on sentencing drug offences published
<b>August</b>	1	Lord Justice William Davis appointed as Chairman of the Sentencing Council
	1	Richard Wright KC appointed to the Sentencing Council
	3	Child cruelty offences statistical bulletin published
	4	Child cruelty offences consultation opened; consultation paper and resource assessment published
<b>September</b>	7	Miscellaneous amendments to sentencing guidelines consultation opened; consultation paper published
	9	Council statement on the death of Her Late Majesty Queen Elizabeth II issued
	30	<b>The effectiveness of sentencing options on reoffending</b> literature review published
<b>October</b>	1	Terrorism guidelines came into effect
	5	Totality guideline consultation opened; consultation paper and resource assessment published
<b>December</b>	12	<b>Public knowledge of and confidence in sentencing and the criminal justice system: 2022</b> report published
<b>2023</b>		
<b>January</b>	10	<b>Equality and diversity in the work of the Sentencing Council</b> report published
	13	Academic seminar on current issues in sentencing policy and research held at The City Law School
<b>February</b>	14	Sale of knives etc by retailers to persons under 18 data tables published
	15	Sale of knives etc by retailers to persons under 18 sentencing guidelines and response to consultation published



2023		
March	6	Child cruelty data tables published
	7	Child cruelty sentencing guidelines and response to consultation published
	9	Miscellaneous amendments to sentencing guidelines response to consultation published
	20	<b>Council statement</b> on the application of sentencing principles during a period when the prison population is very high issued
	22	<b>Imposition of community and custodial sentences guideline trend analysis review</b> published

“Child cruelty offences are by their very nature targeted against particularly vulnerable people – children – and it is important that courts have up-to-date guidelines that reflect the penalties set by Parliament.

“The revisions published today will ensure that the courts can reflect the new penalties consistently and transparently and will have available to them the full range of possible sentences when dealing with the worst cases of child cruelty.”

Lord Justice William Davis, Chairman, on publication of the definitive sentencing guideline for child cruelty offences, 7 March 2023

# Strategic objective 1:

Promoting consistency and transparency in sentencing through the development and revision of sentencing guidelines

The purpose of the Sentencing Council for England and Wales is to promote a clear, fair and consistent approach to sentencing by issuing sentencing guidelines that provide clear structures and processes for judges and magistrates to use in court.

This purpose is underpinned by the statutory duties for the Council that are set out in the Coroners and Justice Act 2009.

Responses to the 10th anniversary consultation held by the Council in 2020 provided broad support for our view that the production and revision of guidelines should remain our key focus.

The sentencing guidelines are intended to help ensure a consistent approach to sentencing, while preserving judicial discretion. Under the Sentencing Act 2020, a court must follow relevant sentencing guidelines unless satisfied in a particular case that it would be contrary to the interests of justice to do so.

When developing guidelines, the Council has a statutory duty to publish a draft for consultation. At the launch of a consultation, we will seek publicity via mainstream and specialist media, as well as promoting it via social media and on the Sentencing Council website. We make a particular effort to reach relevant professional organisations and representative bodies, especially those representing the judiciary and criminal justice professionals, but also others with an interest in a particular offence or group of offenders.

Many of the responses come from organisations representing large groups so the number of replies does not fully reflect the comprehensive nature of the contributions, all of which are given full consideration by the Council.

The work conducted on all guidelines during the period from 1 April 2022 to 31 March 2023 is set out in this chapter. To clarify what stage of production a guideline has reached, reports of our work fall under one or more of four key stages:

1. Development
2. Consultation
3. Post-consultation
4. Evaluation and monitoring

The table at Appendix C sets out the production stages of all sentencing guidelines.

## Animal cruelty

In 2021, the Animal Welfare (Sentencing) Bill received Royal Assent. The Act increased the maximum penalty from six months' to five years' imprisonment for a number of animal cruelty offences, including causing unnecessary suffering, tail docking and involvement in an animal fight.

### Consultation

The Council consulted on draft guidelines between 10 May and 1 August 2022. To support the consultation 14 qualitative interviews were held with Crown Court judges and magistrates. Sentencers generally found the draft guidelines clear and easy to interpret.

To support the consultation, we also produced a draft resource assessment and statistical bulletin.

### **Post-consultation**

Our consultation received 104 responses. Respondents were broadly supportive of the Council's proposals but many also offered suggestions to improve the guidelines further. In light of the responses received, the Council made some changes to the revised guidelines. We will report on these changes in next year's annual report.

The definitive guidelines were published in May 2023 and came into effect on 1 July 2023.

### **Media coverage**

The consultation on these guidelines received coverage in the Independent, the Telegraph, Daily Express and Evening Standard, as well as on the BBC News website. An interview with Her Honour Judge Rosa Dean, the Council lead on the project, aired on Sky Radio, with clips also carried by LBC, Times Radio and Sky news. The consultation received attention on Twitter, including support from the Lord Chancellor, the RSPCA, Battersea and the Blue Cross.

Coverage focused on the new maximum penalty for serious offences.

## **Blackmail, kidnap, false imprisonment and threats to disclose private sexual images**

There are currently no guidelines for blackmail, kidnap or false imprisonment offences. These are serious offences: the maximum penalty for kidnap and false imprisonment is life imprisonment; for blackmail, it is 14 years' custody. There is an existing guideline for offences of disclosing private sexual images.

### **Development**

The Council has agreed to develop new guidelines for blackmail, kidnap and false imprisonment offences and to revise the guideline for disclosing private sexual images to take into account legislative changes in relation to threats to disclose images.

We have commenced development work on this project and intend to consult on draft proposals later in 2023. We will provide details of this consultation exercise and the outcome in next year's annual report.

“Animal cruelty is a serious offence and can cause great distress to animals who have been ill-treated or neglected or even forced to fight each other for entertainment.

“Animals are not able to defend themselves or draw attention to their suffering, and it is important that courts have the powers to deliver appropriate sentences to offenders who commit these crimes.”

Her Honour Judge Rosa Dean, Council member, on the launch of the consultation on sentencing guidelines for animal cruelty offences, 10 May 2022

## Bladed articles and offensive weapons

The guidelines for sentencing offenders convicted of possessing or threatening to use a bladed article or offensive weapon came into effect on 1 June 2018.

### **Evaluation and monitoring**

In 2019, we collected data on how cases of possession of a bladed article or offensive weapon were being sentenced across all magistrates' courts. During this year, we have been using these data to help us assess the impact and implementation of the bladed articles and offensive weapons definitive guidelines and expect to publish this evaluation in the last quarter of 2023/24.

## Breach offences

In 2018, the Council issued guidelines to assist the courts in sentencing offenders who have not complied with 11 specific types of court order, including suspended sentence orders, community orders, restraining orders and sexual harm prevention orders. The guidelines came into effect on 1 October 2018.

### **Monitoring and evaluation**

This year, we have continued our evaluation to help us assess the impact and implementation of nine of these sentencing guidelines for breach offences. Two of the breach guidelines introduced in 2018, Breach of disqualification from acting as a director and Breach of disqualification from keeping an animal, were not included in the evaluation because they are very low volume offences.

We have analysed the information we gathered from our 2019 data collection in magistrates' courts, data up to 2020 from MoJ's Court Proceedings Database and a sample of 2019 Crown Court sentencing transcripts to observe any changes to the factors relevant to sentencing and in the type of disposals being imposed. We also conducted survey research with sentencers and probation practitioners in 2022 to understand their experiences of using the guidelines.

We will publish our evaluation later in 2023.

## Burglary

The definitive guidelines for sentencing burglary offences came into effect in January 2012. Following an evaluation exercise, which we completed in July 2017, and to bring the guidelines into line with the Council's newer stepped approach, the Council decided to revise the burglary guidelines.

### Post-consultation

We consulted on proposed revisions to these guidelines between 9 June and 1 September 2021. We received 32 responses, which were broadly supportive of our proposed revisions, with some respondents making suggestions for amendments. To support the consultation, 21 qualitative interviews were conducted with sentencers. Sentencers generally found the draft guidelines clear. Some respondents felt that, as drafted, the harm factors were too subjective and therefore difficult to apply consistently, and the Council made a number of changes in response. We also amended harm factors to make sure

that they fully reflect the distress suffered by burglary victims, and revised the guidance around 'weapon carried' within aggravated burglary.

The revised guidelines have been structured in line with the Council's more recently developed stepped approach to sentencing.

The definitive guidelines were published on 19 May 2022 and came into effect on 1 July 2022. We have recently completed a data collection exercise, the results of which will help us evaluate the impact of changes made to the guidelines.

### Media coverage

Our launch of the revised burglary guidelines was covered by the Telegraph and New Law Journal. Coverage focused on higher sentences for offences carried out at night.

“Burglary has a big impact on victims, often so much more than just a theft of property, especially when it occurs in a victim’s home, a sanctuary where they are entitled to feel safe. “As a result of feedback from the consultation we have made changes to the assessment of harm to help courts better assess the impact of these offences on victims.”

Her Honour Judge Rebecca Crane, Council member, on publication of the definitive sentencing guidelines for burglary offences, 19 May 2022



Thames Magistrates' Court, London

## Child cruelty

The existing sentencing guidelines for child cruelty offences came into effect from 1 January 2019 and replaced the Sentencing Guidelines Council guideline, Overarching Principles: Assaults on children and cruelty to a child. The guidelines cover the following child cruelty offences:

- Causing or allowing a child to die or suffer serious physical harm, Domestic Violence, Crime and Victims Act 2004 (section 5)
- Cruelty to a child, Children and Young Persons Act 1933 (section 1(1))

### Development

The statutory maximum sentences for these offences were increased under the PCSC Act 2022, which came into force in April 2022. For offences committed on or after 28 June 2022, the statutory maxima have increased from 10 years' custody to 14 years' custody for both cruelty to a child and causing or allowing a child or vulnerable adult to suffer serious physical harm, and from 14 years' custody to life imprisonment for causing or allowing a child or vulnerable adult to die.

The Council agreed to revise the existing guidelines to reflect these changes in statutory maximum sentence.

### Consultation

We consulted on draft revised guidelines between 4 August 2022 to 27 October 2022. Our proposals introduced a new 'very high culpability' level for the most serious cases, to reflect the new maximum sentences. This category would capture cases where culpability was extremely high or where there was a combination of high culpability features. We proposed that the culpability factors of other levels, the various harm factors and the sentence levels for all cases not falling into the new very high culpability level should remain the same.

The consultation was supported with a draft resource assessment and statistical bulletin.

### Post-consultation

The consultation received 16 responses. The vast majority were either supportive without qualification or in broad agreement with the approach, while making some observations and detailed suggestions.

We published the definitive guidelines on 7 March 2023, accompanied by a final resource assessment and data tables. The revised guidelines came into effect on 1 April 2023.



### **Media coverage**

Our consultation on child cruelty guidelines in August 2022 received attention in the Daily Express, the Telegraph, The Times and Police Oracle. Our launch of the definitive guidelines was covered in national, regional and trade media. National titles included the Daily Mail, Daily Express, the Independent, the Telegraph and The Times. We were also mentioned in more than 20 regional and trade titles, including New Law Journal and Solicitors Journal. The coverage focused on the new maximum sentences for child cruelty offences.

## **Immigration**

### **Development**

There are currently no definitive guidelines for immigration offences. There are, however, a large number of separate immigration offences of varying levels of seriousness. Because of a number of changes that have taken place over recent years, including the UK's exit from the European Union and changes to legislation (for example changes brought in by the Nationality and Borders Act 2022), the Council had paused work on this project. However, we are now working to put into place a package of guidelines covering the most serious and higher volume offences.

We intend to consult on draft proposals towards the end of 2023.

## **Imposition of community and custodial sentences**

The definitive guideline for the imposition of community and custodial sentences came into effect on 1 February 2017. The Council's aim in producing the guideline was to provide guidance to the courts about the approach that should be followed when deciding whether offenders should be given community or custodial sentences to make sure that the type of sentence imposed appropriately reflected the seriousness of the offending.

### **Evaluation and monitoring**

To assess whether the imposition guideline has had its intended impact, we conducted trend analysis to examine the trends over time for community and custodial sentences.

The analysis of sentencing outcomes between 2011 and 2019 found that the guideline did not seem to have had an immediate impact on sentencing outcomes. However, following correspondence from the Council to sentencers in April 2018 that highlighted the guideline and clarified the principles to be followed when considering the imposition of suspended sentences, there was a subsequent increase in the proportion of community orders and an associated decrease in the proportion of suspended sentence orders.

We published the guideline evaluation in March 2023.

## Development

In mid-2022, the Council considered some updates to the guideline as part of our annual assessment of potential miscellaneous amendments. Following consideration of further changes, including the pre-sentence report sections and issues relating to sentencing specific cohorts of offenders, we decided to undertake a full review, also incorporating relevant findings from the tend analysis evaluation of the existing guideline.

This review has included considering updates to existing sections in order to reflect sentencing practice, the intention of the guideline and changes to the Probation Service, which reunified in June 2021. We have also considered some new sections, including deferred sentencing, thresholds and purposes and effectiveness of sentencing.

## Consultation

We will consult on the draft revised guideline in autumn 2023 and provide details of the outcome in next year's annual report.

## Intimidatory offences

The Council's definitive guidelines for sentencing intimidatory offences came into effect on 1 October 2018. The guidelines cover offences of harassment, stalking, disclosing private sexual images, controlling or coercive behaviour, and threats to kill.

## Evaluating and monitoring

We are continuing with work on the intimidatory offences guideline evaluation. This includes analysing data from the data collections that ran across magistrates' courts during 2017–18 and 2019, where sentencers were asked to provide details of the factors they took into account and the sentence they imposed when sentencing harassment and stalking offences. We are also examining data from MoJ's Court Proceedings Database and transcripts of judges' sentencing remarks.

The evaluation will be published in early 2024.

## Miscellaneous amendments to sentencing guidelines

Since the Council's inception in 2010, we have built up a large body of sentencing guidelines and accompanying materials. In order to be able to address any issues that arise with guidelines, the Council holds an annual consultation on miscellaneous amendments to guidelines and the explanatory materials that accompany them.

## Development

We began work on compiling the second miscellaneous amendments consultation in April 2022. The issues covered were drawn from feedback from guideline users (often received via the feedback function embedded in the online guidelines) and changes to legislation.

