Sentencing Council

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| **Sentencing Council meeting:** | **16 June 2023** |
| **Paper number:** | **SC(23)JUN06 – Miscellaneous amendments** |
| **Lead Council member:** | **Jo King** |
| **Lead official:** | **Ruth Pope**<br>**ruth.pope@sentencingcouncil.gov.uk** |

## 1 ISSUE

1.1 This is the second of three meetings to consider items for inclusion in this year's consultation on amendments to sentencing guidelines and supporting material. The consultation will take place in September to November to allow time for consideration of the responses in December and January before publication of the changes in March which will come into effect on 1 April 2024.

## 2 RECOMMENDATION

2.1 The Council is asked to consider the various matters set out below and decide:

- if any changes to guidelines are required;
- if so, whether the changes should be consulted on; and
- if so, should they be included in this year's miscellaneous amendments consultation.

## 3 CONSIDERATION

### SOCPA agreements

3.1 The Council received a request from the Serious Fraud Office (SFO) in July 2022 for sentencing guidelines covering the reduction to be afforded to offenders who enter in to an agreement to assist the prosecution. This was discussed by the Council in October 2022 and the conclusion arrived at was that the best approach would be to consider adding a note (as a dropdown) to the relevant step in guidelines summarising the case law regarding SOCPA agreements as set out in R v Blackburn [2007] EWCA Crim 2290 paragraphs 37 – 41. The SFO were content with this approach.

3.2 The following is a proposed draft:

## Step 3 – Consider any factors which indicate a reduction, such as 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.

| Guidance on the effect of an agreement under section 74 on sentencing | V |
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Case law has established that there are no inflexible rules as to the method by which any reduction should be assessed nor the amount of the reduction. It will be a fact specific decision in each case. The following sequence of matters for a sentencing court to consider reflects the judgment in *R v P; R v Blackburn* [2007] EWCA Crim 2290:

1. The court should assess the seriousness of the offences being sentenced following any relevant sentencing guidelines.
2. The court should then consider the quality and quantity of the material provided by the offender in the investigation and subsequent prosecution of crime. Particular value should be attached to those cases where the offender provides evidence in the form of a witness statement or is prepared to give evidence at any subsequent trial, especially where the information either produces convictions for the most serious offences, or prevents them, or which leads to disruption of major criminal networks.
3. This consideration should be made in the context of the nature and extent of the personal risks to, and potential consequences faced by, the offender and the members of the offender's family.
4. Any reduction for a guilty plea is separate from and additional to the appropriate reduction for assistance provided by the offender. The reduction for the assistance provided by the offender should be assessed first to arrive at a notional sentence and the guilty plea reduction applied to that notional sentence.
5. A mathematical approach is liable to produce an inappropriate answer – the totality principle is fundamental.
6. The court should take into account that the procedure requires offenders to reveal the whole of their previous criminal activities which will often entail pleading guilty to offences which the offender would never otherwise have faced.
7. The totality principle is critical in the context of an offender who is already serving a sentence, and who enters into an agreement to provide information which discloses previous criminal activities and comes before the court to be sentenced for the new crimes, as well as for a review of the original sentence (under section 388 of the Sentencing Code).
8. Where an offender has committed serious crimes, the process under sections 74 and 388 does not provide immunity from punishment, and, subject to appropriate reductions, an appropriate sentence should be passed. By participating in the written agreement system the offender is entitled to a reduction from the sentence which would otherwise be appropriate to reflect the assistance provided to the administration of justice, and to encourage others to do the same. It is only in the most exceptional case that the appropriate level of reduction would exceed three quarters of the total sentence which would otherwise be passed, and the normal level will be a reduction of somewhere between one half and two thirds of that sentence.

3.3 I have shared this draft with officials from the SFO they have no suggestions for changes. They have, however, noted the following (which they acknowledge is outside the scope of the proposed consultation):

> We have been advised that confidential texts compete with statutory processes for assisting offenders. The envisaged use of texts when SOCPA was enacted bears no resemblance to how they are actually used now.
>
> However from a SFO perspective we understand that SOCPA 2005 was never intended to replace texts. Our understanding is that legislators envisaged SOCPA would complement the existing Common Law procedures and not replace it. Our perspective is that law enforcement uses texts very effectively. However as LEA partners have asked us to flag this (as they knew we were engaging with you) we felt that we should do so.

