

Sentencing Council meeting:
Paper number:

Lead Council member:
Lead official:

3 March 2023
**SC(23)MAR06 - Perverting the Course of
Justice and Witness intimidation**
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1 ISSUE

1.1 This is the third meeting following the consultation on the draft perverting the course of justice (PTCJ) and revised witness intimidation guidelines. This meeting will focus on responses regarding sentence levels, aggravating and mitigating factors, and equality and diversity issues. There is one final meeting to sign off the guidelines ahead of publication of the definitive guidelines in the summer.

2 RECOMMENDATION

2.1 At today's meeting the Council is asked:

- To agree the high culpability factor in witness intimidation regarding police warnings, court orders, and notices
- To consider the consultation responses regarding sentence levels, aggravating and mitigating factors and equality and diversity issues

3 CONSIDERATION

3.1 The changes agreed at the last meeting to the harm factors have been made and can be seen in track changes within the PTCJ and witness intimidation guidelines, attached at **Annexes A** and **B** respectively. At the last meeting the Council discussed the information on court orders, notices and police warnings, attached at **Annex C**, and how best to present this as a high culpability factor. Officials have looked into the information in **Annex C** further and the only item that could be classed as a police warning that is relevant to witness intimidation, is the Domestic Violence Protection notice- due to be replaced by the Domestic Abuse Protection Notice. In both cases these are notices that the police can issue while applying for a court order. All the other items in the document are court orders (apart from the s.59 warning under the Police Reform Act 2002 which allows the police to seize a vehicle- so not relevant.) The Osman warning is a warning to a potential victim- not to an

offender so is not relevant. Breach of most of the orders is a criminal offence punishable with five years' custody, except the Domestic Violence Protection Order (DVPO) which is treated as a civil breach. The suggestion therefore is to have two factors:

- Breach of specific bail conditions and/or protection notice imposed to protect a witness
- Breach of court order (see step five on totality when sentencing more than one offence)

Question one: Does the Council agree with the proposed two high culpability factors?

3.2 Starting firstly with the consultation responses regarding sentence levels within the PTCJ guideline at **Annex A**. Of those that answered the question, the views expressed were that the sentence ranges were a little low. The Justice Committee (JC), the Justices' Clerks' Society (JCS), Professor Gillespie, Council HM Circuit Judges and Treasury Counsel all felt that the starting point in category 3C should be a custodial one, and not a community order- that having a custodial starting point would act as a deterrent and reflect the gravity of this type of offending. Some participants during road testing also mentioned this (page five of **Annex D**). Treasury Counsel said that a significant amount of cases may fall into 3C, and that having a community order as a starting point would be a significant departure from the principle that these offences ordinarily require a prison sentence. It was suggested that the starting point should be three or four months' custody.

3.3 It may be helpful to consider the updated sentencing statistics attached at **Annex E**. In 2021, only four percent of offenders, 20 in total, received a community order. Around 73 per cent of offenders sentenced to immediate custody received a sentence of one year or less, and a further 16 per cent between one to two years- so the vast majority of offenders receive sentences at the lower end. The mean average custodial sentence length (ACSL) was one year. An option would be to increase the ranges slightly so that the range in 3C becomes a high level community order to 9 months custody, with a starting point of six months. This achieves the request by these consultees that 3C should have a custodial starting point. To remove the community orders altogether would necessitate increasing the ranges across the entire table more substantially, as the current ranges in 2C would need to become the ranges in 3C-with everything increased proportionally across the rest of the ranges. This is because the Council has generally avoided putting sentence ranges of 6 months or less in the guidelines.

Question two: Does the Council wish to revise category 3C so that it now has a starting point of 6 months' custody?

3.4 The CPS and the JC felt that given the maximum sentence is life imprisonment there should be additional wording above the sentence range that states 'for cases of exceptional gravity, sentences above the top of the range may be appropriate'. Treasury Council also suggested similar wording. However, the Council has more recently moved away from using this wording, it was removed from the domestic burglary guideline after the consultation stage, for example. The sentencing statistics show that only a tiny fraction of offenders (less than one per cent) in recent years have received sentences over seven years, and at the consultation stage the Council said it was not seeking to change current sentencing for this offence. Therefore, it is recommended that the top of the range stays at seven years and that the additional wording is not added.

Question three: Does the Council agree not to add the additional wording proposed and to not make any other changes to the sentence table for this offence?

3.5 Now turning to the responses on questions on sentence levels within the witness intimidation guideline at **Annex B**. Sentencing data for 2021 at **Annex E** shows that nine per cent received community orders, and 95 per cent of offenders sentenced to immediate custody received sentences of two years or less. The ACSL (mean) was 10 months. The statutory maximum for this offence is five years. There were few responses offering comments on the sentence levels for this guideline, one or two magistrates said they thought some of the ranges were too low, and the CPS as with PTCJ said that the wording 'for cases of exceptional gravity sentences above the top of the range may be appropriate' should be added. Professor Gillespie and the JC thought that the starting point in 3C should increase from a medium to a high level community order and the JCS thought the ranges in 3C should echo the lowest ranges in the [current guideline](#), which has a starting point of 6 weeks, in a range of a medium level community order to 18 weeks custody. The JCS stated that a custodial sentence as a starting point for all offences of witness intimidation is appropriate to have a deterrent effect, and to demonstrate that any attempt to contact a witness is very serious.

3.6 Given the fact that there were few consultation or road testing responses disagreeing with the proposed ranges, it is suggested that the majority of the sentence ranges remain unchanged. If the Council felt it was appropriate to increase the ranges within 3C slightly, the starting point could increase from a medium level community order to a high level community order, and the bottom of the range from a low level community order to a medium level community order. The top of the range would remain at six months custody. As noted above, we have generally moved away from having very short sentences, such as six weeks, within guidelines. If these changes were made and the changes to the ranges in 3C

in PTCJ discussed earlier were made, then the ranges within PTCJ would still be slightly more severe, which seem appropriate given the differences between the offences.

Question four: Does the Council agree with just the modest changes proposed to the sentence ranges for this offence, within 3C?

3.7 Turning now to consider responses on aggravating and mitigating factors, firstly in the witness intimidation guideline at **Annex B**. A small number of respondents including HM Council of District Judges and a Judge during road testing felt that there should be an aggravating factor relating to domestic abuse- stating that it is fairly common for these offences to have a domestic abuse context. Most of the other guidelines do have domestic abuse as an aggravating factor, as so many offences can have a domestic abuse context, not just assault and so on, and the step two factor links to the domestic abuse overarching guideline. It is suggested therefore that it is added to this guideline as well.

Question five: Does the Council agree to add domestic abuse as an aggravating factor within this guideline?

3.8 A small number including the Chief Magistrate, the London Criminal Courts Solicitors' Association (LCCSA), a Judge during road testing and a few magistrates queried the 'use of social media' as an aggravating factor. They said it is too vague, and risks over aggravating the sentence- that social media can be used in many ways, but that presumably what was meant was using it to trace the victim or publishing the threat on social media and using it to intimidate. These seem sensible observations so the factor could be reworded to 'use of social media to facilitate the offence'. The JC felt that there should be an additional factor of threats conducted in the vicinity of a court, as by doing so it makes the offence more serious. There were no substantive points raised on the mitigating factors.

Question six: Does the Council agree to reword the social media factor? And does the Council wish to add an additional factor of threats conducted in the vicinity of the court?

3.9 There were relatively few points raised in relation to step two factors for PTCJ. In terms of mitigating factors, Treasury Counsel suggested that where an offender voluntarily admits their offending behaviour to police, this should be a mitigating factor. It is thought not uncommon that an offender commits the offence in a moment of madness but then quite quickly admits the truth. The JC, the Centre for Women's Justice and a Judge during road

testing felt there should be a mitigating factor of offender being subject to domestic abuse. The Council has already decided to add a reference to domestic abuse to the lower culpability factor at step one. However, the Council could add 'offender subject to domestic abuse at the time of the offence (where not taken into account at step one)' to the mitigating factors, in a similar way to the mitigating factor of 'mental disorder, learning disability (where not taken into account at step one)'.

3.10 There isn't currently an aggravating factor of domestic abuse within this guideline. It is more likely for this offence that offenders commit the offence under pressure from partners or family members so the issues are ones of culpability or mitigation. However it is also possible that other offenders may be committing the offence within a domestic context, in furtherance of a campaign against partners, etc, so there may be a case for adding it as an aggravating factor as well.

Question seven: Does the Council wish to add mitigating factors relating to voluntarily admitting their offending and/or domestic abuse?

Question eight: Does the Council wish to add 'offence committed within a domestic context' as an aggravating factor?