## Consultation

We held the consultation between 7 September and 30 November 2022, asking consultees for views on the following proposals:

1. Matters relevant primarily to magistrates' courts
  - Clarifying the wording relating to disqualification from driving in the following:
    - Drug driving guidance
    - Excess alcohol guideline
    - Unfit through drink or drugs (drive/attempt to drive) guideline
    - Fail to provide specimen for analysis (drive/attempt to drive) guideline
  - Amending the wording in the explanatory materials on:
    - Discretionary disqualification
    - 'Totting up' disqualification
    - Obligatory disqualification
    - Football banning orders
2. Matters relevant to magistrates' courts and the Crown Court
  - Amending the guidelines for criminal damage to take account of the legislative change relating to memorials
  - Amending the wording regarding minimum sentences in the following guidelines:
    - Bladed articles and offensive weapons – possession
    - Bladed articles and offensive weapons – threats
    - Bladed articles and offensive weapons (possession and threats) – children and young people
    - Supplying or offering to supply a controlled drug/ Possession of a controlled drug with intent to supply it to another
    - Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug
    - Domestic burglary
    - Aggravated burglary (Crown Court only)
3. Matters relevant solely to the Crown Court
  - Adding wording to the Unlawful act manslaughter guideline relating to the required life sentence for an offence committed against an emergency worker

## Post-consultation

There were 24 responses to the consultation. The majority of responses were supportive of the proposals and some made helpful suggestions for changes.

We published a response to the consultation in March 2023. The amended guidelines were published on our website on 1 April 2023 and came into force on publication.

The consultation included a general question inviting comment on the proposals. Some respondents used this to make suggestions for future changes to guidelines, which we welcome and will consider alongside other matters as part of the next annual miscellaneous amendments consultation, which we expect to hold in the autumn of 2023.

## Motoring offences

The existing sentencing guidelines for offences under the Road Traffic Act 1988 were published in 2008 by the SGC. The guidelines cover:

- Causing death by dangerous driving (section 1)
- Dangerous driving (section 2)
- Causing death by careless driving (section 2B)
- Causing death by careless driving whilst under the influence of drink or drugs (section 3A), and
- Causing death by driving whilst unlicensed, disqualified or uninsured (section 3ZB)

## Development

The PCSC Act 2022 raised the maximum penalties for causing death by dangerous driving and causing death by careless driving while under the influence of drink or drugs from 14 years' custody to life imprisonment, and created a new offence of causing serious injury by careless driving.

The Council agreed to revise the existing guidelines and develop new guidelines to reflect these legislative provisions and other changes and take into account developments in sentencing trends.

## Consultation

Our consultation on the draft guidelines ran between 7 July and 29 September 2022. We received 306 written responses, of which just over half were individualised, standalone responses. The remainder consisted of campaign responses, some with a focus on road safety from a cycling perspective, calling for lengthy driving disqualifications, and some expressing concern about road safety and offering general support for the guidelines.

Alongside the consultation, we published a resource assessment and statistical bulletin showing current sentencing practices for the offences included. To support the consultation, we conducted 44 qualitative interviews with Crown Court judges and magistrates to help us understand more about how the guidelines might be used and applied in practice. Sentencers told us they found the draft guidelines generally clear and easy to interpret.

## Post-consultation

In response to the consultation, the Council made various amendments to the culpability factors related to dangerous driving, as well as changes to the aggravating and mitigating factors common across most of the guidelines. Also following respondents' comments, we adjusted downwards the sentence levels for causing serious injury by careless driving, causing injury by wanton or furious driving and dangerous driving. We made a number of technical amendments to the guidelines related to drugs and drink in line with expert feedback from consultees. The Council has agreed to look further into the issue of disqualification, as this was a common theme across many of the responses we received.

We published the definitive new and revised guidelines on 15 June 2023 to come into effect on 1 July 2023, accompanied by a final resource assessment and data tables.

To support our evaluation of the motoring guidelines, the Council's data collection, which we ran between January and June 2023, collected data on sentencing motoring offences before the new and revised guidelines came into effect. We will collect further data for comparison once the guidelines have been in effect for some time.

## Perverting the course of justice and witness intimidation

Perverting the course of justice offences are serious offences with a maximum of life imprisonment. There are currently no guidelines for this range of offences and limited guidance for witness intimidation offences in the magistrates' courts only.

The Council agreed to develop new guidelines for perverting the course of justice offences and to revise the guideline for witness intimidation offences for use in all courts.

### Consultation

We consulted on draft guidelines between 30 March and 22 June 2022. To support the consultation, we tested the guidelines with sentencers, completing qualitative interviews with 24 Crown Court Judges. Sentencers found the draft guidelines generally clear and easy to interpret.

We supported the consultation with a draft resource assessment and statistical bulletin.

## Post-consultation

The 48 responses we received were broadly supportive of the draft guidelines, with some making suggestions for amendments, and we will continue our work considering these responses into the next reporting year.

The Council intends to publish the definitive guidelines in the summer of 2023.

We will report on the changes made as a result of the consultation in next year's annual report.

## Sale of knives etc by retailers to persons under 18

The Council has developed two new guidelines for sentencing retailers for the offence of selling knives and certain articles with a blade or point to persons under the age of 18, contrary to s.141A of the Criminal Justice Act 1988.

### Consultation

Between 1 June and 24 August 2022 we consulted on two draft guidelines for this offence; one for sentencing individuals and one for sentencing organisations.

Alongside the consultation, we published a resource assessment and statistical bulletin.

To support the consultation we tested the guidelines with sentencers, completing qualitative interviews with 10 magistrates, who told us they found the draft guidelines generally clear and easy to follow.

## Post-consultation

The consultation received 34 responses, some from individuals and some from organisations. The Council made a number of revisions to the draft guidelines following the very helpful responses to the consultation and the research carried out with sentencers.

These included:

- amending the wording on the scope of the guidelines
- adding a reference to 'retailers' in the title of the guidelines
- amending the culpability factors better to reflect the realities of the measures that retailers can reasonably take to ensure against sales of knives to children
- removing some aggravating factors that were not relevant, and
- adding a mitigating factor relating to co-operation with the investigation

The definitive guidelines were published on 15 February 2023, alongside a final resource assessment and data tables, and came into effect on 1 April 2023.

### Media coverage

The consultation for these guidelines achieved coverage in the Independent, The Times, the Daily Mirror and the Sun as well as receiving attention in a wide range of the regional press.

The launch of the definitive guidelines was covered nationally, including in the Telegraph, Independent and ITV News, and regionally, including in the Evening Chronicle Newcastle and the Northern Echo. Coverage in the trade media included Police Professional and Solicitors Journal, as well as The Grocer, Housewares News and Asian Trader.

Coverage focused mainly on the new, higher penalties for organisations.

“Selling knives to children can lead to very serious consequences. There is the risk of serious physical harm to the children who buy these knives and to other people as well as the risk of wider social harms associated with the circulation of weapons among children.

“It is important that all possible safeguards should be put in place to prevent the sale of knives to children, and that the penalties for organisations are substantial enough to bring home to both management and shareholders the need to operate within the law.”

Jo King JP, Council member, on the launch of the consultation on sentencing guidelines for the sale of knives etc by retailers to persons under 18, 1 June 2022

## Sexual offences

We published the Council's first guidelines for sentencing sexual offences in 2013. The guidelines covered more than 50 offences including rape, child sex offences, indecent images of children, trafficking and voyeurism.

In 2020, the case of *R v Privett and others* [2020] EWCA Crim 557 set out the approach the courts should take for sentencing offences under section 14 of the Sexual Offences Act 2003 (arranging or facilitating the commission of a child sex offence) when no real child victim exists.

In response, the Council agreed to review elements of the 2013 sexual offences guidelines, covering the following offences under the 2003 Act:

- arranging or facilitating the commission of a child sex offence (section 14), even where no sexual activity takes place or no child victim exists
- causing or inciting a child to engage in sexual activity (section 10), and other similar offences, even where activity is incited but does not take place or no child victim exists, and
- sexual communication with a child (section 15A), a relatively new offence created by the Serious Crime Act 2015 and in force since 2017

## Post-consultation

The consultation, which ran between May and August 2021, received 34 responses. These responses, along with research conducted with sentencers, helped to inform our development of the definitive guideline. We made a number of revisions to the draft, which were designed, for example, to clarify:

- the steps the court should take where no sexual activity has taken place
- the approach to take in assessing psychological harm
- the application of the guidance to offences committed remotely/online, and
- the guidance on sentencing historical sexual offences

The Council also made various changes to the draft guideline for sexual communication with a child, including providing for a broader range of digital content to be taken into account in assessing harm, and better providing for the situation where no real child victim exists.

The definitive guidelines were published on 17 May 2022, accompanied by a resource assessment and data tables. The revisions to existing guidelines came into effect on 31 May 2022, and the new guideline for sexual communication with a child came into effect on 1 July 2022.



### **Media coverage**

Our launch of the sexual offences guidelines was covered by a number of national, regional and trade print media, including the Telegraph, the Independent, Solicitors Journal and Police Professional. It was also picked up by Times Radio and the BBC website. The coverage focused on sentencing offenders based on intent rather than harm.

### **Post-consultation**

We received 14 responses to our consultation on the draft guidelines, which ran from 20 October 2021 to 11 January 2022, including from the Justice Committee. In light of these responses and research conducted with judges, the Council made a number of modifications to the guidelines. The definitive guidelines were published on 27 July 2022, alongside a resource assessment, data tables and our response to the consultation.

## **Terrorism**

The Council first published guidelines for sentencing terrorism offences in March 2018.

The Counter-Terrorism and Sentencing Act 2021, which received Royal Assent on 29 April 2021, made it necessary for the Council to make changes to these guidelines.

The Council had already drafted, and consulted on, changes to the guidelines arising from the Counter-Terrorism and Border Security Act 2019, and took the decision to make any additional revisions to the guidelines before publishing both sets of changes at the same time.

All revisions to the terrorism guidelines reflecting changes brought in by both the Counter-Terrorism and Border Security Act 2019 and the Counter-Terrorism and Sentencing Act 2021 came into effect on 1 October 2022.

### **Media coverage**

We received coverage for launch of the terrorism guidelines in the Telegraph, the Yorkshire Evening Post, The National (Wales), Police Oracle, Southend Echo, Bolton News, Shropshire Star and 21 regional commercial radio stations. The coverage focused on 'tougher sentences' for terrorism offences.

## Totality

The Council's Totality guideline came into effect on 11 June 2012. The guideline provides the courts with guidance on how to arrive at a total sentence when sentencing an offender for multiple offences, or when sentencing an offender who is already serving an existing sentence.

### Development

In September 2021, the Council published a report exploring sentencers' views of the Totality guideline, including the findings of a survey and interviews conducted to help us understand how sentencers use the guideline, explore their attitudes towards the guideline and identify any potential problems or issues. This research showed that sentencers generally found the guideline to be useful and clear and a practical help in sentencing, although some requested improvements to its format. Having considered the findings from the research, the Council decided to revise the guideline, focusing on bringing it up to date without changing the essence of the content.

## Consultation

We ran a consultation between 5 October 2022 and 11 January 2023, asking for views on the content as well as the structure and format of the proposed revised guideline. The changes we proposed included:

- adding a section on sentencing for offences committed prior to other offences for which an offender has been sentenced
- adding examples in relation to sentencing where a statutory minimum sentence applies, and
- updating the list of circumstances where a fine cannot be imposed with another sentence

We also proposed changes to the format and structure of the guideline, including placing all examples in drop-down boxes to make the guideline easier to navigate, changing the order of some content and incorporating hyperlinks to legislation in the text rather than using footnotes.

We published a draft resource assessment alongside the consultation.

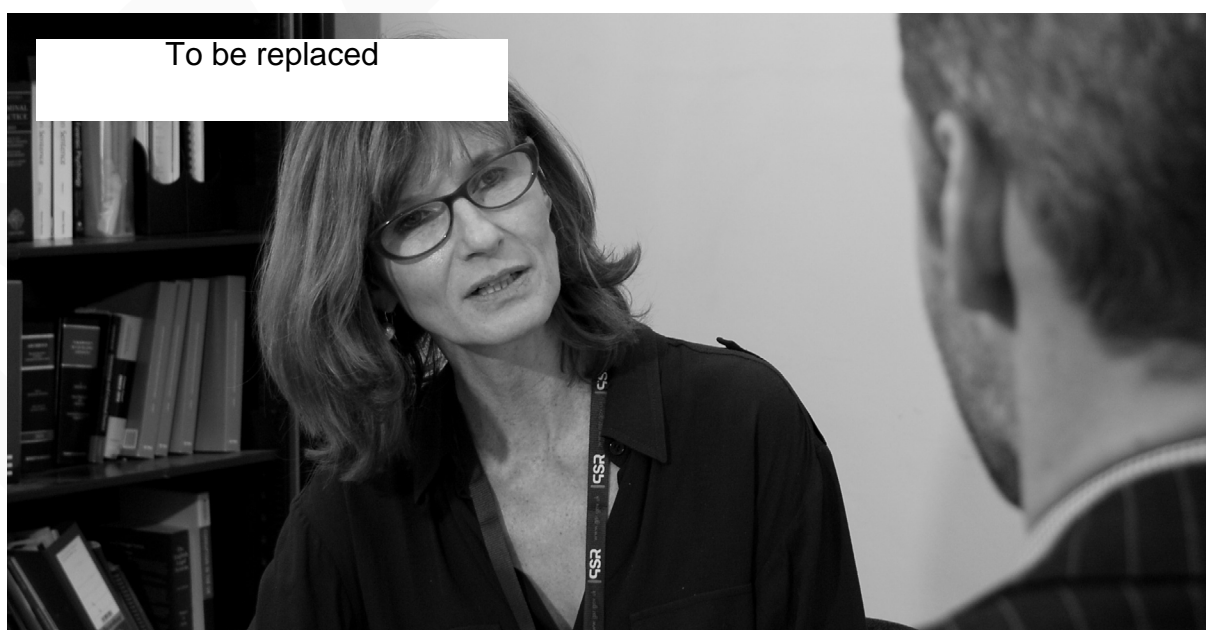
### Post-consultation

We received 25 responses to our consultation. The Council considered these responses, and we published the revised definitive guideline alongside our response to the consultation and the final resource assessment on 31 May 2023. The guideline came into effect on 1 July 2023.

“The Magistrates’ Association welcomes the revision to this [burglary] guideline – the latest in a concerted effort underway since 2012 to improve the style and functionality of sentencing guidelines...

“We are also pleased that the guideline now better reflects the levels and types of emotional impact that can result from a burglary offence. This will provide magistrates with additional clarity when assessing the harm caused by crime.”

Val Castell, Chair of the Magistrates’ Association’s adult court committee, on the publication of the definitive sentencing guidelines for burglary offences, 19 May 2022



Staff of the Office of the Sentencing Council

## Strategic objective 2:

Ensuring that all our work is evidence-based, and working to enhance and strengthen the data and evidence that underpin it

The Council carries out analysis and research into sentencing to enable us to meet the statutory duties set out in the Coroners and Justice Act 2009. Our analysis and research work is an integral part of the guideline development process, contributes to all stages of the guideline development process and ensures the Council develops guidelines that meet our aims and objectives. We draw on a range of different data sources, as well as undertaking our own research, both quantitative and qualitative, to inform our work.