3.4 The Council could consider, separately and at a later date, whether to provide any guidance on how texts should be taken into account in sentence. Though the concern here seems to be more in relation to the decision to use them (which is not a sentencing decision) rather than the way the courts take them into account. I propose to respond to the SFO suggesting that those who had concerns contact me directly to discuss what they consider to be the issues.

**Question 1: Does the Council wish to consult on the proposed dropdown on SOCPA agreements?**

**Abuse of trust**

3.5 We have received feedback from a magistrate who suggested that there should be a factor in sexual offences guidelines of 'person in a trusted position'. The particular guideline he was looking at was the sexual assault guideline which has 'abuse of trust' as a high culpability factor with the following dropdown:

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| A close examination of the facts is necessary and a clear justification should be given if abuse of trust is to be found.<br><br>In order for an abuse of trust to make an offence more serious the relationship between the offender and victim(s) must be one that would give rise to the offender having a significant level of responsibility towards the victim(s) on which the victim(s) would be entitled to rely.<br><br>Abuse of trust may occur in many factual situations. Examples may include relationships such as teacher and pupil, parent and child, employer and employee, professional adviser and client, or carer (whether paid or unpaid) and dependant. It may also include ad hoc situations such as a late-night taxi driver and a lone passenger. These examples are not exhaustive and do not necessarily indicate that abuse of trust is present.<br><br>Additionally an offence may be made more serious where an offender has abused their position to facilitate and/or conceal offending.<br><br>Where an offender has been given an inappropriate level of responsibility, abuse of trust is unlikely to apply. |

3.6 In correspondence with the magistrate he said that he was thinking of a doctor or nurse and indicated that it would be helpful to give further examples. The same explanation is used where abuse of trust is an aggravating factor in various different guidelines. The Council may feel that the explanation cannot include every example (and it clearly states that the examples are non-exhaustive) and that it would be counterproductive to include more. An alternative way of looking at it is that including any examples in unhelpful. The content of the explanation has been consulted on and in the absence of any clear need for change – none is proposed.

**Question 2: Does the Council agree not to change the Abuse of trust factor or expanded explanation?**

**Previous convictions**

3.7 The Council has previously noted that the definition of 'relevant' in legislation is not the same as the meaning we attach to it in the expanded explanation in guidelines. The factor in guidelines reads:

- 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

3.8 The expanded explanation reads:

**Guidance on the use of previous convictions**

The following guidance should be considered when seeking to determine the degree to which previous convictions should aggravate sentence:

Section 65 of the Sentencing Code states that:

(1) This section applies where a court is considering the seriousness of an offence ("the current offence") committed by an offender who has one or more relevant previous convictions.

(2) The court must treat as an aggravating factor each relevant previous conviction that it considers can reasonably be so treated, having regard in particular 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.

(3) Where the court treats a relevant previous conviction as an aggravating factor under subsection (2) it must state in open court that the offence is so aggravated.

1. Previous convictions are considered at step two in the Council's offence-specific guidelines.
2. The primary significance of previous convictions (including convictions in other jurisdictions) is the extent to which they indicate trends in offending behaviour and possibly the offender's response to earlier sentences.
3. Previous convictions are normally **relevant** to the current offence when they are of a similar type.
4. Previous convictions of a type different from the current offence **may** be relevant where they are an indication of persistent offending or escalation and/or a failure to comply with previous court orders.
5. Numerous and frequent previous convictions might indicate an underlying problem (for example, an addiction) that could be addressed more effectively in the community and will not necessarily indicate that a custodial sentence is necessary.
6. If the offender received a non-custodial disposal for the previous offence, a court should not necessarily move to a custodial sentence for the fresh offence.
7. In cases involving significant persistent offending, the community and custody thresholds may be crossed even though the current offence normally warrants a lesser sentence. If a custodial sentence is imposed it should be proportionate and kept to the necessary minimum.
8. The aggravating effect of relevant previous convictions reduces with the passage of time; **older convictions are less relevant** to the offender's culpability for the current offence and less likely to be predictive of future offending.
9. Where the previous offence is particularly old it will normally have little relevance for the current sentencing exercise.
10. The court should consider the time gap since the previous conviction and the reason for it. Where there has been a significant gap between previous and current convictions or a reduction in the frequency of offending this may indicate that the offender has made attempts to desist from offending in which case the aggravating effect of the previous offending will diminish.
11. Where the current offence is significantly less serious than the previous conviction (suggesting a decline in the gravity of offending), the previous conviction may carry less weight.