3.11 Now turning to equality and diversity issues. The consultation asked three questions regarding equality and diversity, whether there were any aspects of the guidelines that may cause or increase disparity, whether there were existing disparities within the sentencing of these offences that the guidelines should address, and if there were any other equality and diversity matters that should be addressed. Very few respondents answered these questions. The few that did respond such as the Centre for Women's Justice and Women Against Rape mentioned that women are much more likely than men to be victims of domestic abuse and exploitation that could lead them to be convicted of a PTCJ offence. In addition that Black, Asian migrant and disabled women face additional barriers to accessing support and accessing justice, that young women and girls have distinct experiences, such as trauma that are overlooked. They argue that the guidelines should be amended to ensure equal treatment in relation to race, gender disability and age. As noted above the Council has already added a reference to domestic abuse within the lower culpability factor so that it now reads 'involved through coercion, intimidation or exploitation or as a result of domestic abuse'. Arguably therefore the guideline has been somewhat amended to try to address some of these concerns.

3.12 During road testing sentencers were also asked specific questions relating to equality and diversity (pages six, seven and ten of **Annex D**). Comments generally focused on the

ETBB, although there was no real consensus on anything else these guidelines could provide, one saying that there should be a reference to the ETBB as a step in every guideline, another saying that there should be an overarching guideline for equality and diversity, but another said that there are so many overarching guidelines that its often not clear which one to use. On the first comment, the Council will be aware that there is already a reference to the ETBB at the start of every guideline.

3.13 The updated sentencing data includes the available demographic data on ethnicity, sex and age (**tabs 1.5-1.8, 2.5-2.8 of Annex E**). Looking at sex, a relatively high proportion of offenders sentenced for PTCJ are female (26 per cent in 2021). However, there is no noticeable disparity in sentence outcomes and ACSL. A similar proportion of males and females are given a custodial sentence, but a higher proportion of females receive a suspended sentence, which is in line with other offences.

3.14 In 2021, a similar proportion of Black and White offenders received a custodial sentence for PTCJ. However, a higher proportion of Black offenders were sentenced to immediate custody compared to White offenders – 62 per cent and 48 per cent respectively. This trend has continued from 2020 but in years prior to 2020, similar proportions of Black and White offenders were sentenced to immediate custody. It should be noted that the number of Black offenders sentenced for this offence is much smaller in comparison to White offenders (37 v 290 in 2021) and there is no noticeable difference in ACSL.

3.15 In 2021, the proportion of offenders receiving immediate custody for witness intimidation was higher for Black offenders compared to White (80 per cent and 58 per cent respectively). This trend has been consistent over the last five years, except in 2020 when a similar proportion of Black and White offenders were sentenced to immediate custody. Additionally, a higher proportion of White offenders received an SSO over recent years. However, volumes for Black offenders are much smaller than White (10 v 141 in 2021) and so, these differences should be interpreted with a degree of caution. There is also no noticeable difference in ACSL.

3.16 For PTCJ, the mean ACSL for younger offenders ('18 to 20' years group) was slightly higher in 2021 compared to other age groups. Offenders aged '18 to 20' received an ACSL of 1 year 9 months, while those aged '30 to 39' received an ACSL of 1 year. However, demographic data for previous years show no noticeable difference between age groups and the number of offenders who were sentenced to immediate custody aged '18 to 20' is much smaller in comparison to those aged '30 to 39' (12 v 108). Therefore, the figures should be treated with a degree of caution.

Question nine: Does the Council have any views or concerns in relation to any equality and diversity issues highlighted during the consultation?

4 IMPACT AND RISKS

5.1 A draft final resource assessment will be produced for the Council's consideration prior to the definitive guidelines being signed off ahead of publication.

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Perverting the Course of Justice

Common law

Triable only on indictment

Maximum: Life imprisonment

Offence range: Community order – 7 years' custody

STEP ONE

Determining the offence category

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

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

CULPABILITY	
Demonstrated by one or more of the following:	
A- High Culpability	<ul style="list-style-type: none">• Conduct over a sustained period of time• Sophisticated and/or planned nature of conduct• <u>Underlying offence very serious</u>• <u>Breach of trust or abuse of position or office</u>
B- Medium culpability	<ul style="list-style-type: none">• Other cases that fall between categories A and C because:<ul style="list-style-type: none">○ Factors are present in A and C which balance each other out and/or○ The offender's culpability falls between the factors described in A and C
C- Lower culpability	<ul style="list-style-type: none">• Unplanned and/or limited in scope and duration• Unsophisticated nature of conduct• Underlying offence was not serious• Involved through coercion, intimidation or exploitation <u>or as a result of domestic abuse</u>• Offender's responsibility substantially reduced by mental disorder or learning disability

HARM	
The level of harm is assessed by weighing up all the factors in the case.	
Category 1	<ul style="list-style-type: none">• Serious consequences for an innocent party as a result of the offence (for example time spent in custody/arrest)• Serious distress caused to an innocent party (for example loss of reputation)• Serious impact on administration of justice• Substantial delay caused to the course of justice
Category 2	<ul style="list-style-type: none">• Suspicion cast upon an innocent party as a result of the offence• Some distress caused to an innocent party• Some impact on administration of justice• Some delay caused to the course of justice
Category 3	<ul style="list-style-type: none">• <u>Limited distress caused to an innocent party effects of the offence</u>

- | | |
|--|---|
| | <ul style="list-style-type: none">• Limited impact on the administration of justice• Limited delay caused to the course of justice |
|--|---|

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
Category 1	Starting Point 4 years' custody Category Range 2 - 7 years' custody	Starting Point 2 years' custody Category Range 1 -4 years' custody	Starting Point 1 years' custody Category Range 9 months - 2 years' custody
Category 2	Starting Point 2 years' custody Category Range 1 -4 years' custody	Starting Point 1 years' custody Category Range 9 months - 2 years' custody	Starting Point 9 months' custody Category Range 6 months - 1 years' custody
Category 3	Starting Point 1 years' custody Category Range 9 months - 2 years' custody	Starting Point 9 months' custody Category Range 6 months - 1 years' custody	Starting Point High level community order Category Range Medium level community order - 6 months custody

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

Factors increasing seriousness

Statutory aggravating factors:

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

Other aggravating factors:

- Offender involves others in the conduct
- Vulnerable victim
- Commission of offence whilst under the influence of alcohol or drugs

- Evidence concealed/destroyed
- Offence committed on licence or post sentence supervision or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

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

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

Compensation and ancillary orders

In all cases, the court should consider whether to make compensation and/or other ancillary orders. Where the offence has resulted in personal injury, loss or damage the court must give reasons if it decides not to order compensation ([Sentencing Code, s.55](#)).

- [Ancillary orders – Magistrates' Court](#)
- [Ancillary orders – Crown Court Compendium](#)

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 52 of the Sentencing Code](#)

Witness Intimidation

Criminal Justice and Public Order Act 1994, s.51(1) and s.51(2)

Triable either way

Maximum: 5 years' custody

Offence range: Community Order- 4 years' custody

STEP ONE

Determining the offence category

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

CULPABILITY	
Demonstrated by one or more of the following:	
A- High Culpability	<ul style="list-style-type: none">• Actual or threat of violence to witnesses and/or their families• Deliberately seeking out witnesses• Breach of bail conditions• Conduct over a sustained period of time• Sophisticated and/or planned nature of conduct
B- Medium culpability	<ul style="list-style-type: none">• Non-violent conduct amounting to a threat• Other cases that fall between categories A and C because:<ul style="list-style-type: none">○ Factors are present in A and C which balance each other out and/or○ The offender's culpability falls between the factors described in A and C
C- Lower culpability	<ul style="list-style-type: none">• Contact with witness u unplanned and or limited in scope and duration• Involved through coercion, intimidation or exploitation• Offender's responsibility substantially reduced by mental disorder or learning disability
HARM	
The level of harm is assessed by weighing up all the factors in the case.	
Category 1	<ul style="list-style-type: none">• Contact made at or in vicinity of victim's home <u>and/or workplace</u>• Serious distress <u>and/or impact</u> caused to victim• Serious impact on administration of justice
Category 2	<ul style="list-style-type: none">• Some distress <u>and/or impact</u> caused to the victim• Some impact on administration of justice
Category 3	<ul style="list-style-type: none">• <u>Limited distress and/or impact caused to the victim</u>• <u>Limited impact on administration of justice effects of the offence</u>

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Starting point and category range

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Category 2	Starting Point 1 years' custody Category Range 9 months -2 years' custody	Starting Point 9 months' custody Category Range 6 months - 1 years' custody	Starting Point 6 months custody Category Range High level community order - 9 months' custody
Category 3	Starting Point 9 months' custody Category Range 6 months -1 years' custody	Starting Point 6 months custody Category Range High level community order – 9 months' custody	Starting Point Medium level community order Category Range Low level community order – 6 months custody

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

Factors increasing seriousness

Statutory aggravating factors:

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

Other aggravating factors:

- [Child present and/or child caused serious distress](#)
- [Offence committed in custody](#)

- Offender involves others in the conduct
- Use of social media
- Vulnerable victim
- Commission of offence whilst under the influence of alcohol or drugs
- Evidence concealed/destroyed
- Offence committed on licence or post sentence supervision or while subject to court order(s)

Factors reducing seriousness or reflecting personal mitigation

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

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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.