The high volume and range of responses to the Council's 10th anniversary consultation that related directly to our analytical work indicate how important our stakeholders consider this area to be in terms of the overall functioning of the Council. It is a reflection of the importance placed on this work by our respondents that the Council has committed to prioritising analysis and research and has dedicated to it one of the five strategic objectives.

## Undertaking research and analysis to support the development of guidelines and other statutory duties

The Council regularly carries out social research and analysis that aims to augment the evidence base underpinning guidelines, making sure, in particular, that guidelines are informed by the views and experiences of those who sentence. We conduct primary research with users of the guidelines, principally Crown Court judges, district judges and magistrates. We use a range of methods, including surveys, interviews and group discussions. Our researchers also review sentencing literature and analyse transcripts of Crown Court sentencing remarks. This work helps to inform the content of the guidelines at an early stage of development and explore any behavioural implications. At times, and where relevant, we also conduct research with victims, offenders and members of the public.

This year, to support further the development of guidelines, we have launched a research project to explore the use, interpretation and application of the expanded explanations that accompany some of the guideline factors. This research will help us identify whether any of the guidance contained within these explanations needs revisiting or whether any new factors, such as those recommended in our research on equality and diversity, might be needed.

During the development of draft guidelines, we also draw on a range of data sources, where available, to produce statistical information about current sentencing practice, including offence volumes, average custodial sentence lengths and breakdowns by age, gender and ethnicity. We use this information to understand the parameters of current sentencing practice, consider potential issues of disparity and fulfil the Council's public sector equality duty (see pages 70-1). In some instances, however, data are not available so there are limits to the analysis we can undertake.

When required, the Council also undertakes research and analysis to support some of our wider statutory duties, to provide further information in specific areas or to fill gaps in existing data. We are also continuing to seek opportunities to collaborate with academics and external organisations. During 2022/23, this work has included research to support our public confidence duties (see pages 52-3); examine issues related to effectiveness in sentencing and consider equality and diversity in the Council's work (see pages 39-42). We also held a seminar in January 2023, which discussed academic work in the field of sentencing (see pages 31-2), and we continue to attend academic events where possible.

**“[Motoring offences] can be some of the most difficult cases to sentence, where what might seem a fairly minor example of bad driving can have the most tragic and long-lasting consequences. It is therefore right that we provide the courts with guidelines that will allow them to take a consistent approach.”**

Mrs Justice Juliet May, Council member, on the launch of the consultation for sentencing guidelines for motoring offences, 7 July 2022

## Building bridges with the academic community

On Friday, 13 January 2023, the Council co-hosted a seminar with The City Law School, City, University of London, and the Sentencing Academy, bringing together academics, civil society organisations, commentators and others with an interest in the criminal justice system.

### **Equality and diversity in the work of the Sentencing Council – research presentation and panel discussion**

**Chaired by Professor Peter Hungerford-Welch, The City Law School**

The University of Hertfordshire research team behind our report, Equality and diversity in the work of the Sentencing Council, presented their findings and recommendations for the Council (see pages 39-42). Panel member Dr Shona Minson, University of Oxford, spoke about the growing numbers of women being sent to prison. She called for the Council to include a step in all guidelines considering parental responsibility and for a separate guideline for sentencing women who are pregnant. Jacqui MacDonald-Davis, Chair of the Magistrates' Association Black, Asian and Minority Ethnic Network, noted that the sector needs more court data to fully understand issues such as intersectionality and racial, age and gender disparities. Among the points she raised was the importance of judges and magistrates understanding the lived experience of offenders so their multiple needs can be considered when sentencing.

### **Sentencing young adults – panel discussion**

**Chaired by Professor Julian Roberts KC (Hon), Sentencing Academy**

Dr Laura Janes, GT Stewart Solicitors, opened the session pointing to the growing body of neuroscientific, psychological and sociological evidence that suggests maturation is not complete in the majority of young people until the age of 25, and argued that young adults need to be treated differently in sentencing. Professor Nathan Hughes, University of Sheffield, presented data on young adults in court in England and Wales that show 'shrinking numbers and increasing disparities', and identified the need for more local-court and person/offence-level data to help us more fully understand the real picture. Lady Dorrian, Lord Justice Clerk and Chair of the Scottish Sentencing Council, set out the principles behind the Scottish sentencing guideline for young people, which recognises that young people generally have lower levels of maturity and there is a greater possibility of rehabilitation and change.

## What don't we know?

### Chaired by Steve Wade, Head of the OSC

The last session of the day aimed to identify gaps in the sector's collective knowledge and suggest how they might be filled. Professor Nicola Padfield KC (Hon), Emeritus Professor Cambridge University, led the discussion, identifying gaps in evidence on effectiveness of sentencing. She asked how effectiveness can be evaluated when there is no order of priority for the purposes of sentencing, and called for research on the experiences of defendants and victims to help develop an understanding of the real impact of current sentencing. Peter Dawson, Director of the Prison Reform Trust, talked about changes in the sentencing profile of the prison population and looked at what elements are influencing population size, including decisions of the Parole Board. Professor Jessica Jacobson, Institute for Criminal and Justice Policy Research, identified two areas for further exploration: the custody threshold and victim personal statements. She talked about the need for a better understanding of how the custody-threshold test is applied in practice and how victim personal statements are perceived by victims and what their role is in sentencing.



Lord Justice William Davis, Chairman of the Sentencing Council, opening our 2023 academic seminar



## **Making our data on drug offences available for researchers**

Collaborating and sharing knowledge with academics in our field, and strengthening our relationships with them, are important in helping us meet the Council's strategic objective to enhance and strengthen the data and evidence that underpin our work. One way we achieve this is by making available to external researchers the court data we gather through our bespoke collections.

In July 2022 we published **data from our collection on drug offences on the research and resources area of our website**. The data cover the factors taken into account when sentencing adult offenders for a selection of drug offences and details of the sentence imposed.

The data were collected from magistrates' courts between November 2015 and January 2016 after the Council's initial set of drug offences guidelines came into effect in February 2012. They were used in the evaluation of the drug offences guidelines, which we published in June 2018, and cover possession of a controlled drug (class A and B) and production of a controlled drug (class B only) or cultivation of cannabis plant, where these offences were the principal offence.

The datasets contain information on the culpability and harm factors taken into account by sentencers, details of any aggravating or mitigating factors (including previous convictions), information about the guilty plea where relevant, including the reductions applied, and details of the final sentence imposed. They also contain information on the single most important factor affecting the sentence.

Since these data were collected, the drug offences guidelines have been replaced with new guidelines that came into effect on 1 April 2021. We nevertheless hope that publication of the raw, underlying data in respect of the 2012 guidelines will be useful to researchers and add to the knowledge base that will allow a better understanding of magistrates' courts sentencing factors in relation to outcomes.

## Assessing the resource implications of guidelines

The Council has a statutory duty to produce a resource assessment to accompany each sentencing guideline that estimates the effects of the guideline on the resource requirements of the prison, probation and youth justice services. This assessment enables the Council and our stakeholders to understand better the consequences of the guidelines in terms of impact on correctional resources. The work that goes into resource assessments also results in wider benefits for the Council.

The process involves close scrutiny of current sentencing practice, including consideration of the factors that influence sentences. This analysis provides a 'point of departure' for the Council when we are considering the appropriate sentencing ranges for a guideline.

Where the Council intends a guideline to improve consistency, while causing no change to the overall severity of sentencing, the guideline sentencing ranges will aim to reflect current sentencing practice, as identified from the analysis. Where we intend a guideline to effect changes in the severity of sentencing for an offence, the Council may set sentencing ranges higher or lower than those indicated by current sentencing practice.

We publish resource assessments to accompany our consultations and our definitive guidelines. Alongside our draft guidelines for consultation we also publish a bulletin summarising the statistical information that has helped inform their development.

## Monitoring the operation and effect of guidelines and drawing conclusions

The real impact of a guideline on sentencing and consequently on resources is assessed through monitoring and evaluation after the guideline has been implemented. To achieve this, we use a range of different approaches and types of analysis. These include bespoke, targeted data collections in courts, where we collect information on a range of factors relevant to the sentencing decision, including harm and culpability factors, aggravating and mitigating factors, guilty plea reductions and sentence outcomes.

The most recent of these data collections ran between 9 January and 30 June 2023 in all magistrates' courts and locations of the Crown Court. Data was collected for selected offences and the information collected will help us assess whether guidelines are having any impact on sentencing outcomes and whether there have been any issues with their implementation.

We also conduct qualitative interviews and surveys with sentencers, analyse sentencing transcripts and undertake statistical analysis of administrative data.

## Publishing Sentencing Council research

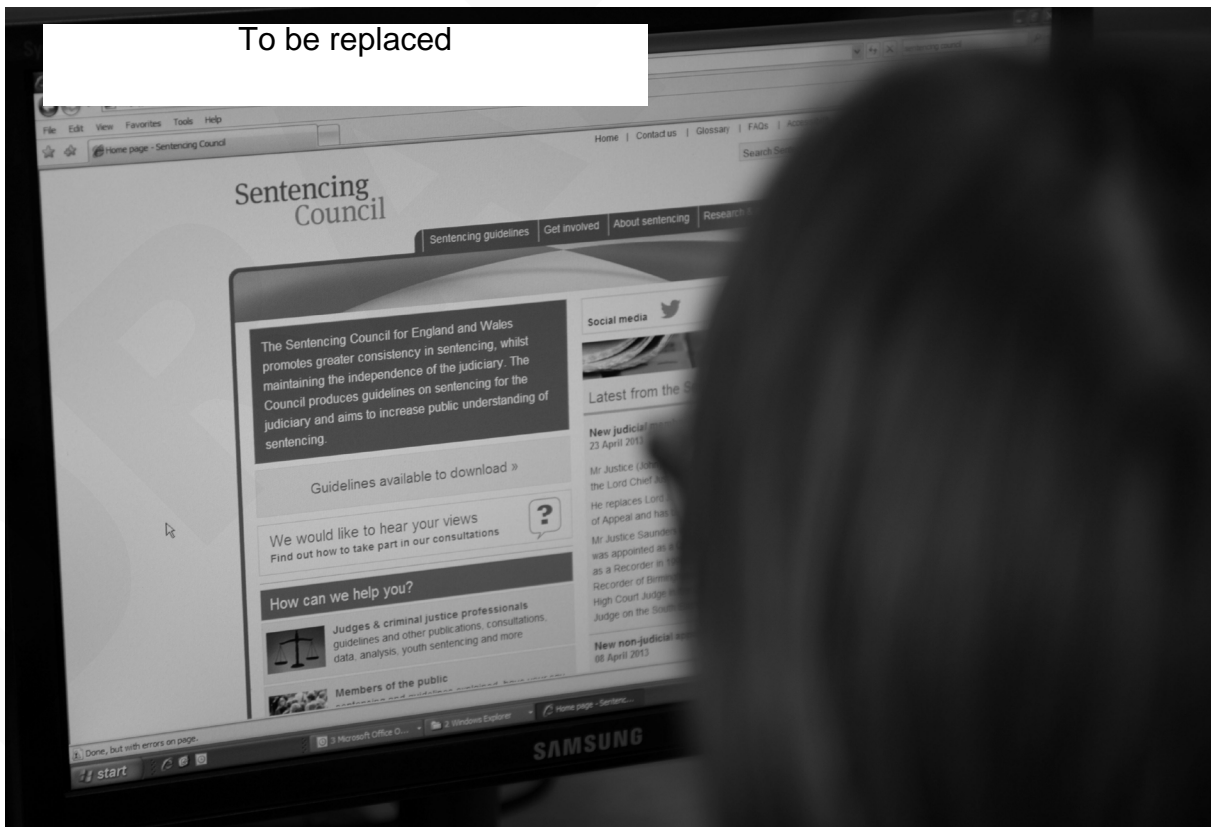
We publish our research, data and statistical outputs on the analysis and research pages of our website.

Between 1 October 2010 and 31 March 2015 the Council collected sentencing data from judges in the Crown Court. The data from the Crown Court Sentencing Survey (CCSS) is published on our website, as well as more recent data collected from magistrates' courts on theft from a shop or stall and drug offences. We will publish data from other such targeted data collections, including one planned for later in 2023 that will cover robbery offences.

More information about the analysis and research we have undertaken to support the development of new guidelines or evaluate existing guidelines is included throughout chapter 1 of this report.

## Reporting on sentencing and non-sentencing factors

The Council has a statutory duty to produce sentencing factors and non-sentencing factors reports. These reports can be found on pages 58-66.



Staff of the Office of the Sentencing Council

## Strategic objective 3:

Exploring and considering issues of equality and diversity relevant to our work and taking any necessary action in response within our remit

It is the Council's long-held view that equality and diversity should be at the heart of all our work. As part of the five-year plan we made in 2021, we set ourselves a strategic objective to: explore and consider issues of equality and diversity relevant to our work and take any necessary action in response within our remit.

We have established a dedicated working group to advise the Council on matters relating to equality and diversity and make sure that the full range of protected characteristics are considered in our work. Members also consider ways in which the Council could engage more effectively with, and take account of the views and perspectives of, representatives of people with protected characteristics, and with offenders and victims.

## Understanding the impact of sentencing guidelines

The Council's commitment to ensuring that sentencing guidelines apply fairly across all groups of offenders and do not cause or contribute to any potential disparity of outcome for different demographic groups is reflected throughout the development process.

We review any available evidence on disparity in sentencing for each guideline we develop or revise and, if the evidence suggests disparity, we highlight this as part of the consultation process. We place wording in the draft guideline to draw sentencers' attention to the disparities and, when we have examined the data for the offence and reviewed the consultation responses, the Council will then consider whether similar wording should be retained in the published definitive

guideline. We include in all definitive guidelines signposts to important information in the Equal Treatment Bench Book, which is compiled by the Judicial College, and remind sentencers of the need to apply guidelines fairly across all groups of offenders.

To enable the Council to explore fully the potential impact of sentencing guidelines on different demographic groups and groups with protected characteristics, we collect and analyse data, where available, and undertake in-depth analytical work. We now routinely publish sentencing breakdowns by age, sex and ethnicity alongside definitive guidelines and draft guidelines for consultation.