12. When considering the totality of previous offending a court should take a rounded view of the previous crimes and not simply aggregate the individual offences.

13. Where information is available on the context of previous offending this may assist the court in assessing the relevance of that prior offending to the current offence

3.9 The quote from the legislation in the expanded explanation omits subsection (4) onwards:

> (4) In subsections (1) to (3) "relevant previous conviction" means—
>
> (a) a previous conviction by a court in the United Kingdom …

3.10 Subsequent provisions refer to convictions under service law and in certain other jurisdictions as relevant previous convictions.

3.11 The legislation perhaps lacks clarity in that it refers to 'relevant' previous convictions meaning any conviction in the UK or service courts etc, but also to the 'relevance' of previous convictions: "(a) the nature of the offence to which the conviction relates and its relevance to the current offence" which appears to be something different.

3.12 In the expanded explanation what we refer to as 'relevant' is the 'relevance' of the previous conviction to the current offending. Perhaps the easiest way of addressing this would be to reword some of the points in the expanded explanation slightly:

3. Previous convictions are normally ~~**relevant**~~ **of relevance** to the current offence when they are of a similar type.

4. Previous convictions of a type different from the current offence **may** be ~~relevant~~ of relevance where they are an indication of persistent offending or escalation and/or a failure to comply with previous court orders.

5. …

6. …

7.

8. The aggravating effect of relevant previous convictions reduces with the passage of time; **older convictions are ~~less relevant~~ of less relevance** to the offender's culpability for the current offence and less likely to be predictive of future offending.

9. Where the previous offence is particularly old it will normally have little relevance for the current sentencing exercise.

**Question 3: Does the Council wish to make the suggested changes to the expanded explanation for previous convictions and should this be consulted on?**

**Foreseeable harm in assault guidelines**

3.13 A judge raised the following point:

> It relates to offences of violence. The guideline and the references to harm- there is intended harm and actual harm, but no reference whatsoever to section 63 of the Sentencing Act, which also requires a court to take into account foreseeable harm. There is no categorisation where there is no actual harm or very little actual harm, but the foreseeable harm could potentially be extremely grave.
>
> For example, I had a case not that long ago, and it was a young defendant who had stabbed his victim, who was also young, and it was quite clear that he was aiming for the sternum or thereabouts. And the victim just shuffled on point of impact and it went through his leather jacket and just caused a very small wound to his arm. So the actual harm was minimal, but the foreseeable harm would have been a life threatening injury. I found the guideline unhelpful in that regard.

3.14 The judge did not specify the offence in the example – but presumably it was either ABH or s20 wounding (unless there was evidence to prove an intention to cause serious harm). The harm assessments for these guidelines read:

**ABH**

| Harm |
| --- |
| Category 1 |
| • Serious physical injury or serious psychological harm and/or substantial impact upon victim |
| Category 2 |
| • Harm falling between categories 1 and 3 |
| Category 3 |
| • Some level of physical injury or psychological harm with limited impact upon victim |

**S20**

| Harm |
| --- |
| All cases will involve 'really serious harm', which can be physical or psychological, or wounding. The court should assess the level of harm caused with reference to the impact on the victim |
| Category 1 |
| • Particularly grave and/or life-threatening injury caused |

- Injury results in physical or psychological harm resulting in lifelong dependency on third party care or medical treatment
- Offence results in a permanent, irreversible injury or condition which has a substantial and long term effect on the victim's ability to carry out their normal day to day activities or on their ability to work

Category 2

- Grave injury
- Offence results in a permanent, irreversible injury or condition not falling within category 1

Category 3

- All other cases of really serious harm
- All other cases of wounding

3.15 In both guidelines the use of a knife would put the case into high culpability ("Use of a highly dangerous weapon or weapon equivalent").

3.16 Section 63 of the sentencing Code says:

> Assessing seriousness
>
> Where a court is considering the seriousness of any offence, it must consider—
>
> (a) the offender's culpability in committing the offence, and
>
> (b) any harm which the offence—
>
> (i) caused,
>
> (ii) was intended to cause, or
>
> (iii) might foreseeably have caused.