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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**Compensation and ancillary orders**

In all cases, the court should consider whether to make compensation and/or other ancillary orders. Where the offence has resulted in personal injury, loss or damage the court must give reasons if it decides not to order compensation ([Sentencing Code, s.55](#)).

- [Ancillary orders – Magistrates' Court](#)
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[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 52 of the Sentencing Code](#)

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Sentencing Council

NPCC Criminal Justice Co-ordination Committee: Police use of Warnings & Notices.

Action: Use of Police Warnings in Witness Intimidation cases.

Security Classification NPCC Policy: Documents <u>cannot</u> be accepted or ratified without a security classification (Protective Marking may assist in assessing whether exemptions to FOIA <u>may</u> apply):	
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Date Created:	2 nd November 2022
Coordination Committee:	Criminal Justice Co-ordination Committee
Portfolio:	Criminal Justice
Attachments @ para	N/A
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This paper sets out the types of warnings and notices available to the Police in supporting victims and witnesses against certain acts or behaviour by an offender that may be considered Witness Intimidation or Interfere with the Course of Justice.

In the majority of cases such warnings and notices are available through existing legislation that target areas of high harm or vulnerability. In these instances the legislation provides the opportunity for the Police to apply for a notice from the courts, considered to be an order of the court, restricting the subject/offender on carrying out certain types of act or behaviour or threats thereof, whether directly or indirectly.

In the majority of cases such ancillary orders can be applied from both criminal and civil courts, providing a range of notices that are considered criminal offences if breached.

Such restrictions imposed on the subject of any order often includes a focus on the prevention of witness intimidation and the interference of justice, in addition to any harmful acts towards those it aims to protect.



For the purpose of this document the various types of warnings, notices and orders have been listed into 3 categories:

- 1) Warnings, Notices & Civil Orders directly linked to the prevention of harm, witness intimidation and the interference of justice.
- 2) Warnings, Notices & Civil Orders directly linked to the prevention of harm and further offending **and could also be considered for using** to prevent witness intimidation or interference of justice.
- 3) Warnings, Notices & Civil Orders that solely relate to the prevention of harm or protection of others.

In practice many of the orders listed will be applied for in consultation with other agencies and third party advocacy services. Whilst those working in Police Public Protection and Safeguarding Teams are often seen as being critical in supporting vulnerable victims and witnesses, equally there a number of orders that are more appropriate for Neighbourhood Policing Teams (NPT) or Serious & Organised Crime Units (SOCU) to apply for.

1: Warnings, Notices & Civil Orders that are directly linked to the prevention of harm, witness intimidation and the interference of justice.

This first list of Civil Orders are frequently sought in order to support and protect victims and witnesses from a range of behaviours associated to the perpetrator of both reported crimes and non-crime incidents.

- **Domestic Violence Protection Notice and Order (DVPN/DVPO) - Section 24-33 Crime and Security Act 2010**

DVPNs/DVPOs are a civil order that fills a “gap” in providing protection to victims by enabling the police & magistrates to put in place protective measures in the immediate aftermath of a Domestic Abuse (DA) incident where there is insufficient evidence to charge a perpetrator.

DVPNs are prepared by dedicated officers within Police Safeguarding Teams. They are generally used for DA cases that are likely to end up NFA based on the victim’s limited engagement and history of abuse where the cases have failed to proceed. The focus of the DVPN is to provide an element of “breathing space” for the victim so that support & advocacy services can engage with and support the victim. They can only be obtained whilst the suspect is in custody for a DA related crime where the use of Bail conditions is unlikely.

A Superintendent or above must authorise a DVPN who will consider factors such as proportionality, necessity and protective measures for the victim. Once obtained an application to make the DVPN into a DVPO must occur within 48 hours of the DVPN being issued. The order will come with a power of arrest and if breached is a criminal offence.

Police present the DVPO case to court, either in person or virtually. Once issued details of the DVPO are loaded onto PNC. Management of those on DVPOs varies across forces, in the Metropolitan Police Service (MPS) the Prolific Offender Unit will manage these and target high harm offenders where breaches have occurred, including incidents of victim & witness interference.

DVPNs/DVPOs are soon to be replaced by the Domestic Abuse Prevention Order (DAPO) under the Domestic Act 2021.

- **Stalking Protection Order (SPO) - The Stalking Protection Act 2019**

This 2019 Act provides for early police intervention at the pre-conviction stage, to address stalking behaviour, before it escalates or becomes entrenched, by placing restrictions and/or positive requirements on suspects.

SPOs are generated following details of a reported Harassment or Stalking case recorded on the respective force crime recording system (MPS: CRIS & soon to be CONNECT). The case is reviewed by a nominated Detective within the Safeguarding team to establish if the incident meets the threshold for an SPO, with the OIC subsequently tasked to obtaining the order. The OIC then collates the relevant Statements and arrests the suspect before seeking authorisation from a Superintendent for the SPO. Once authorised a DC within the Safeguarding Unit will present the SPO request to the local court, highlighting the 3 main criteria of: Stalking is occurring, the risk to the victim and necessity to protect the victim.

Once granted a summons is issued which is served by the Safeguarding team on the suspect. Courts can issue full or Interim orders depending if there are issues raised by the defence team during application, however ultimately a full order will be sought and issued. Breach of the order is a criminal offence.

SPOs can be a standalone order- the burden of proof is civil for interim orders but become criminal for a full order. Victims are not required for SPO hearings.

- **Restraining Orders - Restraining Order (RO)- s.5 of the Protection from Harassment Act 1997**

ROs are issued either post-conviction or post-acquittal for the purpose of protecting a victim or victims, or any other person named, from conduct by the perpetrator which amounts to harassment or cause a fear of violence. This could include post-conviction witness intimidation.

In practice the orders can include the same conditions as those documented within an SPO and often sought as part of the post-investigation process by Safeguarding teams once the case has gone to trial and a conviction is likely. Any breach is considered a criminal offence and similar to DVPOs, will be pro-actively monitored by the Police and support services available to the victim. Such breaches often feature during MARAC and MASH meetings.

- **Non-Molestation Order (NMO)- s.42 of the Family Law Act 1996**

An NMO is a type of injunction that you can apply for through the family court. These orders are granted in order to prevent a perpetrator from causing harm to the victim or their children. The term "Harm" includes physical abuse, harassment, intimidation, psychological abuse, threats to cause harm, coercive/controlling behaviour and financial abuse.

Safeguarding teams will consider a non-molestation application alongside any SPO where the investigation is for a DA offence only, as both can run hand in hand. Often the restrictions in the NMO are the same as that in an SPO. Any breach of a NMO is a criminal offence with the breach recorded on PNC. Like ROs they are often monitored by Police Safeguarding Teams and 3rd party support services (for example IDVAs), again featuring frequently at MARAC & MASH meetings.

- **Protection from Harassment Order - Section 3A Protection from Harassment Act 1997**

Harassment warnings/notices. These no longer exist and were replaced by SPOs.

2: Warnings, Notices & Civil Orders directly linked to the prevention of harm and further offending and could also be considered to assist in preventing witness intimidation or interference of justice.

The following category of orders are not specifically designed to prevent offences such as witness intimidation or the interference of justice. However the behaviours they are associated with and the restrictions available within these orders can be considered in the management or prevention of such offences.

- **Violent Offences Protection Order and Notification (VOPO) - Section 98 of the Criminal Justice and Immigration Act 2008**

These orders are issued post-conviction for a specified offence or where the subject would have been convicted but is not guilty by reason of insanity or unfit to be tried (but charged).

VOPOs are used for offenders who continue to pose a risk of serious violence after their release from prison or when their licence has ceased. They are a preventative measure which are used to place controls on violent offenders in circumstances where they could potentially pose a danger to the public by placing restrictions on their behaviour.

Restrictions can include banning or limiting the offender from doing certain activities, visiting certain places or seeing certain people. In doing so the restrictions on seeing other people may well prevent cases of witness intimidation.

In practice these often form part of the MAPPA process as a consideration in managing Category 3 offenders who are deemed particularly violent individuals. They can also be applied for subjects who have committed offences & crimes abroad.

- **Serious Crime Prevention Order (SCPO)- Serious Crime Act 2007**

SCPOs are applied for via the Crown Court if a person has been convicted of a serious offence, or the High Court for a standalone application where the person has been involved in serious crime.

The aim of the order is to protect the public by preventing, restricting or disrupting involvement of the subject in serious crime. Restrictions imposed include financial, property or business dealings, travel restrictions and association/communication with other persons.