## Learning from consultees' insight and experience

The potential for disparities in sentencing to arise from aspects of sentencing guidelines may not be obvious. Our consultation documents seek views from as wide an audience as possible on whether such potential exists, specifically asking consultees to consider whether there are:

- any aspects of the draft guidelines that they feel may cause or increase disparity in sentencing
- any existing disparities in sentencing of the offences covered in the guideline that they are aware of, which the draft guideline could and should address, and/or
- any other matters relating to equality and diversity that they consider the Council should be aware of and/or that we could and should address in the guideline

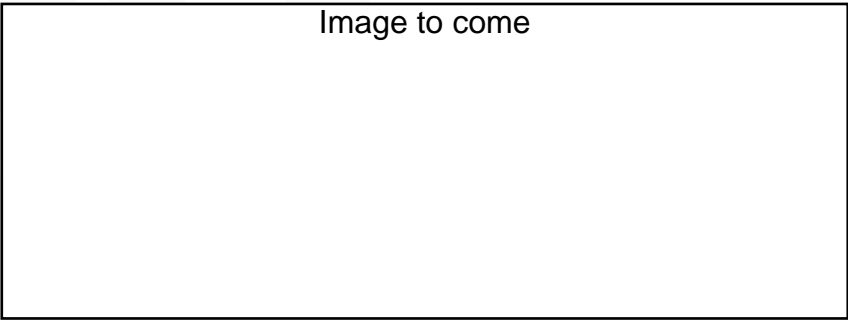
## Guarding against potential causes of disparity

The Council made a commitment, when agreeing our five strategic objectives in 2021, to examine whether there is any potential for our work, or the way in which we carry it out, inadvertently to cause disparity in sentencing across demographic groups.

In autumn 2021, we commissioned the University of Hertfordshire to look at equality and diversity in the work of the Council. The aims of the research were to identify and analyse any such potential and to recommend actions we might take to guard against it.

For a report on the research, its findings and the Council's response, see pages 39-42.

Image to come



## Exploring equality and diversity

On 10 January 2023 the Council published the research report: **Equality and diversity in the work of the Sentencing Council and our response** to the recommendations made in the report. The research, conducted for us by a team from the University of Hertfordshire, was designed to explore the potential for the Council's work inadvertently to cause disparity in sentencing across demographic groups and, should any be identified, to recommend how that might be mitigated.

### About the research

The researchers looked at the language, factors, explanatory texts and structure of guidelines, as well as our guideline development processes, communications and relationships with stakeholders. They examined three groups of offence specific guidelines: robbery, theft (theft from the person, theft from a shop or stall, theft in breach of trust, and handling stolen goods), and harassment and stalking (fear of violence), as well as the guideline for sentencing children and young people. The research considered protected characteristics under the Equality Act 2010, with a particular focus on those more relevant to sentencing and where sufficient data exist (namely race, age and sex), as well as potentially relevant issues such as primary carer status and socio-economic background. (The Act refers to race and sex but the dataset used refers to ethnicity and gender so the report primarily uses these terms.)

The team analysed data collected from the Crown Court Sentencing Survey (CCSS) between 1 January 2013 to 31 March 2015 (we ran the CCSS between October 2010 and March 2015), text analysis of the sampled guidelines, and co-production, engaging with civil society organisations, defence lawyers and sentencers.

### Upward and downward factors in sentencing guidelines

Analysing the CCSS data, the researchers explored the impact of various guideline factors on two sentencing outcomes: the likelihood of receiving immediate custody and the length of the custodial sentence. They found that, as would be expected, the seriousness of the offence was associated with the largest change in sentencing, followed by upward factors, while downward factors were associated with the lowest change in sentencing. 'Upward factors' are those that might be associated with a more severe sentence, for example high culpability, great/medium harm, and aggravating factors; 'downward factors' might be associated with a less severe sentence, for example low culpability, lesser harm, and mitigating factors.

The CCSS findings were supported by the text analysis, which revealed that the sampled guidelines devote more words to describing upward factors than downward factors. Civil society partners and defence lawyers were concerned that mitigating factors might not have a sufficient impact on sentencing outcomes because they are considered only at step two in the guidelines.

### **Upward factors**

Co-production partners expressed concern about the potential impact of four upward factors – ‘group membership’, ‘previous convictions’, ‘failure to comply with current court orders’ and ‘offence committed on bail or licence’ – fearing that they might lead to disparity in sentencing due to racial bias, age bias and other equality, diversity and inclusion-related issues. However, analysis of the CCSS data showed mixed results in this regard.

### **Downward factors**

Co-production partners raised concerns around three downward factors – ‘determination to address addiction or offending behaviour’, ‘remorse’ and ‘mental disorder and/or learning disability’ – saying that some ethnic groups may not have strong family support to help them address offending behaviour, while others argued that class inequality could be an issue. Cultural differences were highlighted in terms of expressing remorse, as well as lack of maturity, learning disabilities and communication difficulties. Some ethnic groups were also thought to be less likely to disclose a mental disorder.

However, analysis of the CCSS data shows that downward factors did mitigate against receiving immediate custody and the length of custody for some offences.

### **Offence specific issues**

For all offences studied, far more upward factors than downward factors were identified as significant in CCSS data analysis, which suggests that upward factors have a stronger impact on sentencing outcomes than downward factors. Almost all the significant downward factors were common across many offences, for example ‘remorse’.



## Gender

CCSS data analysis showed that men were more likely than women to receive immediate custody for offences of robbery and all types of theft, contrary to some civil society partners' views that women are treated more harshly than men.

The association between gender and length of sentence was less consistent across the different offences and there was no evidence that certain upward or downward factors might have a differential association with the likelihood of receiving immediate custody or the length of custody for male and female offenders.

## Ethnicity

The researchers found no strong or consistent evidence of sentencing disparities for different ethnic groups, either directly or through the impact of upward or downward factors. However, this does not mean that disparity does not exist in other settings or for other offences. For example, [research conducted by Amber Isaac](#) for the Sentencing Council in 2020 found an association between an offender's ethnicity and the sentence imposed for drug-related offences.

## Age

Analysis of CCSS data supported the co-production partners' perception that younger offenders receive more favourable sentencing outcomes. For example, the younger the offender, the lower the likelihood of them receiving immediate custody. Age as a downward factor was not used extensively for offenders older than 60.

## Other equality, diversity and inclusion issues and intersectionality

Adult offenders with the downward factor 'physical or mental illness' were less likely to receive immediate custody for all offences studied. There was no equivalent finding for children and young people. No significant difference in outcomes was found for offenders deemed to be from a 'difficult/deprived background'.

The researchers found no difference in the length of custodial sentence or the probability of a custodial sentence between men and women of different ethnic groups. They also found no difference in sentencing outcomes between men and women relative to their socio-economic background or offenders of different ethnic groups relative to their socio-economic background ('difficult/deprived background' was used as a proxy measure).

### What does this mean for the Council?

The Council is committed to placing issues of equality and diversity at the heart of everything we do, and we are considering carefully the recommendations made in this report. We have committed to take forward a number of actions, some of which were already in train and which include:

- reviewing the use and application of aggravating and mitigating factors and expanded explanations in sentencing guidelines
- reviewing the Imposition of community and custodial sentences guideline, which is looking at whether and when sentencers request pre-sentence reports and so receive all the information needed about an offender
- collecting data in magistrates' courts and the Crown Court that will provide further information for research, and
- conducting user testing of our digital guidelines, to explore how sentencers use the sentencing guidelines, including how they use the expanded explanations

All our planned actions are set out in the Council's response to the research report, both of which are **available on our website**.

**“Knife crime causes devastation in local communities and blights many young lives. Consistent sentencing rules are important when action is taken against those who sell knives to children. Trading Standards strongly support this move by the Sentencing Council to seek to achieve this important outcome.”**

Lord Michael Bichard, Chair of National Trading Standards, on publication of the definitive sentencing guidelines for the sale of knives etc by retailers to persons under 18, 15 March 2023

To be replaced



Royal Courts of Justice, London

## Strategic objective 4:

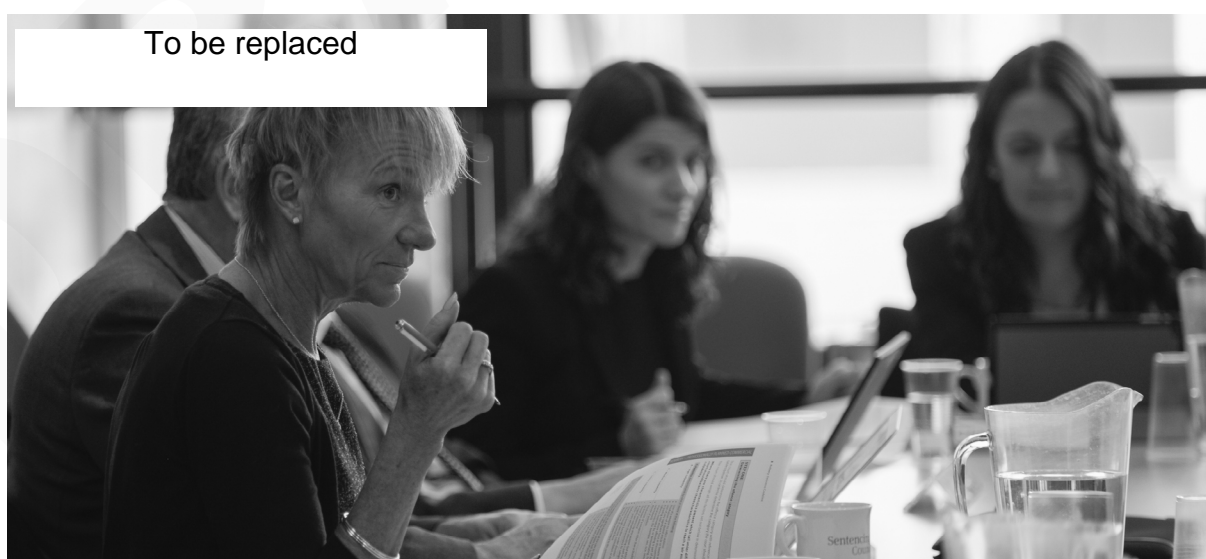
Considering and collating evidence on effectiveness of sentencing and seeking to enhance the ways in which we raise awareness of the relevant issues

The Council's duty in relation to cost and effectiveness appears in two sections of the Coroners and Justice Act 2009. Section 120 states that the Council should have regard to the cost of different sentences and their relative effectiveness in preventing reoffending when preparing guidelines. Section 129 states that the Council may also promote awareness of these issues.

The approach previously taken to discharging this duty involves the consideration by Council members of an annual internal digest and review of current research and evidence of effectiveness. This supplements Council members' significant existing expertise and experience in sentencing matters and is brought to bear in Council discussions when considering the development of guidelines.

When publishing our strategic objectives in November 2021, the Council responded to the views of respondents to our 10th anniversary consultation that the annual digest should be publicly available. We agreed to publish a review every two years that will outline the latest research evidence, allow the Council to be more transparent about the evidence we consider and help us promote knowledge and understanding of effectiveness among sentencers.

To meet this commitment, in September 2022, we published a literature review, *The effectiveness of sentencing options on reoffending*, written by a team of academics led by Dr Jay Gormley of the University of Strathclyde. The review considers in particular evidence relating to reoffending, reflecting the Council's statutory duty to have regard to the effectiveness of sentences in preventing reoffending. It also considers evidence on related areas such as the impact of sentencing on long-term desistance from offending, on deterrence, and on the cost-effectiveness of different sentences.



Sentencing Council members attending a Council meeting 16 June 2023

## Measuring effectiveness

The Sentencing Council is required by the Coroners and Justice Act 2009 to have regard when preparing guidelines to the cost of different sentences and their relative effectiveness in preventing reoffending, and to promote awareness of related issues.

On 30 September 2022 we published a literature review, **The effectiveness of sentencing options on reoffending**. This review, commissioned from a team led by Dr Jay Gormley of the University of Glasgow, brings together evidence on the effectiveness of different sentencing options on reoffending gleaned from a body of literature spanning 20 years.

### What do we mean by effectiveness?

In passing a sentence for an adult offender, the court must have regard to the purposes of sentencing set out in the Sentencing Act 2020: punishing offenders; reducing crime (including by deterrence); reforming and rehabilitating offenders; protecting the public; and making reparations. The criteria for what makes a sentence effective can vary markedly, not least because the meaning of key terms such as reoffending, deterrence and rehabilitation is not universally agreed. In addition, researchers looking at the effectiveness of sentencing use a range of methodologies, which makes drawing comparisons between different studies challenging.

### Key findings from the research

#### Sentencing objectives

The literature suggests several broad objectives that an effective sentence may achieve or facilitate, in particular the related goals of reducing reoffending and promoting desistance and reintegration. Reducing reoffending is an important objective for sentencing but, if there is no allied desistance or reintegration, the reduction in offending is less likely to persist. Desistance and reintegration are also important aims for sentencing and can entail significant and lasting changes on the part of the offender, but they are ambitious objectives and require strategies that extend beyond sentencing alone.

Sentencing may also aim to achieve deterrence, dissuading both the general public from offending and the individual offender from reoffending. However, the review notes that the evidence suggests using more severe sentences (particularly immediate custody) does not have significant deterrent effects in either case and factors such as the perceived likelihood of punishment may be more important.

### **Which sentences are effective?**

When considering what sentence will be most effective at achieving positive outcomes in relation to the purposes of sentencing, the review suggests there are many relevant factors, including the offender's characteristics, the nature of the offence and the specific interventions available.

Some offences are linked to higher rates of reoffending, and a few individuals stubbornly engage in low harm, high volume offences such as repeat shoplifting. These instances may require special consideration as to how sentencing can achieve desistance and reduced reoffending.

Short custodial sentences under 12 months may be less effective than other disposals at reducing reoffending. There is a reasonable body of evidence to suggest they can exacerbate negative outcomes such as reoffending.

The current evidence does not suggest that increasing the length of immediate prison sentences is effective in reducing reoffending. Some research suggests that what happens during a custodial sentence (for example, rehabilitative interventions) may matter more than sentence length.

Community sentences and suspended sentences appear to have an advantage in avoiding some of the criminogenic effects of imprisonment (for example, damage to employment and social ties).

### **Equality, diversity and disparity in sentencing**

Some evidence suggests that the effectiveness of sentencing may vary depending on offenders' sex or ethnicity. The review found results for ethnicity to be mixed. However, there is evidence that the effects of imprisonment for women are different than for men and that there are differences in how best to address offending.

### **What does this mean for the Council?**

The lack of consensus as to the meaning of effectiveness in sentencing, how it is to be achieved and how it should be measured presents the Council with many challenges. The valuable evidence this review provides on the effectiveness of sentencing disposals, particularly in the reduction of reoffending, will supplement Council members' significant expertise and experience in sentencing matters and help to underpin the decisions we make when developing and revising guidelines. The Council is already considering the evidence in relation to our current review of the overarching guideline, Imposition of community and custodial sentences.

## Strategic objective 5:

Working to strengthen confidence in sentencing by improving public knowledge and understanding of sentencing



The Sentencing Council has a statutory duty to have regard to the need to promote public confidence in the criminal justice system when developing sentencing guidelines and monitoring their impact. The Council has interpreted this duty more widely and we have set ourselves a specific objective to take direct steps to improve public confidence in sentencing.