3.17 The harm assessment in the assault guidelines does not specify whether the levels of harm refer to harm caused, intended and/or foreseeable, but the implication is that it is harm caused – physical or psychological. This is particularly the case where a certain level of injury is an element of the offence. The guidelines, and in particular the harm assessments, were extensively tested with sentencers when the revised guidelines were being developed to ensure that the overall sentences were appropriate. Adding a reference to harm intended or foreseeable could risk double counting with culpability factors (such as 'Use of a highly dangerous weapon or weapon equivalent', 'Prolonged/persistent assault' and 'Significant degree of planning or premeditation').

3.18 That said, it could be argued that some reference in the guidelines as to how harm, other than actual harm caused, should be treated would be helpful. In some guidelines we specifically address this by saying that harm risked should be treated as the category below the equivalent actual harm. For example, in the Fraud guideline:

**Risk of loss (for instance in mortgage frauds) involves consideration of both the likelihood of harm occurring and the extent of it if it does. Risk of loss is less serious than actual or intended loss. Where the offence has caused risk of loss but no (or much less) actual loss the normal approach is to move down to the corresponding point in the next category. This may not be appropriate if either the likelihood or extent of risked loss is particularly high.**

3.19 Clearly, any reference to foreseeable harm in assault guidelines would have to be tailored to those guidelines.

3.20 Alternatively or additionally the Council may consider it helpful if the guidelines explicitly stated that harm in these guidelines relates to actual harm caused.

**Question 4: Does the Council wish to amend the assault guidelines to:**

**(a) make it explicit that the harm in refers to actual harm? and/or**

**(b) add in a reference to intended and/or foreseeable harm?**

**Changes to the Criminal Practice Directions**

3.21 There are new Criminal Practice Directions (CPD) which came into force in on 29 May. A number of guidelines and other material on our website refer to the CPD and we have updated the references in guidelines where these are straightforward.

3.22 In the explanatory materials to the MCSG there is a page on victim personal statements.

3.23 The revised CPD says the following:

## 9.5 Victim personal statements

9.5.1 Victims of crime are invited to make a Victim Personal Statement (VPS). The court will take the statement into account when determining sentence. In some circumstances, it may be appropriate for relatives of a victim to make a VPS, for example where the victim has died as a result of the relevant criminal conduct.

9.5.2 The decision about whether or not to make a VPS is entirely a matter for the victim; no pressure should be brought to bear, and no conclusion should be drawn if no statement is made. A VPS, or a further VPS, may be made at any time prior to the disposal of the case. A VPS after disposal is an exceptional step, should be confined to presenting up to date factual material, such as medical information, and should be used sparingly, most usually in the event of an appeal.

9.5.3 Evidence of the effects of an offence on the victim contained in the VPS or other statement, must be:

a. in a witness statement made under s.9 Criminal Justice Act 1967 or an expert's report; and

b. served in good time upon the defendant's solicitor or the defendant, if they are not represented.

9.5.4 Except where inferences can properly be drawn from the nature of or circumstances surrounding the offence, a sentencing court must not make assumptions unsupported by evidence about the effects of an offence on the victim.

9.5.5 The maker of a VPS may be cross-examined on its content.

9.5.6 At the discretion of the court, the VPS may also be read aloud or played in open court, in whole or in part, or it may be summarised. If the VPS is to be read aloud, the court should also determine who should do so. In making these decisions, the court should take account of the victim's preferences, and follow them unless there is good reason not to do so; examples include the inadmissibility of the content or the potentially harmful consequences for the victim or others.

9.5.7 Court hearings should not be adjourned solely to allow the victim to attend court to read the VPS. A VPS that is read aloud or played in open court in whole or in part ceases to be a confidential document. The VPS should be referred to in the course of the hearing.

9.5.8 The opinions of the victim or the victim's relatives as to what the sentence should be are not relevant, unlike the consequences of the offence on them, and should therefore not be included in the statement. If opinions as to sentence are included in the statement, then it is inappropriate for them to be referred to, and the court should have no regard to them.

3.24 The current wording in the explanatory materials is:

A victim personal statement (VPS) gives victims a formal opportunity to say how a crime has affected them. Where the victim has chosen to make such a statement, a court should consider and take it into account prior to passing sentence.