Given the severity of the cases these relate to in practice they are generally applied for by Police SOCUs and other specialist commands. Depending on the restrictions applied for regarding people associations, SCPOs could be considered for cases of witness intimidation or interference of justice.

- **Criminal Behaviour Order (CBO) - Section 22 Anti-social Behaviour, Crime and Policing Act 2014**

A CBO is designed to tackle the most serious and persistent anti-social individuals where their behaviour has brought them before a criminal court. The anti-social behaviour to be addressed does not need to be connected to the criminal activity which led to the conviction.

CBOs replaced Anti-Social Behaviour Order's (ASBO). They can be issued following conviction for any criminal offence by the courts and can prohibit the offender from doing anything described in the order. Courts must be satisfied that the offender has engaged in activity that amounts to harassment, alarm or distress. They typically last 1 to 3 years.

In practice CBOs are often coordinated through a multi-agency approach and can address typical ASB related issues, Hate Crime, Gang related crime and occasionally Domestic Abuse (DA). Whilst not often used for DA they can be an effective tool where a lesser type of order is required or where other civil orders may not be deemed suitable or available. These will often be considered at a MARAC or MASH. Given the issues of ASB linked to vulnerable victims they can be a useful notice/order in preventing witness intimidation or further offences.

Civil versions of CBOs namely Community Protection Notices (CPN) are available but only to address ASB, therefore not appropriate for managing witness intimidation.

- **Civil Injunction - Section 1 Anti-Social Behaviour, Crime and Policing Act 2014**

An injunction can be made against any person aged ten or over who has acted in an anti-social manner. It's a type of civil law remedy and isn't intended to punish the offender. An injunction is a court order to prohibit a person from continuing to carry out specified anti-social acts.

Injunctions can include a power of arrest in cases where the perpetrator has used or threatened violence, or if there is a significant risk of harm to others. Breaching an injunction is not a criminal offence. These could be considered for witness intimidation but in practice other available orders are more likely to be sought.

[3: Warnings, Notices & Civil Orders that solely relate to the prevention of harm or protection of others.](#)

The following listed set of orders and notices are based on protecting the wider public from harm and/or to prevent the subject from committing further offences. Whilst commonly used by Police Forces they do not have a direct correlation to offences of witness intimidation.

- **Gang Related Violence Injunction - Sections 34-50 Policing and Crime Act 2009**

Gang injunctions allow courts to place a range of prohibitions and requirements on the behaviour and activities of a person involved in gang-related violence. These conditions could include prohibiting someone from being in a particular place or requiring them to participate in rehabilitative activities.

Police and local authorities can apply for injunctions to prevent gang related violence and drug dealing activity. They typically last for 2 years.

- **Sexual Risk Order (SRO) - Section 122A of the Sexual Offences Act 2003**
- **Sexual Harm Prevention Order (SHPO) - Section 103A of the Sexual Offences Act 2003**

SHPO/SROs can be applied for either whilst the offender is in court in relation to an offence in Schedule 3 or 5 of the SOA 2003 or where a Chief Officer of Police or the Director General of the National Crime Agency applies by complaint to a Magistrates' Court.

Prohibitions imposed by a SHPO are those which are necessary for the purpose of protecting the public from sexual harm from the defendant. An order may, for example, prohibit someone from undertaking certain forms of employment or prohibit the offender from engaging in particular activities on the internet. Breach of an SHPO is a criminal offence.

- **Notification Order (NO) - Section 97 Sexual Offences Act 2003**

Section 97 provides a power for the police to apply to the magistrates' court for an order making an offender who has been convicted, cautioned or had a relevant finding made against them, in respect of a "relevant offence" (certain Sexual related offences within the 2003 Sexual Offences Act & relevant offence if abroad). The order requires the subject to register their personal details with the Police. Breaches will result in arrest and conviction at court for a more stringent sentence.

Notification Orders can be made where a person has a conviction for an equivalent sexual offence, outside of the United Kingdom and they are found, or anticipated to reside within the force area. There is no requirement to consider that the person is currently subject of investigation for another matter, or poses an identified risk of harm, mere confirmation of a qualifying foreign offence is sufficient for the order to be made.

- **Slavery and Trafficking Prevention Order - Section 14 & 15 of the Modern Slavery Act 2015**
- **Slavery and Trafficking Risk Order - Section 23 of the Modern Slavery Act 2015**

STPOs are civil orders aimed at protecting the public in general or specific persons from the physical or psychological harm which would result if the defendant committed a slavery or trafficking offence. They are a preventative measure to deter unlawful and harmful activity.

An STPO on conviction can be made by a court at the point of conviction of a defendant convicted of a slavery or trafficking offence where there is a risk that the defendant may commit another slavery or human trafficking offence and poses a risk of harm to the public.

- **Threats to Life Warning Notices (Osman Warning)- 1998 legal case of Osman vs United Kingdom**

Threat to life warnings (Commonly known as Osman warnings) are issued if police have intelligence of a real and immediate threat to the life of an individual. Police officers will visit the subject at home to inform them of the potential danger. Advice to the subject will include changing their daily schedule, vigilance for suspicious activity and a temporary home move.

Threat to life warnings' are a police response to the human rights court's requirement that the state sometimes has to be proactive in protecting people from threats.

- **Female Genital Mutilation Order (FGMO) - Section 5A of the FGM Act 2003**

Protecting persons at risk or known to be at risk of FGM or had FGM carried out on them.

- **Forced Marriage Protection Order (FMPO) - Section 63A Family Law Act 1996**

Protecting people from being forced into marriages or already in a forced marriage.

- **Section 59 warning - Section 59 Police Reform Act 2002.**

For the anti-social use of motor vehicles.

- **Premises Closure Order (PCO)- ASB Anti-social Behaviour, Crime and Policing Act 2014**

Applications for PCOs are effective in targeting premises where residents have engaged in disorderly, offensive or criminal behaviour on the premises, or that the use of the premises has resulted in serious nuisance to members of the public. The PCO is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.

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Perverting the Course of Justice and Witness Intimidation: road testing summary

Introduction

Perverting the course of justice offences cover a wide range of conduct. Despite being a serious Common Law and indictable-only offence, with a statutory maximum sentence of life imprisonment, no current guideline exists.

Witness intimidation offences include any attempt to threaten or persuade a witness not to give evidence, or to give evidence in a way that is favourable to the defendant. While the Sentencing Guidelines Council (SGC) published Magistrates' Court Sentencing Guidelines (MCSG) in 2008, no current guideline exists for use in Crown Courts.

The Council therefore consulted on (March to June 2022) a new guideline for perverting the course of justice and a revised guideline for witness intimidation.

Methodology

Small-scale qualitative road testing took place in April 2022 to explore if the draft guidelines work as anticipated and to identify any issues. For perverting the course of justice, attention was paid to whether the guideline assists judges to sentence the broad types of behaviour under this offence. For witness intimidation, it was important to understand if the draft guideline reflects the more personal nature of the offence, as well as the broad range of cases covered. For both, sentencing levels are expected to remain consistent after the introduction of the new/ revised guidelines.

As perverting the course of justice is indictable-only and the majority of witness intimidation cases are tried in the Crown Court, interviews were conducted with Crown Court judges only. Fifteen interviews were completed for perverting the course of justice; nine for witness intimidation. Each judge sentenced two scenarios using **either** the draft guideline for perverting the course of justice or for witness intimidation. Scenarios were based on real cases.

Summary of main points

- The judges felt **both guidelines could be applied to the wide range of offending behaviour** covered, and they found **both guidelines** were generally '*clear*' and '*easy to interpret*'.
- The judges felt both guidelines helped them determine the **category of culpability** to apply, although there were some conflicting views on the 'medium' category, and while application of culpability across three of the scenarios was largely consistent, it was more mixed in the scenario that was expected to be medium culpability.
- The judges felt both guidelines helped them determine the **category of harm** to apply, with application of harm largely consistent across the scenarios, with the exception of one scenario that was on the cusp of 2/3, which was reflected in sentencing outcomes.
- There were mixed views on the **sentencing tables for perverting the course of justice**: while some felt the ranges and starting points were '*about right*', others noted a starting point of a community order (CO) '*sends out the wrong message*', and asked for clarification on the more serious (A1) offences. There were no particular comments on the **sentencing tables for witness intimidation**.
- There were **mixed views on whether figures for suspended sentence orders (SSO) would be maintained under either guideline**, with some judges perceiving these would be unchanged, while others felt levels would shift.

This paper discusses the results of road testing on the draft perverting the course of justice guideline, then the revised witness intimidation guideline. Summary tables for each scenario are presented in Annex A.