## Understanding public attitudes

To meet our statutory duty and our strategic objective to improve public confidence, the Council must have a clear and detailed picture of current levels of understanding of sentencing among the public. In December 2022, we published a report of research that explored the public's knowledge of, and attitudes towards, the criminal justice system and sentencing, and identified key audiences for the Council to reach. The report, **Public knowledge of and confidence in sentencing and the criminal justice system: 2022**, was commissioned from independent researchers Savanta and is available on our website.

The research largely duplicated a study conducted for us in 2019. It was conducted via an online survey of over 2,000 adults representative of the population of England and Wales and, to give us a clear picture of where there have been changes, we also re-ran some of the questions from the 2019 survey. The Council's communication activities are informed by the findings of the both these pieces of public

confidence research. See pages 52-3 for more on this research.

## Making sentencing more accessible and easy to understand

### Sentencing Council website

For many people, our website [sentencingcouncil.org.uk](https://www.sentencingcouncil.org.uk) is their first encounter with the Sentencing Council. The primary role of our website is to provide access to sentencing guidelines for criminal justice professionals, but other areas of the site are designed to promote a greater understanding of sentencing among our public and other non-specialist audiences.

The site explains how sentencing works in plain, easy-to-understand language. It gives broad information on some often-sentenced offences and debunks common sentencing myths. The public-facing pages provide clear, helpful context to the sentencing guidelines, which aims to improve the transparency of sentencing and make it more accessible to the public.

We have also been making good use of the new blog pages on our website to improve public understanding of how the sentencing decision-making process works and the array of factors that are taken into account. We use these pages to publish articles explaining various aspects of sentencing, which we promote via our Twitter account. The blogs we have published this year include articles explaining how the guidelines recognise

the impact of crime on victims and how the totality principle works.

The website has continued to be a source of information for sentencers and others in the criminal justice system, as well as for victims, witnesses and journalists, and this year has seen an increase in the number of visits. In 2022/23 the site was visited 2,653,982 times and individual pages were viewed 12,949,341 times. This compares with 2021/22, which saw 1,958,664 visits and 11,356,190 pageviews.

### Using the media

The Council publicises its work via general and specialist media. Our aim is to make sure that sentencers and criminal justice practitioners are aware of what work the Council is undertaking and are kept informed about the publication of new guidelines and when they come into effect.

We also make sure that practitioners and stakeholders with an interest in specialist topic areas are aware of our consultations so that they are able to respond and share their knowledge and expertise with the Council.

Achieving media coverage for the publication of new guidelines or consultations also provides us with opportunities to inform the wider public about how sentencing works and the role played by the Council and the guidelines in enabling the courts to take a consistent, fair and transparent approach to sentencing.

The definitive guidelines and consultations published over the period of this annual report were supported by

a programme of communication activities targeting the media, including criminal justice publications, national and regional print, online and broadcast channels and relevant specialist titles.

The work of the Council remained of significant interest to the media. Over the course of the year, there were 293 mentions of the Council in print media and 163 broadcast mentions.

We achieved coverage across a wide range of print and online outlets, including The Times, the Telegraph, Daily Mail, Mirror, Sun, Independent and leading regional titles such as the Newcastle Chronicle and The Northern Echo. Trade media coverage appeared in Law Society Gazette, Solicitors Journal, New Law Journal, Police Professional, Police Oracle and subject-specific publications. The coverage we achieved throughout the year for individual guideline and consultation launches is set out in chapter 1 of this report.

Council members undertook a number of interviews during the year, including for the BBC website, Times Radio, Sky Radio and Sky News. The Chairman gave an interview to legal commentator Joshua Rozenberg for an episode of Law in Action broadcast on BBC Radio 4 on 1 November 2022. The interview asked for our response to a claim from campaigning organisation Fair Trials that young adult defendants are being unfairly pressured into pleading guilty. Her Honour Judge Rosa Dean spoke about the Council and sentencing guidelines in an interview with Sally Penni MBE for the Law and Guidance podcast broadcast on 3 October 2022.

Our press office routinely answers media enquiries about sentencing issues, provides background for sentencing-related articles and puts forward spokespeople, where appropriate. The office also handles many calls and emails from members of the public enquiring about sentencing and the guidelines. While we are not able to provide advice or comment on individual cases, we provide information and alternative sources where we can.

### **Working with and through partners**

To assist us in improving understanding of sentencing, particularly among victims and witnesses, the Council continues to nurture our relationships with partner organisations who have direct contact with the public.

We focus on our communication with the Police Service, aiming to reach the officers who most often engage with the public. This year we brought up to date the information leaflets we provide for Police family liaison officers dealing with families bereaved by murder, manslaughter and death by driving offences. We also contributed content to the pack that officers provide to families, which includes information about how the criminal justice system works and what they can expect from the Police, the coroner and the courts.

Throughout the year, the Witness Service continued to use our information about sentencing to support and reassure victims and witnesses. There is content on our website written specifically for victims and witnesses that explains the different types of sentences there are and what judges and magistrates take into account when making sentencing decisions.

We have also been working in partnership with the Judicial Office, the independent body that supports the judiciary across the courts of England and Wales, to develop a new version of the online sentencing tool You be the Judge. This tool uses dramatised stories to show the public how sentencing decisions are made in magistrates' courts, youth courts and the Crown Court. It is designed to engage audiences of all ages, in particular school-age children and young adults.

## Promoting public confidence

On 12 December 2022 the Council published a research report, **Public knowledge of and confidence in the criminal justice system and sentencing: 2022**. The report details work we commissioned from independent researchers Savanta to explore the public's knowledge of, and attitudes towards, the criminal justice system (CJS), sentencing and sentencing guidelines, and learn more about what drives public confidence.

The research was conducted via an online survey of over 2,000 adults representative of the population of England and Wales and largely duplicated **research conducted for us in 2018**.

### Is the criminal justice system fair and effective?

The 2022 research suggests that public confidence in the effectiveness and fairness of the CJS remains at similar levels to 2018, but respondents said they were only slightly more likely to be confident than not confident.

- Effectiveness – 52 per cent said that they were confident the CJS is effective but 45 per cent said they were not confident
- Fairness – 53 per cent said that they were confident the CJS is fair but 44 per cent said they were not confident

### What drives public confidence?

#### Contact with the system

The research shows a clear link between exposure to the CJS and the public's understanding of sentencing and the CJS as well as their confidence in the fairness and effectiveness of both. Higher confidence appears to come not just from contact with the system but contact that brings with it an improved understanding of how it works.

Respondents who have had any personal involvement in a criminal court case were more likely than others to have confidence in the fairness of the CJS. People who had been involved in a case as a witness (66 per cent) or juror (60 per cent) were most likely to have confidence that the CJS is fair, compared with 48 per cent of victims and 47 per cent of defendants. Experience of contact with agencies within the CJS, for example Police, Probation and Witness Services, also appears to improve people's confidence at least 'a little'. For example, of respondents who had had contact with CJS agencies, 66 per cent of those between 18 and 54 years old and 53 per cent of those aged 55+ said that their experience had improved their confidence in the fairness of the CJS at least 'a little', and 67 per cent of those aged 18-34, 65 per cent of those aged 35-54 and

57 per cent of those 55 and over said that it had improved their confidence in its effectiveness at least 'a little'.

Respondents who reported they have had been a victim of crime were among the least likely to have confidence in the CJS. However, of those victims who had had personal involvement in a criminal court case, over half said that experience had improved their confidence in the effectiveness (59 per cent) and fairness (55 per cent) of the system.

### **Knowing about sentencing guidelines**

The majority (67 per cent) of respondents who were aware of the sentencing guidelines told the researchers that knowing judges and magistrates follow guidelines has a positive impact on their confidence in the fairness of sentencing.

However, 35 per cent of respondents were not aware of sentencing guidelines. Younger adults were less likely than adults over 55 to know about guidelines, women (59 per cent) were significantly less likely to know about guidelines than men (72 per cent) and respondents from black (55 per cent), Asian (57 per cent) and mixed ethnicity (60 per cent) groups were less likely than white respondents (67 per cent) to be aware of guidelines.

### **Understanding sentencing considerations**

Knowing about the details of cases and the specific factors that judges and magistrates must consider appears to have an impact on people's confidence in sentencing. When asked whether sentencing was too lenient, about right or too tough, 64 per cent of respondents said sentences overall are too lenient but, when presented with a case study, some people's views changed. For example, 70 per cent said they thought sentences for assault were too lenient but, when given an assault case study, this fell to 61 per cent.

### **What does this mean for the Council?**

As well as identifying specific audiences among whom confidence in the CJS and sentencing is lowest, the research tells us that, to influence confidence levels among the public generally we should:

- inform people that judges and magistrates follow sentencing guidelines
- improve people's understanding of how sentencing works and what judges and magistrates think about when making sentencing decisions, and
- identify more ways to reach people through the contact they are already having with the CJS

The work we are doing in this regard is outlined in chapter 5.

## Reaching young people

The public confidence research we published in 2019 and 2022 told us that young people between school-leaving age and early 30s have greater confidence in the effectiveness and fairness of the criminal justice system than older people, and most say that hearing about the sentencing guidelines increases their levels of confidence. However, young people are less likely than any other age group to know about the guidelines.

To mitigate this lack of knowledge among the next generation of young adults, the Council has identified young people of school age as a priority audience.

Our aim is to equip them with a knowledge and understanding of sentencing that will improve their confidence in the criminal justice system, whether they encounter it as victims, witnesses or defendants, and enable them to become critical readers of the media's reporting of sentencing.

To help us educate young people, the Council aims to contribute to teaching activities that are run by our partners in the criminal justice system and other organisations who have far greater reach into schools than the Council could achieve alone.

In 2022/23 we continued our work with Young Citizens, an education charity that works in primary and secondary schools to help educate, inspire and motivate young people. We contribute content for the charity's key stage 1 and 2 (primary) teaching resource, 'What happens when laws are broken?'. The resource supports both citizenship and PHSE (personal, health, social and economic) education and has the potential to reach more than 48,000 children.

Our website features a page of resources for teachers. This year we began the process of revising the teaching pack the Council has developed for schools to deliver as part of the citizenship curriculum for key stage 3 and 4 pupils. These resources help young people develop an understanding of how criminal sentencing works and give them the opportunity to try sentencing for themselves using scenarios. As well as being published on our website, the pack is available through Young Citizens and the Association for Citizenship Teaching. The page also includes links to the teaching materials provided by Young Citizens to which we have contributed.

In 2022/23, 1,414 visits were made to the Council's teaching resources webpage (compared with 1,319 in 2021/22).

## Retaining the confidence of guideline users

It is vital that the criminal justice professionals who use sentencing guidelines have confidence in them and the body that produces them, not just to make sure that guidelines are implemented effectively but also because the Council needs those legal professionals to advocate for us with the public. For some members of the public, their first experience of sentencing guidelines will be through a defence lawyer or the Probation Service.

To retain the confidence of sentencers and other guideline users, the Council not only runs consultations while developing and revising guidelines but also carries out user testing with sentencers and, once a guideline has come into force, examines it to establish whether sentencers face any issues in its implementation.

To understand whether professional users are experiencing any issues in using the digital guidelines published on our website, this year we commissioned the Behavioural Insights Team to explore how sentencers access, navigate and use the guidelines and whether, and if so how, their experience could be improved. This research was informed by a survey conducted by the Office of the Sentencing Council (OSC) that focused on sentencers' views on several areas of the website including the use of tools such as the calculators we provide to assist magistrates in working out fines and drink-driving related disqualification periods, as well as the offence specific

and overarching guidelines. We expect to publish the reports from these two strands of research later in 2023.

## Developing relationships with stakeholders and supporters

To further our work to engage stakeholders and build relationships across the criminal justice system, Council members and officials from the OSC often give talks and presentations covering all aspects of sentencing and developing guidelines. Our ability to do this has inevitably been significantly curtailed in recent years by the Covid-19 pandemic but we were pleased this year to see organisations are again beginning to invite the Council to contribute to live events.

Lord Justice Holroyde, in his then role as Chairman, gave a presentation on the work of the Council to students at Edge Hill University, Lancashire, on 25 April 2022. Later in the year, he also presented on the work of the Council to members of the judiciary attending the Judicial College sentencing and confiscation seminar.

On 15 October 2022 Jo King JP, magistrate member of the Council, and officials from the OSC, gave an online talk to the Magistrates' Association annual conference about the Council's work and the role of magistrates in the development of guidelines.

The Chairman and Her Honour Judge Rosa Dean, accompanied by officials from the OSC, attended the Four Corners conference in Edinburgh on 25 November 2022. Hosted by our colleagues at the Scottish Sentencing Council, the conference brought together members and officials from the four sentencing councils of the UK and Ireland to discuss common issues and share our experiences of developing sentencing guidelines.

On 13 December 2022 the Chairman and the Head of the OSC, Steve Wade, attended the Justice Committee to give evidence to the Committee's inquiry into public opinion and understanding of sentencing. Building on the written submission we made to the inquiry in September 2022, their evidence covered the Council's perspective on current issues facing sentencing, the barriers to improving public awareness of how sentencing works and why improving public knowledge leads to greater confidence.

On 3 March 2023 officials from the OSC attended a symposium looking at trust in the criminal justice system. The event was hosted by the Criminal Justice Alliance and attended by around 100 practitioners and academics. Officials took part in a panel discussion and gave a presentation on what the Council has done to measure confidence and how our research findings will influence the Council's work to strengthen public confidence.

During the year, officials from the OSC also gave presentations to raise awareness of the Council and the role of the sentencing guidelines among our colleagues in the criminal justice system. Our audiences included staff in the Judicial Office and members of the MoJ Group Communications Board, who include representatives from the Legal Aid Agency, Youth Justice Board, Criminal Cases Review Commission and Criminal Injury Compensation Authority.

The Council often hosts and meets visitors from overseas seeking to learn more about the Sentencing Council and understand how the guidelines are developed and used. These events allow us in turn to learn about the criminal justice systems of other nations and discover whether and how sentencing guidelines are used in other jurisdictions.

On 12 May 2022 we were visited by delegates from the Attorney-General's Chambers of Singapore. During the visit, which was hosted by Council member Mrs Justice Maura McGowan, we talked with the delegates about our experience of developing sentencing guidelines. Their learning will inform Singapore's work to set up a sentencing advisory panel to promote greater consistency, transparency and public awareness in sentencing. Following this visit, Mrs Justice McGowan was invited to go to Singapore later in the year to talk to members of the Attorney-General's Chambers about their new panel.



On 28 November 2022 the Sentencing Commission of Korea hosted its first International Conference, Reasonable Sentencing: Current Trends and Future Challenges. Delegates from the Commission have visited the Council three times in the last decade. Acknowledging the value of these visits in the development of Korea's sentencing system, the Commission invited the Chairman to record a short welcome address to be played at the opening of the conference.