The Criminal Practice Directions [Link currently not working] (external website) emphasise that:

- evidence of the effects of an offence on the victim must be in the form of a witness statement under section 9 of the Criminal Justice Act 1967 or an expert's report;
- the statement must be served on the defence prior to sentence;
- except where inferences can properly be drawn from the nature of or circumstances surrounding the offence, the court must not make assumptions unsupported by evidence about the effects of an offence on the victim;
- At the discretion of the court the VPS may also be read aloud in whole or in part or it may be summarised. If it is to be read aloud the court should also determine who should do so. In making these decisions the court should take into account the victim's preferences, and follow them unless there is a good

reason not to do so (for example, inadmissible or potentially harmful content). Court hearings should not be adjourned solely to allow the victim to attend court to read the VPS;

- the court must pass what it judges to be the appropriate sentence having regard to the circumstances of the offence and the offender, taking into account, so far as the court considers it appropriate, the consequences to the victim;
- the opinions of the victim or the victim's close relatives as to what the sentence should be are not relevant.

See also the guidance on compensation particularly with reference to the victim's views as to any compensation order that may be imposed.

3.25 The highlighted section is no longer part of the CPD and so it is not accurate to include this in the list of bullets. However, the text could be moved to the opening paragraph.

3.26 The following (which is part of the CPD) could be added to the list of bullets:

- The decision about whether or not to make a VPS is entirely a matter for the victim; no pressure should be brought to bear, and no conclusion should be drawn if no statement is made.

**Question 5: Does the Council wish to make the suggested changes to the explanatory materials page on VPS? Do these changes need to be consulted on?**

**Bladed articles etc guidelines**

3.27 Stephen Leake has suggested the following changes because the titles of the guidelines all use the word "possession" whereas the offences are actually "having" (which is a different concept to possession):

| CURRENT TITLE | SUGGESTED AMENDED TITLE |
|---|---|
| *Main guideline*<br>Bladed articles and offensive weapons – possession | Bladed articles and offensive weapons – having in a public place |
| *Main guideline*<br>Bladed articles and offensive weapons (possession and threats) – children and young people | Bladed articles and offensive weapons (having in public/education premises and threats) – children and young people |
| *Sub-title/ search result*<br>Possession of an article with blade/point in a public place | Having an article with blade/point in a public place |
| *Sub-title/ search result*<br>Possession of an article with blade/point on school premises | Having an article with blade/point on education premises |

| | |
|---|---|
| *Sub-title/ search result*<br>Possession of an offensive weapon in a public place | Having an offensive weapon in a public place |
| *Sub-title/ search result*<br>Possession of an offensive weapon on school premises | Having an offensive weapon on education premises |
| *Main guideline*<br>Threatening with an article with blade/point or offensive weapon on school premises | Threatening with an article with blade/point or offensive weapon on education premises |
| *Sub-title/ search result*<br>Unauthorised possession in prison of a knife or offensive weapon, Prison Act 1952 (section 40CA) | *No change needed – the offence is "possession"* |

3.28 The change from 'school premises' to 'education premises' has already been made as this was a result of legislative change.

3.29 If the suggested changes are made, the search term 'possession' could still be used to locate these guidelines.

3.30 Stephen has suggested that the existing Bladed articles and offensive weapons – possession guideline could also apply to the offence of 'Having a corrosive substance in a public place' (contrary to section 6 of the Offensive Weapons Act 2019). His view is that this offence could be added to the guideline without any other amendment as the elements of the offence are the same and the harm levels in the guideline would apply to corrosive substances. The guideline already specifically references 'a corrosive substance (such as acid)' as an example of a highly dangerous weapon in the assessment of culpability. This is a new offence which came into force in April 2022 and from the data we have, fewer than five offenders were sentenced for the section 6 offence in 2022.

3.31 He has also suggested that the Council could consider whether 'Threatening with offensive weapon, bladed article, corrosive substance in a **private** place (OWA 2019, s.52) should be added to the existing Bladed articles and offensive weapons – threats guideline (which currently lists offences in public places). This offence also came into force in April 2022 and around 70 offenders were sentenced for this offence in 2022.