Perverting the course of justice

Scenario A

R, aged 22, was a passenger in a car driven by her boyfriend when they were involved in an incident with another car. Her boyfriend had been tailgating the car in front and driving aggressively. The two cars then drew level at traffic lights and her boyfriend got out of the car and shouted abuse towards the occupant of the other car and tried to make him get out of the car to fight. The occupant refused and drove off. The cars drew level again and again R's boyfriend got out of the car and behaved aggressively towards the other driver. The other driver did not engage and drove off. He called the police and told them what happened, giving the licence plate of the car R had been travelling in. The police interviewed R's boyfriend who claimed that he was the victim in the incident, and that it was the other driver who had been abusive and threatening towards him. He said his girlfriend could corroborate his version of events. He then persuaded R to back up his version of events. The police telephoned R who maintained her boyfriend's version of events, saying it was the other driver who was the instigator. The police asked her to come in for an interview to discuss the incident during which she admitted what the correct version of events was, that her boyfriend was the instigator. R was charged with perverting the course of justice. She pleaded guilty at the first opportunity. The court saw medical evidence stating that she suffers from depression. She has no previous convictions and is in her final year of university. She was very remorseful. (Her boyfriend was also charged with the same offence.)

This was expected to be medium culpability (C), medium harm (2) case, bordering C3. C2 starting point is nine months, range six months to one years' custody. There are no aggravating factors; there are a number of mitigating factors; and a guilty plea. The sentence could therefore reduce to a six-month suspended sentence order (SSO). Key findings are below; the summary table can be found in Annex A, Table 1.

Key findings

- Fourteen judges sentenced this as **culpability** C, citing factors such as it being unplanned, unsophisticated, and the underlying offence was not serious; one as B¹.
- As anticipated, there was some disagreement about the level of **harm**: three judges sentenced this as 2 (citing there was suspicion cast on an innocent party, some distress caused to an innocent party, or some delay to the course of justice), four were borderline 2/3, and eight stated 3 (all cited 'limited effects of the offence').
- Accordingly, there were a range of **starting points**: the three judges selecting harm level 2 all chose nine months' custody; three of the judges selecting 2/3 gave COs (one explicitly stated six months, the others did not) while the fourth would impose a conditional discharge²; and of the eight who chose level 3 harm, one chose a CO of six months, five chose higher level COs (HLCOs), and two chose custodial sentences (one of six months, one of nine months).
- All 14 of the judges who completed the exercise agreed there were no **aggravating** factors.

¹ The judge noted that it wasn't unplanned but also did not involve coercion, intimidation or exploitation so chose B.

² The judge felt a case of this kind 'should not be tried in the Crown Court' and would therefore impose a conditional discharge; they did not therefore complete the rest of the sentencing exercise for this scenario.

- The majority of the judges completing the exercise noted **mitigating** factors such as: no previous convictions, remorse, and mental disorder (some noted they would require further evidence). Other factors mentioned were: *'final year at university'* with one noting the possible *'consequence of a sentence'*, another *'thus she's got every prospect'* and another *'potential good career'*, as well as *'coercion'* or *'under pressure'*.
- A range of **pre-guilty plea final sentences** were given³: two of those selecting harm level 2 gave six month custodial sentences, one nine months; the three selecting 2/3⁴ all gave COs (with one explicitly stating six months); and a more mixed picture emerged for the eight who chose 3 – one would defer sentencing for six months, one stated it would be *'the bottom of the range [in the table]'*, two would give HLCOs, with one additionally specifying 240 hours of unpaid work and 15 rehabilitation activity requirement (RAR) days, one would suspend the sentence, one would give nine months custody, and two did not give pre-guilty plea sentences.
- The 14 judges completing the exercise all amended their sentences in light of the **guilty plea**: eight gave various levels of CO (CO through to HLCO) with attachments such as unpaid work and RAR, and six judges gave SSOs.
- When asked for their **views of the final sentence**, those who gave COs were generally *'pleased'* or *'happy'* with their sentences, with one noting *'the expectation is custody and at the very least a SSO... ordinarily I would not have considered to justify for a CO, although that is exactly the right disposal in this case'* and another noting they *'cannot ever remember imposing a CO for an offence of this nature... this is giving a judge... some flexibility'*. Those who gave SSOs were also generally content: one noted they were *'very comfortable with it'*, another that it *'may appear lenient but... she has lost her good character – serious impact'*, another that *'she can get her life back on track with a suspended sentence'*, one wondered *'could I have brought it down to HLCO?'*, while another noted a *'HLCO would be too low'* and another noted *'I'm not very happy about a non-custodial sentence for this sort of crime... I take the view it should be marked by a prison sentence'*

Scenario B

W, worked as a police officer investigating the supply of class A drugs and was trusted to do undercover work. He falsely accused another police officer, who was also his romantic partner, of drug use and class A drug dealing. Over a period of months, he made phone calls to other police officers and agencies asserting this allegation, and also involved his brother to act out certain roles to assist in the conspiracy to make the allegations more believable. He also planted drugs within her possessions, for the investigating officers to find. His partner was arrested and spent several hours in custody following her arrest, and then had to wait 6 weeks while the case was investigated. After 6 weeks she was told no further action would be taken, as W's allegations were proved to be false. The court was told that there would be considerable further work for the authorities due to appeals against conviction from cases which he had had involvement in. He was found guilty after a trial. He is aged 30. It seemed the reason he had committed the offence was because he was jealous of her success at work and of her being around male colleagues.

This was expected to be a high culpability (A), high harm (1) case: starting point four years, with a range of two to seven years' custody. There is an aggravating factor of involving others, and mitigation of previous good character, however it is such a serious offence the sentence is likely to be at the top

³ Some did not explicitly state a pre-guilty plea sentence.

⁴ As noted, one Judge did not complete the exercise.

of the range (seven years). Key findings are summarised below, followed by a summary of comments from using the guideline across both scenarios and through further questions. Table 2 is in Annex A.

Key findings

- All 15 judges agreed this was **culpability A**, citing factors such as it was sophisticated and/ or planned, over a sustained period of time, and the underlying offence was very serious.
- Fourteen judges agreed this was **harm 1**, mainly citing there were serious consequences for an innocent party, and a serious impact on the administration of justice; one judge selected level 2 stating there was suspicion cast upon, and some distress caused, to an innocent party.
- The majority of judges chose a **starting point** of four years; of those who did not, one noted the *'quantity of drugs could make a difference to the starting point'* and therefore raised the starting point from four to six years, another stated eight years (but did not specify why), while a third had chosen A2, and chose the corresponding starting point of two years.
- Eleven judges selected **aggravating** factors such as the offender involved others (six judges), evidence concealed/ destroyed (two judges), as well as listing other factors not specified in the guideline such as *'in a position of trust'* or *'abuse/ misuse of that position'*.
- Eight judges said there were no **mitigating** factors, while the remaining seven noted no previous convictions or previous good character.
- There were a range of **final sentences** given, from three years and three months, through to seven years, with most sentences (12) falling between five to seven years.
- When asked for their **views of the final sentence**, there were a range of views. The three judges who gave lower sentences (between three years and three months to three years and eight months) thought their sentences were *'ok'*, they had given a *'reasonably substantial discount for good character [and] it didn't seem out of kilter'*, with those giving sentences between five and six years also generally appearing content with their sentences, noting it *'needs a significant sentence for a police officer to conduct themselves like that'* and *'it's proportionate [to] the serious nature of the offence [and] I may have been tempted to go higher'*, and *'very comfortable with it'* and three between six and seven years noting that *'there was no aggravating feature in terms of position of public duty/trust – I had to put it in to explain why I upped it to 6 years'* and *'the range is not big enough for these top level crimes'* and *'it's a bit higher than I first thought... but the more you look at it... it's hard to actually think of a more serious example'*.

Comments on the guideline

The following summarises a small number of comments made using the guideline across both scenarios, with the majority coming from follow-up questions:

- All of the judges felt the **guideline could be applied to the wide range of offending behaviour** covered by this offence, noting *'it has broadened the way I can approach sentencing offences of this sort... this is much fairer'* and *'the guideline covers a large range of activity and sentences'*. However, a couple of judges also noted *'it's important to give judges leeway'* and *'[I] imagine most of the factors identified will cover most cases, but there are going to be cases where judges may struggle to fit it in and have to use their own discretion'*.
- All of the judges felt the guideline was **clear and easy to interpret**.
- All of the judges felt the guideline helped them determine the **category of culpability** to apply, although there were conflicting views on 'medium', with one judge noting *'I don't like how medium culpability it treated in this guideline (and others)... category B seems to be quite large'*, while two noted they *'quite agree that medium has to be whatever isn't in A and C'* and *'it is*

quite well established now and works quite well... if you try and put too many things in medium, people get confused'. One also noted, under high culpability, 'what counts as sustained? Better to have the quantity of activity'.