In recent years, the Council has strengthened our commitment to build bridges with the academic community. We have set ourselves a specific objective to seek opportunities to collaborate with academics and external organisations in order to broaden the range of analytical work we can contribute to and draw on. In January 2023, we staged an academic seminar, bringing together leading academics and commentators in the field of criminal sentencing. The seminar, Current issues in sentencing policy and research, was co-hosted by The City Law School, City, University of London, and the Sentencing Academy, and was designed to give delegates an opportunity to find out more about our work, discuss current issues in sentencing policy and practice and learn from experts about recent research in the area. There is a report of this event on pages 31-2.

Officials from our analysis and research team also attended an academic-led event on 23 March 2023 hosted by the Empirical Research on Sentencing (ERoS) network. The event was a roundtable research symposium exploring the topic of unwarranted disparities in sentencing and attended by academics in the field of sentencing, including researchers from other European jurisdictions and officials from MoJ and the Scottish Sentencing Council. The research discussed covered measurement and potential causes of disparities as well as solutions, and included work exploring mitigation in sentencing and proportionality in sentencing carried out using the Council's magistrates' courts sentencing data on theft from a shop or stall and data from the Crown Court Sentencing Survey.

# Sentencing and non-sentencing factors reports

## Sentencing factors report

In accordance with section 130 of the Coroners and Justice Act 2009, the Sentencing Council's annual report must contain a sentencing factors report. This report considers changes in the sentencing practice of courts and their possible effects on the resources required in the prison, probation and youth justice services.

Sentencing guidelines are a key driver of change in sentencing practice. Some guidelines aim to increase the consistency of approach to sentencing while maintaining the average severity of sentencing. Other guidelines explicitly aim to cause changes to the severity of sentencing.

Changes in sentencing practice can also occur in the absence of new sentencing guidelines and could be the result of many factors such as Court of Appeal guideline judgments, government legislation and changing attitudes towards different offences.

This report considers only changes in sentencing practice caused by changes in sentencing guidelines.

Between 1 April 2022 and 31 March 2023, the Council published definitive guidelines for sentencing:

- sexual offences
- burglary offences
- terrorism offences
- sale of knives etc by retailers to persons under 18, and
- child cruelty offences

We also published amendments following the second annual consultation on miscellaneous amendments to sentencing guidelines.

### **Sexual offences**

The resource impacts below relate to new and amended guidelines, covering a range of offences under the Sexual Offences Act 2003 (SOA).

For sexual communication with a child (section 15A), there was previously no guideline in place, so the aim of this guideline is to improve consistency of sentencing. However, it is estimated that there may be a small increase in sentencing severity, with some offenders

who would previously have received a community order now receiving a short immediate custodial sentence; in practice it is likely that most of these sentences would be suspended so there would be minimal impact on prison resources.

For arranging or facilitating the commission of a child sexual offence (section 14), there may be a small increase overall in sentence levels for cases in which no actual child is present. It is estimated that there may be a small increase in the average custodial sentence length (ACSL) for these cases with the potential requirement for approximately 40 additional prison places per year.

For causing or inciting a child to engage in sexual activity (section 10), there may be an increase in sentencing severity for cases where no child exists (which are charged as attempts) or where the child does exist and the offence was incited but did not occur. It is estimated that for these cases, the ACSL may increase, with the potential requirement for around 190 additional prison places per year.

For causing or inciting a child under 13 to engage in sexual activity (section 8) it is anticipated that there will be little change in sentencing practice and, as such, there will be little impact on prison resources.

For other causing or inciting sexual offences under sections 17, 31, 39, 42 and 52 of the SOA 2003, there may be a small increase in sentencing severity for cases where no real victim exists or where a victim does exist and the offence was incited but did not occur. As volumes are low, it is difficult to ascertain the impact for these offences, but we

anticipate that any changes would have very little impact on prison and probation resources.

The revised guidelines for arranging or facilitating and causing or inciting offences (sections 8, 10, 14, 17, 31, 39, 48 and 52 of the SOA) have been updated following guidance from the Court of Appeal and, as such, the estimated changes in sentencing practice presented above are attributable to the case law, which is now incorporated within the guideline, rather than it being a separate intention of the Council to influence sentencing practice.

### **Burglary offences**

The resource impacts below relate to the revised guidelines for domestic, non-domestic and aggravated burglary. These are revised versions of the existing burglary guidelines which came into force in 2012. The changes in the updated guidelines include a revised format to reflect the Council's current approach to guideline structure, with three levels of culpability and harm, and the stepped approach to sentencing.

There have been several changes to the placement of factors in the revised burglary guidelines. These include the factor related to group offending within the non-domestic and domestic burglary guidelines. Additionally, some new wording related to alcohol dependency/ misuse has been added to the domestic and non-domestic burglary guidelines, with the intention that this might encourage more community orders to be given at the lower end of offence severity. Analysis carried out during the development of the guideline and

during the consultation stage, involving sentencing remarks and interviews with sentencers, showed evidence that very little change is expected in sentencing for these offences and therefore minimal resource impact is expected.

The factor related to a weapon carried when entering the premises in the aggravated burglary guideline has been moved from step one to step two of the guideline, and the step one harm factor reworded to avoid any possible double counting of this factor. Analysis suggests that there may be a slight decrease in sentence severity due to this change. However, the sample size analysed was small and therefore while any resource impact is not expected to be substantial, the findings in relation to this should be interpreted as indicative of the expected impacts only.

Overall, for all three offences (non-domestic, domestic and aggravated burglary), analysis suggests that sentences should remain similar under the revised guidelines to sentencing levels under the previous guidelines, and there is no conclusive evidence to suggest that the guidelines will have a notable impact on prison or probation resources.

## **Terrorism offences**

The Counter-Terrorism and Border Security Act 2019 and the Counter-Terrorism and Sentencing Act 2021 made changes to several terrorism offences. The resource assessment relates to the changes that the Council has made to the associated sentencing guidelines.

Overall, the guidelines are anticipated to increase sentences in some cases. For most of the offences, these increases are mainly expected to affect offenders categorised at the highest levels of harm and culpability, where the sentence levels have been driven by the changes to legislation introduced in the 2019 and 2021 Acts. In addition, there may be increases to sentences for those cases sentenced using the Preparation of terrorist acts and Explosive substances guidelines where there was involvement of law enforcement authorities or intelligence organisations.

There was little evidence on which to base any estimates of the impact of these guidelines because of the infrequent nature of these offences so no attempt was made to quantify the prison impacts. However, given that very few offenders overall are sentenced for these terrorism offences, we expect that any anticipated longer sentences imposed as a result of the guidelines will have only a minimal impact on prison and probation services.

“Terrorism offences are thankfully rare but they are serious and can cover a wide range of factual circumstances, making them difficult and sensitive offences to sentence. For this reason, the Council has ensured that the guidelines are kept up to date and include additional guidance for sentencers.”

Mrs Justice Maura McGowan, Council member, on publication of the definitive sentencing guidelines for terrorism offences, 27 July 2022

### **Sale of knives etc by retailers to persons under 18**

Overall, we expect the new guidelines for sentencing individuals and organisations for this offence will encourage consistency of approach to sentencing. For individuals we expect there will be no change in average sentencing severity for most cases. For larger organisations the new guideline is likely to increase fine levels. There has been little evidence on which to base any estimate of the magnitude of the impact of these guidelines because fine band data for individuals and data on organisation size were not available. Nevertheless, across both the individual and organisation guidelines we expect there will be no notable impact on prison and probation resources; organisations cannot receive custodial or community sentences and the majority of individuals receive a fine.

### **Child cruelty offences**

The sentencing guidelines for several child cruelty offences were amended following increases to their statutory maximum sentences under the PCSC Act 2022.

Overall, the guidelines are intended to reflect the increase in statutory maxima through the addition of a further culpability level, above the existing high culpability level in both guidelines. As such, the impact is intended to be isolated to those offenders already at the highest culpability of offending behaviour.

For the offence of causing or allowing a child to die or suffer serious physical harm, given that almost all offenders already receive immediate custody, we do not anticipate that the guideline will change the proportion of offenders who receive immediate custodial sentences. It is likely that there may be a very small number of offenders at the highest level of culpability across both offences who will receive longer custodial sentences

under the guideline. However, these increases in sentence levels are driven by the recent legislative changes, which have been reflected in the guidelines.

For the offence of cruelty to a child, analysis suggested that under the revised guideline, there may be a very small impact on prison and probation resources because a subset of those currently categorised within the high culpability level may receive longer sentences under the guideline if sentencers find the new very high culpability category is more appropriate. However, given that so few offenders are committing offences of cruelty to a child at the highest level of culpability currently, we anticipate that the impact of this guideline on prison and probation resources is likely to be minimal, although any increases will be driven by the recent legislative changes which are now reflected in the guideline.

### **Miscellaneous amendments to sentencing guidelines**

This year's miscellaneous amendments to sentencing guidelines include changes related to disqualification from driving, criminal damage, minimum sentences and required life sentences for manslaughter of an emergency worker. The Council anticipates that any impact on prison and probation resources from the majority of the changes will be minor. Where changes may be more substantial, these impacts would be attributable to the legislative changes and not to the guidelines. In view of the nature of the amendments, we did not produce a separate resource assessment, instead including a brief discussion of the potential impact in each section of the consultation response document.

- Disqualification from driving: the changes will not affect sentence levels. The only impact they may have is on the imposition of disqualification from driving.
- Criminal damage: the changes are not designed or expected to affect sentence levels.
- Minimum sentences: the changes to the minimum term steps in guidelines were necessitated by changes to legislation and any effect on sentence levels would therefore be attributable to the legislation.
- Required life sentence for manslaughter of an emergency worker: the changes were necessitated by changes to legislation and any effect on sentence levels would therefore be attributable to the legislation. This provision will apply only very rarely so little impact is anticipated.

## Non-sentencing factors report

The Council is required under the Coroners and Justice Act 2009 to prepare a report identifying the quantitative effect that non-sentencing factors are having, or are likely to have, on the resources needed or available to give effect to sentences imposed by courts in England and Wales.

In this report, we define non-sentencing factors and explain their importance to resource requirements in the criminal justice system. We then signpost the most recently published evidence on these factors.

### Definition of non-sentencing factors and their significance

The approach taken by the courts to sentencing offenders is a primary driver of requirements for correctional resources in the criminal justice system. We discuss this in our report on sentencing factors (see pages 58-62). However, non-sentencing factors also exert an important influence on requirements for correctional resources.

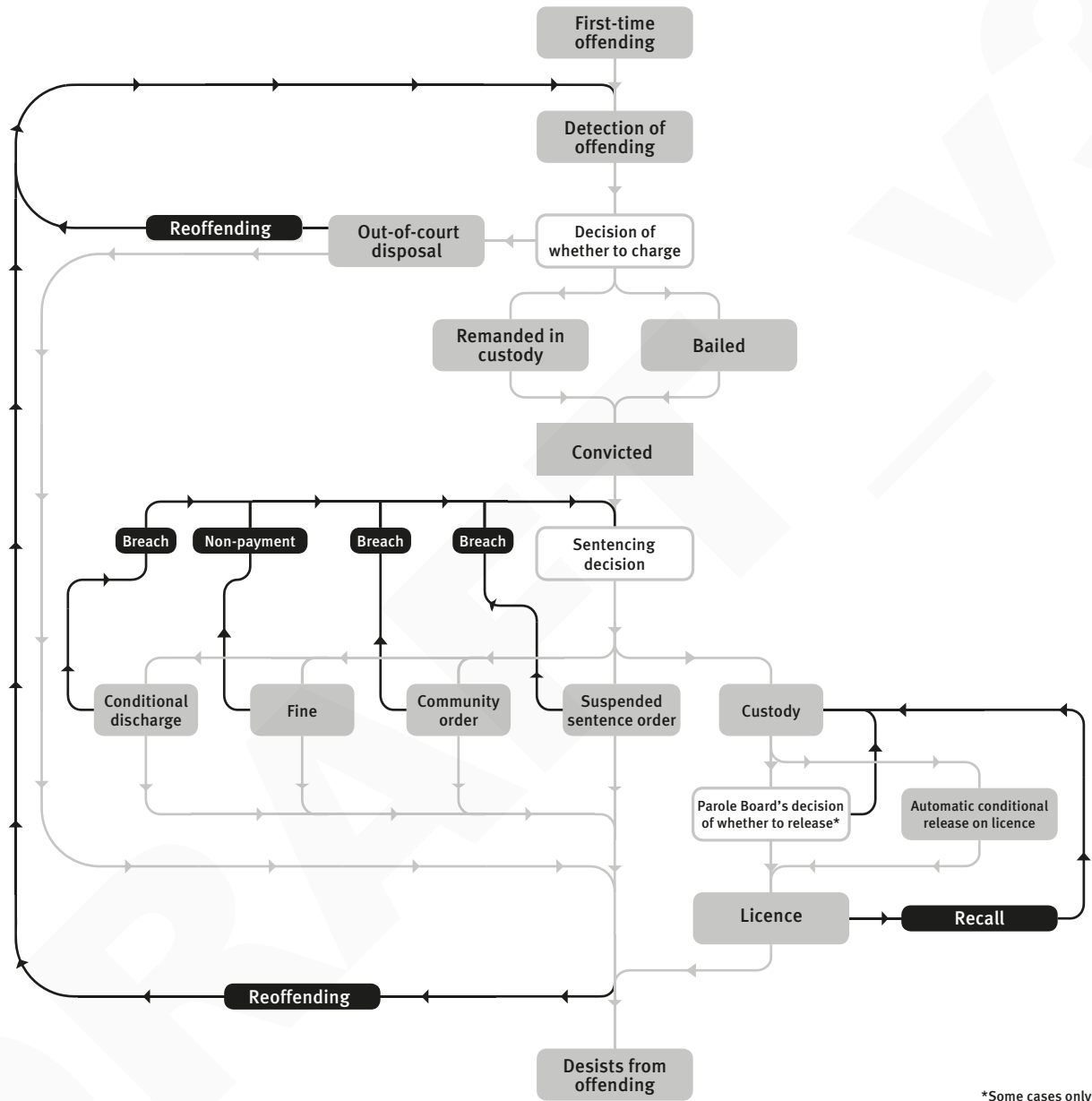
Non-sentencing factors are factors that do not relate to the sentencing practice of the courts but which may affect the resources required to give effect to sentences. For example, the volume of offenders coming before the courts is a non-sentencing factor: greater sentencing volumes lead to greater pressure on correctional resources, even if the courts' treatment of individual cases does not change.

Release provisions are another example: changes in the length of time spent in prison for a given custodial sentence have obvious resource consequences. For instance, the PCSC Act 2022 introduced provisions meaning those serving determinate custodial sentences for the most serious offences would serve two-thirds of their sentence in prison before being released automatically. The Act also gave the Secretary of State the power to refer high-risk offenders serving a determinate custodial sentence to the Parole Board to consider whether they can be released.