3.32 Adding it to the guideline would involve a consideration of the relative seriousness of offending in public and private places. The culpability and harm factors were developed with public places in mind but arguably could apply to the threatening in a private place offence:

**Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

## Culpability demonstrated by one or more of the following

### A – higher culpability

- Offence committed using a bladed article
- Offence committed using a highly dangerous weapon*
- 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
- Significant degree of planning or premeditation

### B – lower culpability

- All other cases

*NB an offensive weapon is defined in legislation as 'any article made or adapted for use for causing injury, or is intended by the person having it with him for such use'. A highly dangerous weapon is, therefore, a weapon, including a corrosive substance (such as acid), whose dangerous nature must be substantially above and beyond this. The court must determine whether the weapon is highly dangerous on the facts and circumstances of the case.

## Harm

The court should consider the factors set out below to determine the level of harm that has been caused or was intended to be caused to the victim

### Category 1

- Offence committed at a school or other place where vulnerable people are likely to be present
- Offence committed in prison
- Offence committed in circumstances where there is a risk of serious disorder
- Serious alarm/distress caused to the victim
- Prolonged incident

### Category 2

- All other cases

3.33 If these factors were considered appropriate, the next issue is whether the sentence levels apply equally to threats in private and public. The statutory maximum sentence for all of these offences is 4 years' custody although the statutory minimum sentence does not apply to the section 52 offence.

3.34 On balance, adding these new offences is not recommended at the moment. The offences only came into force in April 2022 and so we only have limited data to compare with the existing offences. We are currently evaluating the bladed article and offensive weapons guidelines and it would be preferable to await the results of that before deciding whether and how to address the new offences.

**Question 6: Does the Council wish to change the titles of the bladed article and offensive weapons guidelines? If so, should this be consulted on?**

**Question 7: Does the Council agree not to add the offence of having a corrosive substance in a public place to the possession of bladed articles and offensive weapons guideline?**

**Question 8: Does the Council agree not to adding the offence of threatening with an offensive weapon, bladed article or corrosive substance in a private place to the bladed articles and offensive weapons – threats guideline?**

3.35 We are aware that the Home Office is considering asking the Council to add an aggravating factor relating to prohibited weapons to the bladed articles and offensive weapons guidelines. It is not entirely clear why this is considered helpful or necessary (such weapons presumably full under high culpability 'Offence committed using a highly dangerous weapon'). The Council could consider adding an aggravating factor without waiting to be asked, but again we would recommend awaiting the results of the evaluation before considering it.

3.36 One further issue raised by Stephen is that the Common assault guideline does not reference 'Assault by beating'. Neither does it reference 'battery', though the guideline can be found by searching on either of these terms. Section 39 of the Criminal Justice Act 1988 states:

> Common assault and battery to be summary offences.
>
> (1) Common assault and battery shall be summary offences and a person guilty of either of them shall be liable to a fine not to a fine not exceeding level 5 on the standard scale, to imprisonment for a term not exceeding six months, or to both.

3.37 The heading of the guideline reads:

> **Common assault / Racially or religiously aggravated common assault/ Common assault on emergency worker**
>
> Assaults on Emergency Workers (Offences) Act 2018, s.1, Crime and Disorder Act 1998, s.29, Criminal Justice Act 1988, s.39
>
> **Effective from:** 1 July 2021

**Common Assault**, Criminal Justice Act 1988 (section 39)
**Racially/religiously aggravated common assault**, Crime and Disorder Act 1998 (section 29)
**Assaults on emergency workers,** Assaults on Emergency Workers (Offences) Act 2018 (section 1)

**Section 39**
Triable only summarily
Maximum: 6 months' custody

Offence range: Discharge – 26 weeks' custody

**Racially or religiously aggravated offence – Section 29**
Triable either way
Maximum: 2 years' custody

**Offence committed against an emergency worker – Section 1**
Triable either way
Maximum: 2 years' custody (1 year's custody for offences committed before 28 June 2022)

3.38 If it was felt to be helpful the main heading and/or the sub headings of the guideline could be amended to include references to 'battery' and/or 'assault by beating'.

**Question 9: Does the Council wish to add 'battery' and/or 'assault by beating' to the headings of the Common assault guideline? If so, should this be consulted on?**

## 4 EQUALITIES

4.1 No equalities issues have been identified with the changes proposed above.

## 5 IMPACT AND RISKS

5.1 By their nature the matters that are included in the miscellaneous amendments are unlikely to have a significant impact on correctional resources. An assessment of each proposed change will be made and included in the consultation document.

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