- The majority of the judges felt the guideline helped them determine the **category of harm** to apply, however, some did raise some thoughts: one noted there's 'nothing really about... cost to the police and impact on police in terms of time spent in man hours and costs and expert costs in investigating the false narrative'; one that 'when we have words like 'some' rather than serious or significant in Harm 2, there is always argument from counsel about whether this falls into 1 or 2... [could] some guidance... be included – what is some or serious distress – like in the death by dangerous or manslaughter guidelines?'; another that 'you could put "some" in front of suspicion in the first bullet... and on point four... add "serious or substantial"'; and one that 'I don't particularly like the expression "limited effects of the offence"'.
particular
- There were a variety of comments about the **starting points and ranges**. The majority thought they were 'about right', noting these were 'pretty much in the expected range', 'the law of the diagonal... makes sense... balancing culpability and harm', 'there are overlaps [which] gives judges the flexibility', that 'it's particularly important that there is scope to pass the custody threshold, even in C3 – to suggest [this offence] could never pass the custody threshold would send out the wrong message', while one was 'surprised it's four years as a starting point in A1, a range of up to 7 is about right'. However, six judges noted some concerns: three commented about the top of the range, asking for 'extra guidance on cases above A1', '[there is a] danger when you have a range of CO to 7 years that some sentencers may feel 7 years is the top end... when it is not' with one noting that 'it might be useful to remind that you can go outside of the range – like you do in other guidelines'; two noted that a 'starting point of a CO... sends out the wrong message/ is inappropriate for this perverting the course of justice; and one that they would like 'more of an overlap between the ranges in C3 and B3, so the top of the range should be nine months in C3'.
- In terms of the **factors increasing seriousness**, five judges had no suggestions for change, with two stating that they were 'fairly standard' and 'cover everything', and two that it's 'better to keep it short and simple because these cases are very different' and 'keep them general [and] short, don't be over prescriptive'. The remaining six did provide some suggestions: three felt that 'being in a position of trust' should be included; one noted 'should it be concealed, destroyed or planted?' while another wondered whether it should be 'an aggravating feature or harm'; one thought influence of alcohol or drugs 'doesn't sit very well... more relates to violence', while another thought it 'could... be a mitigating factor... stupid thing to do and wouldn't have done it had they been sober' (although they noted it 'can be dealt with on a case-by-case basis'). One noted a 'risk of double counting' between offender involves others in the conduct in aggravating and assessment of harm.
- On the **factors reducing seriousness**, 12 judges had no suggestions for change, with two noting they were 'fairly standard', and one that they 'cover everything'; one judge queried 'when you've got no previous convictions and then good character and/ or exemplary conduct, do you mean over and above not having previous convictions? Slightly confusing because no previous convictions would mean someone of good character – exemplary conduct is a description of what you're talking about in the sense that they got things in their like marked out as otherwise being a good, upstanding citizen', and two suggested related factors: 'being subjected to pressure to commit the offence depending on their social circumstance', and 'if you want to consider some kind of impact of a cultural/ religious situation, it may be something that would reduce seriousness/ reflect in personal mitigation, but it may be that it increases seriousness, not

decreases.... *If something was put in, it needs to be sufficiently broad [and refer the sentencer] to the Equal Treatment Bench Book*'.

- Judges also provided **general comments on the guideline**, such as: *'I liked it because it broadened the range, which is absolutely right... [previously], we felt under pressure that it had to be seen to be prison... this will hopefully change that dynamic'*; several commented positively on the clear, familiar, standard format of the guidelines, for example *'they mirror the format of our existing guidelines... before guidelines were introduced, there was no consistency in sentencing'*; *'good to see a guideline on this, beyond case law... judges do struggle sometimes with this type of offence'*.
- There were **mixed views on whether figures for SSO would be maintained**⁵ under the revised guideline: six judges felt levels wouldn't change, noting they will *'be about the same... the guideline will... make it easier to produce the sort of results that we're already producing'*, with one stating the *'draft guideline, unless it's a very minor offence, steers towards immediate custody... could find you've got more prison sentences'* but then said *'for those below the two year custody, judges are under a duty to consider suspending it [and] it probably does allow for that in the lower categories'*; one judge noted they didn't know, *'but... the guideline will help is consider cases more seriously (and rightly so), so we might get better charging decisions'*; the remaining eight judges gave more nuanced responses: one thought figures would stay the *'same for immediate custody but... the non-custodial will get split between suspended sentences and other disposals'*, one thought there could be an increase in non-custodial sentences, with more COs in particular, two judges agreed there could be more COs, two thought there could be an increase in non-custodial sentences/decrease in immediate custody, and two thought there might be an increase in immediate custody. When looking at the results from the first scenario, which tested this, eight of the judges completing the exercise gave various forms of CO, and six gave SSOs.
- The judges were asked to consider two questions relating to equality and diversity. When prompted to think about whether there were **'any particular words in the guideline that may contribute to disparities in sentencing'**, the majority did not think there were any, but some provided thoughts, such as: *'it is important to emphasise being able to speak to a defendant in clear unambiguous language that they understand'*; *'[there] maybe cultural considerations - a lot of types of family issues that may affect people particularly, for example Muslim people - see pressures that come up on them from the mosque, from the imams telling them that Allah will not forgive them if they don't side with their family and things...'*; *'where medium culpability is defined as neither high or low, this might increase discretion and potential disparities'*; and, *'looking at mitigation... the phrase offender was in a lesser or subordinate role... it goes far enough to deal with people who are under pressure... I think pressure goes beyond limited role – limited role in drugs might put somebody in the lowest category of culpability, but being subject to pressure goes beyond that... it is particularly an issue that arises in drugs where you've got young offenders subject to pressure from their peers... and a related issue for young black men in inner city areas. I think there's probably some space for something else in mitigation to reflect that'*. When asked whether they thought the guideline **'gives enough guidance on how to deal with specific equality and diversity issues'**, the judges generally felt it did, noting they have training on it and that the guidance refers them to the Equal Treatment Bench Book (ETBB; one

⁵ It is anticipated that sentencing levels will remain consistent with levels before the new guideline is introduced. To test this, judges were informed that in 2020, about 400 offenders were sentenced to this type of offence, of which 51% received immediate custody and 42% a SSO. They were then asked what their views were regarding future volumes of immediate custody and SSOs, and whether they thought these figures will be maintained under the draft guideline or not.

noted adding ‘inclusivity, or equality and diversity’ in the box that refers to ETBB). However, four judges did offer some suggestions, including whether guidelines could ‘cite parts of ETBB in particular guidelines’, ‘make reference to the ETBB as a step in every guideline... [to] force judges to look at it in a more proactive way... and if there are factors from ETBB relevant to a case, to identify them’, noting that ‘the practical bits are very useful and could be highlighted, such as in the format of a compendium sidebar or dropdown menus such as in the Judicial College Trial Compendium’, and that ‘diversity issues are a much broader topic... a judge has to be much more alive to it... it is a matter we need to have more education about, probably through Judicial College’, but in terms of guidelines, ‘I’m not sure how you would do it’.

Witness intimidation

Scenario A

The victim lived next door to the offender, C aged 50, and there had been a previous incident of anti-social behaviour involving the offender which she had reported to the police. The offender whilst drunk went to her back door, shouting and swearing and generally being abusive. He threatened her and said, ‘I know it’s you who called the police on me before. If you know what’s good for you, you’ll drop the case, or else’. This terrified the victim, who felt too scared to leave her house or go into her back garden in case she met the offender. She did however go ahead with giving evidence. The offender pleaded guilty at the first opportunity. The court heard that the offender had a long-standing drink problem but in recent months had gone to his GP to seek help for it and had been sober for a number of months, attending AA meetings. He had also moved away from the area to live with his daughter in an attempt to turn his life around.

This was expected to be a medium culpability (B), high harm (1): starting point one year, range of nine months to two years’ custody. There is an aggravating factor of commission of offence while under the influence of alcohol or drugs; a mitigating factor of determination and demonstration of steps taken to address addiction or offending behaviour; and a guilty plea. The final sentence could be eight months’ custody, which could be suspended. Key findings are below; Table 3 is in Annex A.

Key findings

- Five judges chose **culpability A** (citing deliberately seeking out witnesses), three chose B (citing non-violent conduct or a factor from A and from C and therefore it would be B), and one was between B and C, noting ‘there was a threat of violence but it was spontaneous and in drink’.
- Seven judges chose **harm 1** (citing contact made at the victim’s home), one was between 1 and 2 (noting while there was serious distress, there was no impact on the administration of justice), and one chose 2, noting ‘it was in the vicinity of the home, but that’s because they are neighbours anyway’.
- There were a range of **starting points** from nine months (one participant), ten months (one participant), one year (two participants) through to two years (four participants)⁶.
- Eight judges noted the **aggravating factor** under the influence of alcohol with one also adding ‘previous anti-social behaviour’; one did not state any factors.
- Eight judges noted **mitigating factors** such as steps taken to address addiction (seven respondents) and remorse (four), with only one stating there were none.

⁶ One judge did not state a starting point.