### Statistics on the effect of non-sentencing factors on resource requirements

It is relatively straightforward to analyse the available data on non-sentencing factors. However, it is extremely difficult to identify why changes have occurred and to isolate the resource effect of any individual change to the system. This is because the criminal justice system is dynamic and its processes are interconnected. Figure 1 (page 64) shows a stylised representation of the flow of offenders through the criminal justice system. This figure demonstrates the interdependence of the system and how changes to any one aspect will have knock-on effects in many other parts.

Figure 1



\*Some cases only



## **Volume of sentences and composition of offences coming before the courts**

MoJ publishes Criminal justice system statistics quarterly on GOV.UK, which reports on the volume of sentences and the offence types for which offenders are sentenced.

For the most detailed information on sentencing outcomes, follow the link on GOV.UK for 'Criminal justice system statistics quarterly: December 2022' to use the sentencing tool. The tool provides statistics on the total number of sentences passed and how this has changed through time. The statistics can be broken down by sex, age group, ethnicity, court type and offence group.

## **The rate of recall from licence**

An offender is recalled to custody by the Secretary of State if they have been released from custody but then breach the conditions of their licence or appear to be at risk of doing so. Because time served in custody is considerably more costly than time spent on licence, recall decisions have a substantial resource cost. Statistics on recall from licence can be found in the MoJ publication, Offender management statistics quarterly. The tables concerning licence recalls, Table 5.1 to Table 5.12, can be found via the link on GOV.UK for 'Offender management statistics quarterly: October to December 2022'. For example, Table 5.1 contains a summary of the number of licence recalls since April 1999.

## **Post-sentence supervision**

The Offender Rehabilitation Act 2014 expanded licence supervision, which means that since 1 February 2015, all offenders who receive a custodial sentence of less than two years are subject to compulsory post-sentence supervision on their release for 12 months. MoJ publishes statistics on the number of offenders under post-sentence supervision in Offender management statistics quarterly. Follow the link for 'Probation: October to December 2022' and see Table 4.6.

## **The rate at which court orders are breached**

If an offender breaches a court order, additional requirements may be made to their order or they may face resentencing that could involve custody. Breaches can therefore have significant resource implications. Statistics on breaches can also be found in Offender management statistics quarterly. Follow the link for 'Probation: October to December 2022' and see Table 4.9 for a breakdown of terminations of court orders by reason.

## **Patterns of reoffending**

MoJ publishes reoffending statistics in Proven reoffending statistics.

The frequency and severity of reoffending is an important driver of changes in requirements for criminal justice resources. Detailed statistics of how reoffending rates are changing through time can be found in the report. Additional statistics can be found in supplementary tables.

## Release decisions by the Parole Board

Many offenders are released from prison automatically under release provisions that are set by Parliament and MoJ (with any change to the point at which those provisions apply being in itself a factor that has an effect on the prison population). However, in a minority of cases, which are usually those of very high severity, the Parole Board makes release decisions.

Statistics on release rates for these cases can be found in the annual reports of the Parole Board for England and Wales, which are published on GOV.UK.

## Remand

Decisions to hold suspected offenders on remand in custody are a significant contributor to the prison population. The remand population can be broken down into the untried population and the convicted but yet to be sentenced population.

Statistics on the number of offenders in prison on remand can be found in MoJ's Offender management statistics quarterly. The prison population tables can be found via the link for 'Offender management statistics quarterly: October to December 2022'. For example, Table 1.1 contains data on how the remand population has changed each month over the past year.

**“The sentencing guidelines published today bring greater clarity to the courts on how to deal with cases of arranging or facilitating child sexual offences, even in cases where no actual child exists, or no sexual activity took place.**

**“Judges and magistrates will impose sentences that reflect the intended harm to the child, even where that activity does not ultimately take place, to protect children from people planning to cause them sexual harm.”**

Her Honour Judge Rosa Dean, Council member, on publication of the definitive sentencing guidelines for sexual offences, 17 March 2022

# Budget

## Financial report

### The cost of the Sentencing Council

The Sentencing Council's resources are made available through MoJ, and the Council is not required to produce its own audited accounts. However, the Council's expenditure is an integral part of MoJ's resource account, which is subject to audit. The summary below reflects expenses directly incurred by the Council and is shown on an accrual basis.

	2022/23 (actual) £000s*
Total funding allocation	1,789
Staff costs	1,436
Non-staff costs	224
Total expenditure	1,660

\* The total expenditure has been rounded to the nearest £1,000 independently from the constituent parts. Therefore, summing the parts may not equal the rounded total.

# Appendix A: About the Sentencing Council

The primary function of the Sentencing Council, as defined in section 120 of the Coroners and Justice Act 2009, is to prepare sentencing guidelines, which the courts must follow unless it is contrary to the interests of justice to do so (section 59(1) Sentencing Code).

The Council also fulfils other statutory functions as set out in the 2009 Act:

- Publishing the resource implications in respect of draft guidelines
- Preparing a resource assessment to accompany new guidelines
- Monitoring the operation and effect of our sentencing guidelines and drawing conclusions
- Consulting when preparing guidelines
- Promoting awareness of sentencing and sentencing practice
- Publishing a sentencing factors report
- Publishing a non-sentencing factors report
- Publishing an annual report

## Governance

The Council is an advisory non-departmental public body of MoJ. However, unlike most advisory non-departmental public bodies, our primary role is not to advise government ministers but to provide guidance to sentencers.

The Council is independent of the government and the judiciary with regard to the guidelines we issue to courts, our resource assessments, our publications, how we promote awareness of sentencing and our approach to delivering these duties.

The Council is accountable to Parliament for the delivery of our statutory remit set out in the 2009 Act. Under section 119 of the Act, the Council must make an annual report to the Lord Chancellor on how we have exercised our functions. The Lord Chancellor will lay a copy of the report before Parliament, and the Council will publish the report.

Ministers are ultimately accountable to Parliament for the Council's effectiveness and efficiency, for our use of public funds and for protecting our independence.

Section 133 of the 2009 Act states that the Lord Chancellor may provide the Council with such assistance as

we request in connection with the performance of our functions.

The Council is accountable to the Permanent Secretary at MoJ as Accounting Officer and to ministers for the efficient and proper use of public funds delegated to the Council, in accordance with MoJ systems and with the principles of governance and finance set out in *Managing Public Money*, and other relevant HM Treasury instructions and guidance, available on GOV.UK.

The budget is delegated to the Head of the OSC from the Chief Finance Officer of MoJ. The Head of the OSC is responsible for the management and proper use of the budget.

The Chief Operating Officer of MoJ is accountable for ensuring that there are effective arrangements for oversight of the Council in our statutory functions and as one of MoJ's arm's-length bodies.

## How the Council operates

The Council is outward-facing, responsive and consultative. We draw on expertise from relevant fields where necessary while ensuring the legal sustainability of our work. The Council aims to bring clarity in sentencing matters in a legally and politically complex environment.

The Council aims to foster close working relationships with judicial, governmental and non-governmental organisations and individuals while retaining our independence. These include: MoJ, Attorney General's Office, College of Policing, Council of His Majesty's Circuit Judges, Council of His Majesty's

District Judges (Magistrates' Courts), Criminal Procedure Rules Committee, Crown Prosecution Service, Home Office, Judicial Office, Justices' Legal Advisers and Court Officers Service, Magistrates' Leadership Executive, Magistrates' Association, National Police Chiefs' Council and many academics in related fields.

The Council engages with the public on sentencing, providing information and working to improve knowledge of, and confidence in, sentencing.

The Council meets 10 times a year to discuss current work and agree how that work should be progressed. The minutes of these meetings are published on our website.

### Sub-groups

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

Analysis and research – to advise and steer the analysis and research strategy, including identifying research priorities, so that it aligns with the Council's statutory commitments and work plan. Chaired by: Dr Elaine Freer.

Confidence and communication – to advise on and steer the work programme for the communication team so that it aligns with the Council's statutory commitments and work plan. Chaired by: Her Honour Judge Rosa Dean.

Governance – to support the Council in responsibilities for issues of risk, control and governance, by reviewing the comprehensiveness and reliability of assurances on governance, risk

management, the control environment and the integrity of financial statements. The sub-group comments on and recommends the business plan to Council for approval. Independent member: Elaine Lorimer, Chief Executive, Revenue Scotland. Chaired by: Beverley Thompson OBE.

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

### **Equality and diversity working group**

We have established a working group to advise the Council on matters relating to equality and diversity and make sure that the full range of protected characteristics is considered in our work: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The group also considers ways in which the Council could engage more effectively with, and take account of the views and perspectives of, representatives of people with protected characteristics, and with offenders and victims.

The group is chaired by Mrs Justice Juliet May.

### **Ad hoc working groups and contributions**

Where necessary, the Council sets up working groups to consider particular aspects of the development of a guideline or specific areas of business. We also sometimes invite contributions from people who are not members of the Council but who have particular expertise and experience, including lived experience, of relevance to the guidelines.

### **Public sector equality duty**

The Council is committed to meeting its obligations under the public sector equality duty (PSED), which is published on GOV.UK.

The PSED is a legal duty that requires public authorities, when considering a new policy or operational proposal, to have due regard to three needs:

- To eliminate discrimination, harassment, victimisation and any other conduct prohibited under the 2010 Act
- To advance equality of opportunity between those who share a protected characteristic and those who do not
- To foster good relations between those who share a protected characteristic and those who do not

Protected characteristics under the PSED are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In developing guidelines, the Council considers the PSED in the context of the individual offences. Where there are offences that are aggravated by reasons of being related to a protected characteristic, this will be of particular relevance. Most guidelines include statutory aggravating factors at step two, relating to offences motivated by, or demonstrating hostility based on, protected characteristics. In addition, to assist sentencers in employing the principles of fair treatment and equality, we have placed links in all guidelines to the Equal Treatment Bench Book published by the Judicial College.

The Council also considers data in relation to offenders sentenced for individual offences, including on volumes of offenders sentenced grouped by gender, ethnicity and age, and we publish this data alongside draft and definitive guidelines. Consultations include a consideration of the issues raised by the data and seek views as to whether there are any other equality or diversity implications that the guideline has not considered. In all our communication, we actively seek to engage diverse audiences and ensure multiple voices and interests are represented, particularly in our consultations.

## **Relationship with Parliament**

The Council has a statutory requirement to consult Parliament, specifically the Justice Committee, which is the House of Commons select committee that examines the expenditure, administration and policy of MoJ and associated public bodies.

The Council informs all organisations and individuals who respond to our consultations that their responses may be shared with the Committee in order to facilitate its work.

## **The Office of the Sentencing Council**

The Council is supported in its work by the OSC, in particular in:

- preparing draft guidelines for consultation and publication, subject to approval from the Council
- ensuring that the analytical obligations under the 2009 Act are met
- providing legal advice to ensure that we exercise the Council's functions in a legally sound manner
- delivering communication activity to support the Council's business and objectives, and
- providing efficient and accurate budget management, with an emphasis on value for money

At 31 March 2023 there were 20 members of staff, including the Head of the OSC (18.4 FTE).

In the 2022 Civil Service People Survey, the OSC recorded a staff engagement index of 83 per cent. This places the Office 23 percentage points ahead of MoJ as a whole and 15 percentage points ahead of other MoJ arm's-length bodies.

Asked whether they understood the Sentencing Council's objectives and how their work contributes to those objectives, 100 per cent of OSC staff agreed, placing the Office 11 percentage points ahead of other MoJ arm's-length bodies.

### **Senior management team**

The work of the OSC is overseen by a senior management team comprising the Head of the OSC and senior staff. The role of the team is to:

- monitor and evaluate progress of the Council's workplan, as published in the business plan
- monitor and evaluate budget expenditure and make decisions regarding budget allocation
- undertake regular review of the risk register on behalf of the governance sub-group, with a view to ensuring that all information regarding delivery of the Council's objectives and mitigation of risks is current and updated, and
- consider and make decisions on any other issues relating to the work of the OSC as may be relevant

### **Guideline development**

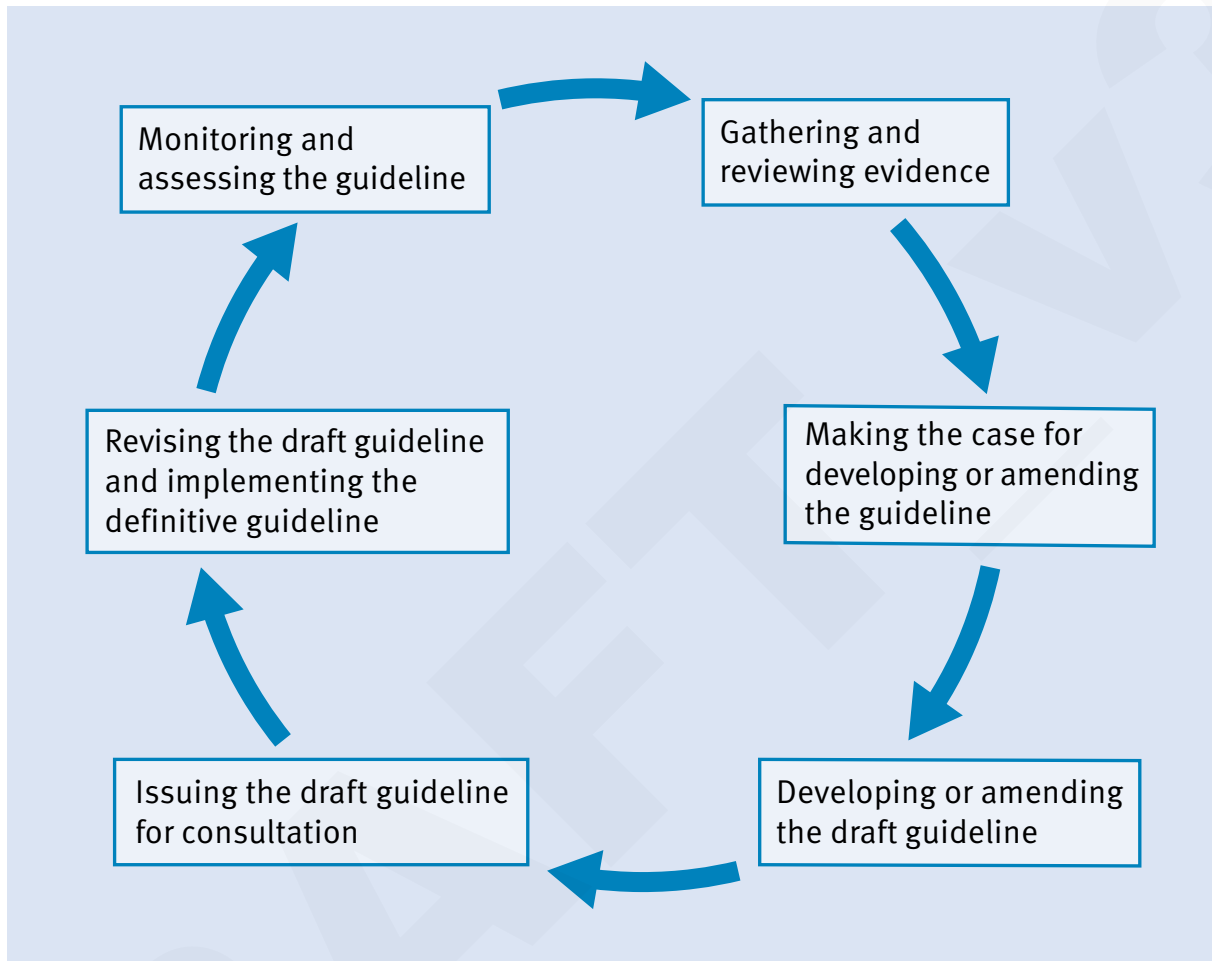
The Council approaches the delivery of our objectives by adopting a guideline delivery cycle that is based on the policy cycle set out by HM Treasury in the Green Book: Central Government Guidance on Appraisal and Evaluation (2022), published on GOV.UK, and allows a culture of continuous improvement to be embedded within the development process.