- **Pre-guilty plea final sentences** ranged from a nine-month SSO, through to a custodial sentence of one year and eight months, with the majority agreeing it would be a sentence between one year and one year and eight months⁷.
- For the **final sentences after GP**, one judge selected a six-month CO, three chose to suspend sentences (which were for six months, ten months and one year and two months), and five gave custodial sentences ranging from 28-30 weeks to one year.
- The judges were asked their **views of the final sentence**: the judge who gave a CO stated *'It's below the custody threshold'*; the three who gave SSOs noted these were *'about right'*, or the *'same as would have passed without the guideline'*; while the five who gave custodial sentences expressed views such as *'the most important question would be whether to suspend it or not'*, and *'it is so serious to interfere with the course of justice... a suspended sentence or community order... [doesn't] reflect how important it is'*.

Scenario B

The victim was due to give evidence against her partner B for a s.20 GBH offence. He had been remanded in custody ahead of the trial. He recently had a previous conviction for turning up at her workplace with a knife. Ahead of the trial B arranged for his cellmate who had recently been released from prison to go to her home and put a letter through the door (while she was at home). The letter warned her not to turn up at court for the trial. He threatened to slash her face, burn her house down, burn her family and friend's houses down, and stab her, and that he was willing to 'do life' for her. Due to his past behaviour the victim believed the threats to be very real. However, she reported this to the police and gave evidence at court. B, aged 35, pleaded guilty on the day of the trial. During the case the judge observed that a year on from the events the victim remained terrified.

This was expected to be a high culpability (A), high harm (1) case: starting point two years, range of one to four years' custody. There are aggravating factors of a recent relevant previous conviction and involving others in the conduct, no mitigating factors, and a small credit for a guilty plea on the day of the trial. The sentence could move up to three years' custody. Key findings are presented below, followed by a summary of comments from using the guideline across both scenarios and further questioning. Table 4 is in Annex A.

Key findings

- All nine judges agreed it was **culpability A**, citing threats of violence, seeking out witnesses, and sophisticated and/ or planned.
- All nine judges agreed it was **harm 1**, citing contact made at the victims' home and serious distress caused.
- The judges selected a range of **starting points**, from one year and eight months (one participant, noting it would *'perhaps be slightly below the starting point'*), through to four years (one participant who stated *'there are a number of factors under culpability... I would increase from the starting point of two years'*). Within that range, one judge stated two to four years, another three years (stating that *'I think I go right to the top of the category and might even go above, but as the statutory maximum is only five years' custody and this isn't actual violence, it can't be in the very top 20 per cent of offences'*), and five selected two years.

⁷ Two judges did not state a pre-guilty plea sentence.

- Eight judges noted the **aggravating factor** of previous convictions, with four also noting offence committed on bail, four that the offender involved others, and three also mentioning domestic abuse/ violence.
- Six judges said there were no **mitigating factors**, while three did note the guilty plea.
- A range of **pre-guilty plea sentences** were given, from two years four months to *'outside of the top of the range'*⁸.
- The six judges who gave specific pre-guilty plea sentences all took into consideration the late guilty plea, and reduced their sentence to give a range of **final sentences**: three explicitly noted a ten per cent reduction, while others adjusted their sentences down (for example, from three years down to two years and eight months). There was a range of final sentences from one year and six months through to an extended sentence, with the majority (six) between two to three years.
- Of those providing their **views of their final sentences**, two noted it was *'about right'* or they were *'happy with the sentence'*, and two felt *'easier about imposing a very severe sentence because it's... acknowledged by the guideline'* or *'the guideline gave me more confidence to go higher than I would have done'*.

Comments on the guideline

The following summarises comments made using the guideline across both scenarios and through follow-up questions:

- All of the judges felt **the guideline could be applied to the wide range of offending behaviour** covered by this offence, commenting that they *'are good and work well'*, *'they cover all the scenes'*, although one did note that *'the one thing I think isn't really set out in the guidelines is the index offence... the offence that leads to the witness intimidation'*.
- All of the judges felt the guideline was **clear and easy to interpret**.
- All of the judges felt the guideline helped them determine which **category of culpability** to apply, although some did provide comments: one noted *'I wonder if it's possible to further differentiate "deliberately seeking out the witness" between medium and high culpability'*, another whether the *'differentiation between A, B and C could be improved'*, and that they *'understand.. that it's difficult to put medium culpability into words that allow for sufficient judicial discretion... you could roll these out... and maybe keep an eye on medium culpability to think whether there's different wording'*, and one noted that they were *'not clear [about] the distinction between an actual or threat of violence... as well as non-violent conduct amounting to a threat... should it read "actual threatening violence"?'.*
- All of the judges felt the guideline helped them determine which **category of harm** to apply, although one commented that they were not sure *'how being by the victim's home is enough to put a case into category 1'*.
- The majority of judges did not have any particular comments on the **starting points and ranges** in the sentencing tables, noting, for example, *'it's important and right that at the bottom of every category... custody is a potential'*, *'sentencing ranges are appropriate'*, *'I'm glad it goes up to four years... I always wonder why it doesn't go up to give years or whatever the maximum is, but judges know you can go above the category range if you need to'* although one did query whether the starting point of two years in A1 is *'too low'*.
- Five judges had no further comments on the **factors increasing seriousness**, while four did raise suggestions: *'not sure whether the use of social media is an aggravating factor?'*, *'should offence*

⁸ Two did not give pre-guilty plea sentences.

committed while on remand be included?’, ‘I would probably add a specific reference to domestic violence’, and ‘I would add ongoing effect on victim, also in the longer term’.

- There were no comments on the **factors reducing seriousness**.
- There were two **comments on the guideline as a whole**: one noted *‘I’m not quite sure that the vulnerability of the victim is sufficiently emphasised’*, while another that *‘The Council ought to think whether or not totality really has a part to play in witness intimidation’* noting *‘let’s say the witness intimidation will get you three years, and the offence would get you three years, if a judge starts sating well, because of totality, I’m going to reduce that to four and a half or five years, it puts a bit of a premium on interfering with witnesses... if you undermine justice by stopping people giving evidence, it seems a bit paradoxical’.*
- Four judges thought that **figures for SSO will be maintained**⁹ under the revised guideline, while four thought there may be less SSO’s as there will be *‘less in “suspendable” territory’* and *‘immediate custodial sentences might increase’*, while one thought *‘in category A case[s] those would all end up being immediate sentence... but B and C would get us a suspended sentence, so it would depend on... what percentage ends up being category A’.*
- The judges were then asked to consider two questions relating to equality and diversity. When prompted to think about whether there were **‘any particular words in the guideline that may contribute to disparities in sentencing’**, the majority did not think there were any, but some provided thoughts, such as: *‘descriptions of the level of distress are always quite difficult – difficult to discern between some and serious’* and another that *“some” and “serious” descriptions of harm may lead to disparity – some victims may be more able and articulate than others’*; and one noted *‘when we come to impose sentence, we have to look at whether there is a realistic prospect of rehabilitation... somebody who’s middle class, got a job, got family support, has gone to their GP and done all of the things that demonstrate they’re capable of rehabilitation is far more likely to get a suspended sentence... someone who is homeless, or has no family support, isn’t going to have that same evidence to convince us that sentence can be suspended’.* When asked whether they thought the guideline **‘gives enough guidance on how to deal with specific equality and diversity issues’**, some judges thought it did, with a couple referring to the ETBB, noting that was *‘enough’* or that *‘it is good on mental health and learning disabilities’.* Others had more specific thoughts, such as: *‘nothing on racial/ religious issues? Possibly not able to do so?’*; another that *‘there may need to be a separate guideline and overarching guideline for [equality and diversity]’*, although another noted *‘we’ve got so many overarching guidelines... many times it’s not clear which one(s) to use in particular... could be useful to state, at Step 3, to consider any other specific guidelines?’.*

⁹ It is anticipated that sentencing levels will remain consistent with levels before the new guideline is introduced. To test this, judges were informed that in 2020, about 180 offenders were sentenced to this type of offence, of which 63% received an immediate custody and 26% an SSO. They were then asked what their views were regarding future volumes of immediate custody and SSO, and whether they thought these figures will be maintained under the draft guideline or not.