The process, from first consideration by the Council to publication of a definitive guideline, can extend to 18 months or more. However, if the Council believes there to be a pressing need, the process can be expedited. During this period, we will examine and discuss in fine detail all factors of the guidelines.

Figure 2 illustrates the guideline development cycle.



Figure 2



# Appendix B: Membership of the Sentencing Council

The Lord Chief Justice of England and Wales, the Right Honourable the Lord Burnett of Maldon, is President of the Council. In this role he oversees Council business and appoints judicial members, with the agreement of the Lord Chancellor.

The Lord Chancellor and Secretary of State for Justice appoints non-judicial members, with the agreement of the Lord Chief Justice.

## Membership of the Council at 31 March 2023

### Judicial members

Chairman: the Right Honourable Lord Justice William Davis, appointed as Chairman 1 August 2022

In order of appointment:

- The Right Honourable Lord Justice Tim Holroyde, 6 April 2015
- Her Honour Judge Rebecca Crane, 1 April 2017
- Her Honour Judge Rosa Dean, 6 April 2018

- The Honourable Mrs Justice Juliet May, 8 October 2020
- Jo King JP, 8 October 2020
- District Judge (Magistrates' Courts) Stephen Leake, 23 May 2022
- The Honourable Mr Justice Wall, 2 January 2023

### Non-judicial members

In order of appointment:

- Beverley Thompson OBE, criminal justice system consultant and former Chief Executive Officer of Northampton Probation Service, 15 June 2018
- Max Hill QC, Director of Public Prosecutions and Head of the Crown Prosecution Service, 1 November 2018
- Diana Fawcett, Chief Executive, Victim Support, 5 April 2019
- Assistant Commissioner Nick Ephgrave, National Police Chief's Council (criminal justice portfolio), 26 May 2020

- Dr Elaine Freer, Fellow and College Teaching Officer in law, Robinson College, University of Cambridge, 1 July 2022
- Richard Wright KC, 1 August 2022

## Register of members' interests

At 31 March 2023, two members of the Council had a personal or business interest to declare: a close family member of Jo King JP is a serving member of the Metropolitan Police; Dr Elaine Freer is a self-employed barrister and civilian volunteer at City of London Police mounted branch.

Image to come

# Appendix C: Sentencing guidelines production stages

\*Activities conducted during the reporting year.

Guideline	Production stage	Timing
Animal cruelty	*Development	2021/22
	*Consultation	May to August 2022
	*Post-consultation	Published 15 May 2023 Came into effect 1 July 2023
	Evaluation and monitoring	
Arson and criminal damage	Development	Throughout 2016/17
	Consultation	March to June 2018
	Post-consultation	Published 3 July 2019 Came into effect 1 October 2019
	Evaluation and monitoring	

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
Assault and attempted murder	Development	Throughout 2018/19 and 2019/20
	Consultation	April to September 2020
	Post-consultation	Published 27 May 2021 Came into effect 1 July 2021
	Evaluation and monitoring	Data collection autumn 2022
Blackmail, kidnap, false imprisonment and threats to disclose private sexual images	*Development	Throughout 2022
	Consultation	
	Post-consultation	
	Evaluation and monitoring	
Bladed articles and offensive weapons	Development	Throughout 2015/16
	Consultation	October 2016 to January 2017
	Post-consultation	Published 1 March 2018 Came into effect 1 June 2018
	*Evaluation and monitoring	Data collection 2019. Evaluation in progress 2021/22 and 2022/23

Guideline	Production stage	Timing
Breach offences	Development	Throughout 2016/17
	Consultation	October 2016 to January 2017
	Post-consultation	Published 7 June 2018 Came into effect 1 October 2018
	*Evaluation and monitoring	Data collection 2019. Evaluation in progress 2021/22 and 2022/23
Burglary (revised)	Development	2020/2021
	Consultation	June to September 2021
	*Post-consultation	Published 19 May 2022 Came into effect 1 July 2022
	*Evaluation and monitoring	Data collection autumn 2022
Child cruelty	*Development	April to August 2022 Police, Crime, Sentencing and Courts (PCSC) Act came into force April 2022
	*Consultation	4 August 2022 to 27 October 2022
	*Post-consultation	Published 7 March 2023 Came into effect 1 April 2023
	Evaluation and monitoring	

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
Children and young people	Development	Throughout 2015/16
	Consultation	May to August 2016
	Post-consultation	Published 7 March 2017 Came into effect 1 June 2017
	Evaluation and monitoring	Published 17 November 2020
Dangerous dogs	Development	Throughout 2014/15
	Consultation	March to June 2015
	Post-consultation	Published 17 March 2016 Came into effect 1 July 2016
	Evaluation and monitoring	Published October 2020
Drug offences (revised)	Development	Assessment of original guidelines and interim guidance published June 2018
	Consultation	January to May 2020
	Post-consultation	Published 27 January 2021 Came into effect 1 April 2021
	Evaluation and monitoring	

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
Firearms	Development	Throughout 2018/19 and 2019/20
	Consultation	October 2019 to January 2020
	Post-consultation	Published 8 December 2020 Came into effect 1 January 2021
	Evaluation and monitoring	
Firearms importation	Development	2020/21
	Consultation	June to September 2021
	Post-consultation	Published 24 November 2021 Came into effect 1 January 2022
	Evaluation and monitoring	
General guidelines	Development	Throughout 2017/18 and 2018/19
	Consultation	June to September 2018
	Post-consultation	Published 24 July 2019 Came into effect 1 October 2019
	Evaluation and monitoring	



<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
Health and safety offences, corporate manslaughter, and food safety and hygiene offences	Development	Throughout 2013/14
	Consultation	November 2014 to February 2015
	Post-consultation	Published 3 November 2015 Came into effect 1 February 2016
	Evaluation and monitoring	Guideline assessment published 4 April 2019
Immigration	*Development	From January 2023
	Consultation	
	Post-consultation	
	Evaluation and monitoring	
Imposition of community and custodial sentences (revision)*	*Development	From July 2022
	Consultation	
	Post-consultation	
	*Evaluation and monitoring	Evaluation of 2017 guideline published March 2023

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
Intimidatory offences	Development	Throughout 2016/17
	Consultation	March to June 2017
	Post-consultation	Published 5 July 2018 Came into effect 1 October 2018
	*Evaluation and monitoring	Data collection 2019. Evaluation in progress 2021/22 and 2022/23
Mental disorders, developmental disorders or neurological impairments	Development	Throughout 2018
	Consultation	April to July 2019
	Post-consultation	Published 21 July 2020 Came into effect 1 October 2020
	Evaluation and monitoring	
Modern slavery	Development	Throughout 2020/21
	Consultation	15 October 2020 to 15 January 2021
	Post-consultation	Published 12 August 2021 Came into effect 1 October 2021
	Evaluation and monitoring	

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
Motoring offences	*Development	2021-23 Police, Crime, Sentencing and Courts Act came into force April 2022
	*Consultation	7 July to 29 September 2022
	*Post-consultation	Published 15 June 2023 Came into effect 1 July 2023
	Evaluation and monitoring	
Perverting the course of justice and witness intimidation	*Development	2021/22
	*Consultation	March to June 2022
	*Post-consultation	To be published summer 2023
	Evaluation and monitoring	
Public order offences	Development	Throughout 2017/18
	Consultation	May to August 2018
	Post-consultation	Published 16 October 2019 Came into effect 1 January 2020
	Evaluation and monitoring	

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
Reduction in sentence for a guilty plea	Development	Throughout 2015/16
	Consultation	February to May 2016
	Post-consultation	Published 7 March 2017 Came into effect 1 June 2017
	Evaluation and monitoring	Published 17 November 2020
Sale of knives, etc to persons under 18	Development	2021/22
	*Consultation	1 June to 4 August 2022
	*Post-consultation	Published 15 February 2023 Came into effect 1 April 2023
	Evaluation and monitoring	
Sexual offences	Development	2020/21
	Consultation	May to August 2021
	*Post-consultation	Published 17 May 2022 Came into effect 31 May and 1 July 2022
	Evaluation and monitoring	

Guideline	Production stage	Timing
Terrorism	Development	From April 2019  Counter-Terrorism and Border Security Act 2019 came into force February 2019; Counter-Terrorism and Sentencing Act 2021 came into force April 2021
	Consultation	22 October 2019 to 3 December 2019 and 20 October 2021 to 11 January 2022
	*Post-consultation	Published 27 July 2022  Came into effect 1 October 2022
	Evaluation and monitoring	
Totality (revision)	Development	From September 2021
	*Consultation	5 October 2022 to 11 January 2023
	*Post-consultation	Published 31 May 2023  Came into effect 1 July 2023
	Evaluation and monitoring	
Unauthorised use of a trade mark	Development	2020
	Consultation	8 July 2020 to 30 September 2020
	Post-consultation	Published 5 August 2021  Came into effect 1 October 2021
	Evaluation and monitoring	

<b>Guideline</b>	<b>Production stage</b>	<b>Timing</b>
Vehicle taking (aggravated)	*Development	2021/22 and 2022/23
	Consultation	
	Post-consultation	
	Evaluation and monitoring	

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Photograph to come

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*Draft Regulations laid before Parliament under section 407(7) of the Sentencing Act 2020, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENT

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**2023 No.**

**CRIMINAL LAW, ENGLAND AND WALES**

**SENTENCING**

**The Sentencing Act 2020 (Amendment of Schedule 21)  
Regulations 2023**

*Made* - - - - - \*\*\*

*Coming into force* \*\*\*

The Lord Chancellor makes these Regulations in exercise of the powers conferred by paragraph 19(1) of Schedule 23 to the Sentencing Act 2020(a) (“the Act”).

The Lord Chancellor has consulted with the Sentencing Council in accordance with paragraph 19(2) of Schedule 23 to the Act.

In accordance with section 407(7) of the Act and paragraph 19(4) of Schedule 23 to the Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

**Citation, commencement and extent**

1. These Regulations may be cited as the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 and come into force on [\*\*\*].
2. These Regulations extend to England and Wales.
3. In these Regulations, “the Act” means the Sentencing Act 2020(b).

**Aggravating factors**

4. In paragraph 9 of Schedule 21 to the Act (determination of minimum term in relation to mandatory life sentence for murder etc)—

(a) after paragraph (b), insert—

“(ba) where the offence was committed on or after the day on which the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 came into force, the fact that the offender had repeatedly or continuously engaged in behaviour towards the

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(a) 2020 c. 17  
(b) 2020 c. 17

victim that was controlling or coercive and, at the time of the behaviour, the offender and the victim were personally connected within the meaning of section 76 of the Serious Crime Act 2015(a),”;

(b) in paragraph (f), omit “and”; and

(c) after paragraph (f), insert—

“(fa) where the offence was committed on or after the day on which the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 came into force, the use of violence significantly greater than that which was necessary to cause death, and”.

**Mitigating factors**

5. In paragraph 10 of Schedule 21 to the Act (determination of minimum term in relation to mandatory life sentence for murder etc), after paragraph (c) insert—

“(ca) where the offence was committed on or after the day on which the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 came into force, the fact that the victim had repeatedly or continuously engaged in behaviour towards the offender that was controlling or coercive and, at the time of the behaviour, the victim and the offender were personally connected within the meaning of section 76 of the Serious Crime Act 2015(b),”.

Date

*Lord Chancellor*  
Ministry of Justice

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(a) 2015 c. 9 (as amended by section 68 of the Domestic Abuse Act 2021 (c. 17))  
(b) 2015 c. 9 (as amended by section 68 of the Domestic Abuse Act 2021 (c. 17))

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend paragraphs 9 and 10 of Schedule 21 to the Sentencing Act 2020. They create two additional statutory aggravating factors, and one additional statutory mitigating factor, in the determination of the minimum term in relation to mandatory life sentences for murder. The new aggravating factors apply where: (1) the offender had repeatedly or continuously engaged in behaviour towards the victim that was controlling or coercive and, at the time of the behaviour, the offender and victim were personally connected within the meaning of section 76 of the Serious Crime Act 2015; and (2) the offender used violence significantly greater than that which was necessary to cause death (sometimes referred to as “overkill”). The new mitigating factor applies where the victim had repeatedly or continuously engaged in behaviour towards the offender that was controlling or coercive and, at the time of the behaviour, the offender and victim were personally connected within the meaning of section 76 of the Serious Crime Act 2015. These new statutory aggravating factors and this new statutory mitigating factor only apply to offences committed on or after the day on which these Regulations come into force.

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SUGGESTED GUIDELINE	NOTES
<b>VERY HIGH PRIORITY</b>	
Protest Offences (new offences)	Wait until 2024
<b>HIGH PRIORITY</b>	
Cybercrime (Hacking)	
Data Protection	INCLUDE WITH CYBERCRIME
Malicious communications	INCLUDE WITH CYBERCRIME
Wildlife crime	
Housing	
Planning laws	INCLUDE WITH HOUSING
Unlawful Eviction	INCLUDE WITH HOUSING
<b>LOW PRIORITY</b>	
Outraging public decency	
Fire Safety	No recent demand
Prisoner offences / offences committed whilst in prison	No recent requests for offences not covered by existing guidelines
Littering	Under Environmental Protection Act 1990  No clear demand
Tobacco offences	Including sale of e-cigarettes?  No clear demand
Ancillary orders	Suggestion: a guideline on the imposition of preventative orders, identifying common issues, and providing pro-forma draft terms and technical guidance on complex restrictions such as those on internet use
Insolvency	No clear demand
Misconduct in a public office	Low volume

Blue badge fraud	No clear demand
Neglect of vulnerable adults	44(1)(b) of the Mental Capacity Act 2005, s5 Domestic Violence, Crime and Victims Act 2004  No immediate need but reasonable volumes
Level crossings	Very low volume
Female Genital Mutilation (FGM) offences	Very low volume
Terrorism - under 18s	Very low volume