Annex A: Summary tables

Table 1: Perverting the course of justice, Scenario A, sentenced using the draft guideline

	Culp	Factors	Harm	Factors	SP	Agg factors	Mitigating factors	Pre-GP sentence	Post-GP sentence
Expected sentencing	C	<ul style="list-style-type: none"> • Unplanned and/or limited in scope and duration • Unsophisticated nature of conduct • Underlying offence was not serious 	2 ¹⁰	<ul style="list-style-type: none"> • Suspicion cast upon an innocent party as a result of the offence • Some impact on administration of justice • Some delay caused to the course of justice 	9 months' custody	• None	<ul style="list-style-type: none"> • No previous convictions • Remorse • Good character and/or exemplary conduct • Offender was in a lesser or subordinate role if acting with others/performed limited role under direction • Mental disorder • Age and/or lack of maturity 	9 months' custody	6 months SSO
1	C	<ul style="list-style-type: none"> • Unplanned and/or limited in scope and duration • Unsophisticated nature of conduct • Underlying offence was not serious • Involved through coercion, intimidation or exploitation 	3	<ul style="list-style-type: none"> • Limited effects of the offence 	HLCO ¹¹	• None	<ul style="list-style-type: none"> • No previous convictions • Remorse • Mental disorder • <i>Final year at university and consequence of sentence</i>¹² 	Bottom of range ¹³	MLCO + 80 hours UPW
2	C	<ul style="list-style-type: none"> • Unplanned and/or limited in scope and duration • Unsophisticated nature of conduct • Underlying offence was not serious 	2/3	<ul style="list-style-type: none"> • None stated 	HLCO 6 months	• None	<ul style="list-style-type: none"> • No previous convictions • Age and/or lack of maturity • Mental disorder • <i>Under pressure</i> 	CO 6 months	CO 2 months suspended for 1 year, UPW
3	C	<ul style="list-style-type: none"> • Unsophisticated nature of conduct 	2/3	<ul style="list-style-type: none"> • Some impact on administration of justice • Borderline 3 as limited effects of the offence 	CO 6 months	• None	<ul style="list-style-type: none"> • No previous convictions • Age and/or lack of maturity • Remorse • Mental disorder • <i>Final year at university may make a difference in how she is dealt with</i> 	CO	CO ¹⁴

¹⁰ This was deemed category 2 harm, but could be at the very bottom, bordering 3 (limited effects of the offence), as evidenced in responses.

¹¹ HLCO – high level community order; MLCO – medium level community order; UPW – unpaid work; RAR – rehabilitation activity requirement.

¹² Factors in italics are not listed in the guideline.

¹³ The judge noted this was 'bottom of the range, difficult to apply a discount for the guilty plea, would say it has been taken into account but not specify how much'.

¹⁴ The judge noted the 'credit for the guilty plea is that the sentence is not custodial and in rejecting use of unpaid work and curfew as not appropriate'

4	C	<ul style="list-style-type: none"> • Unplanned and/or limited in scope and duration • Unsophisticated nature of conduct • Underlying offence was not serious • Involved through coercion, intimidation or exploitation 	3	<ul style="list-style-type: none"> • Limited effects of the offence 	HLCO	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • No previous convictions • Remorse • Good character • Mental disorder • <i>Final year at university, thus good prospects</i> 	Defer sentence for 6 months ¹⁵	Then a CO 9 months
5	C	<ul style="list-style-type: none"> • Unplanned and/or limited in scope and duration • Unsophisticated nature of conduct • Involved through coercion, intimidation or exploitation 	3	<ul style="list-style-type: none"> • Limited effects of the offence 	HLCO	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Good character • Remorse • In a lesser or subordinate role¹⁶ • Mental disorder (limited factor) • <i>Coercion</i> • <i>Admitted at first opportunity</i> 	HLCO, 240 hours UPW, 15 days RAR	HLCO, 160 hours UPW, 15 days RAR
6	C	<ul style="list-style-type: none"> • Unplanned and/or limited in scope and duration • Unsophisticated nature of conduct 	2	<ul style="list-style-type: none"> • Suspicion cast upon an innocent party as a result of the offence • Some delay caused to the course of justice 	9 months' custody	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • No previous convictions • Good character • Remorse • In a lesser or subordinate role • <i>Offence wasn't committed whilst on bail</i> 	6 months' custody	4 months' custody suspended for 1 year
7	C	<ul style="list-style-type: none"> • Unplanned and/or limited in scope and duration • Unsophisticated nature of conduct 	3	<ul style="list-style-type: none"> • Limited effects of the offence 	HLCO	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • No previous convictions • <i>Coercion</i> 	Suspended sentence	Suspended sentence
8	C	<ul style="list-style-type: none"> • Would be a C2/3¹⁷ 	2/3						Cond'l discharge
9	C	<ul style="list-style-type: none"> • None stated 	3	<ul style="list-style-type: none"> • Limited effects of the offence • <i>Dealt with pretty quickly</i> 	CO 6 months	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Good character • Mental disorder • <i>Pleaded guilty</i> • <i>University and potential good career</i> 	None stated	CO 100 hours

¹⁵ The judge noted they would 'consider deferring the sentence for six months to see if the couple have split up, how she got on in the final part of her university, and how she was getting on with her depression'.

¹⁶ The judge noted 'not double counting'.

¹⁷ The judge felt this 'should not be tried in the Crown Court... and instead I would impose probably a conditional discharge... if I had to apply the guideline, it would be C2/3'.

10	C	<ul style="list-style-type: none"> • Unplanned and/or limited in scope and duration • Unsophisticated nature of conduct • <i>Underlying offence on the cusp to being medium to not serious</i> • <i>Depression (would want to explore to see if relevant or not)</i> 	2/3	<ul style="list-style-type: none"> • Some impact on administration of justice (possibly) • Some delay caused to the course of justice (possibly) • Suspicion cast upon an innocent party as a result of the offence (possibly) 	6 months' custody	• None	<ul style="list-style-type: none"> • No previous convictions • Good character • Remorse • In a lesser or subordinate role • Mental disorder (depression - would need more information) 	CO – would need to look at bands for low/med / high	MLCO (possibly UPW)
11	C	<ul style="list-style-type: none"> • None stated 	3	<ul style="list-style-type: none"> • Limited effects of the offence • <i>Dealt with pretty quickly</i> 	6 months' custody	• None	<ul style="list-style-type: none"> • No previous convictions • Remorse 	None stated	4 months' custody suspended for 1 year
12	B	<ul style="list-style-type: none"> • Between A and C – wasn't unplanned but also not involved through coercion, intimidation or exploitation 	3	<ul style="list-style-type: none"> • Limited effects of the offence • <i>Not much impact on administration of justice</i> • <i>No real delay</i> 	9 months' custody	• None	<ul style="list-style-type: none"> • No previous convictions • Good character • Remorse • In a lesser or subordinate role 	9 months' custody	4 months' custody suspended for 1 year, UPW
13	C	<ul style="list-style-type: none"> • Unplanned and/or limited in scope and duration • Unsophisticated nature of conduct • Underlying offence not serious • Involved through coercion, intimidation or exploitation 	2	<ul style="list-style-type: none"> • Suspicion cast upon an innocent party • Some distress caused to innocent party 	9 months' custody	• None	<ul style="list-style-type: none"> • No previous convictions • Mental disorder 	9 months' custody	6 months' custody suspended for 1 year, UPW/ working with women course
14	C	<ul style="list-style-type: none"> • Unsophisticated nature of conduct • Unplanned and/or limited in scope and duration • Underlying offence not serious • Involved through coercion, intimidation or exploitation 	3	<ul style="list-style-type: none"> • Limited effects of the offence 	HLCO	• None	• None	HLCO	MLCO, RAR, UPW
15	C	<ul style="list-style-type: none"> • <i>Unplanned but of some duration</i> • Unsophisticated nature of conduct • Involved through coercion, intimidation or exploitation 	2	<ul style="list-style-type: none"> • Some distress caused to innocent party • <i>Limited duration</i> 	9 months' custody	• None	<ul style="list-style-type: none"> • No previous convictions • <i>Admitted in interview</i> • <i>GP at earliest opportunity</i> 	6 months' custody	4 months' custody suspended for 1 year, 20 RAR days for thinking skills

Table 2: Perverting the course of justice, Scenario B, sentenced with the draft guideline

	Culp	Factors	Harm	Factors	SP	Aggravating factors	Mitigating factors	Final sentence
Expected sentencing	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct • Underlying offence very serious 	1	<ul style="list-style-type: none"> • Serious consequences for an innocent party as a result of the offence • Serious distress caused to an innocent party • Serious impact on administration of justice • Substantial delay caused to the course of justice 	4 years	<ul style="list-style-type: none"> • Offender involves others in the conduct 	<ul style="list-style-type: none"> • Previous good character and/or exemplary conduct 	7 years
1	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct • Underlying offence very serious 	1	<ul style="list-style-type: none"> • Serious consequences for an innocent party • Serious impact on administration of justice 	4 years	<ul style="list-style-type: none"> • Offender involved others in conduct 	<ul style="list-style-type: none"> • No previous convictions 	5 years
2	A	<ul style="list-style-type: none"> • Sophisticated and/or planned nature of conduct • Underlying offence very serious 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious impact on administration of justice 	6 years ¹⁸	<ul style="list-style-type: none"> • Abuse of position as police officer, and an undercover police officer • Domestic violence 	<ul style="list-style-type: none"> • None 	6 years
3	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious impact on administration of justice • Substantial delay caused to the course of justice 	4 years	<ul style="list-style-type: none"> • Evidence concealed/destroyed • Commission of another offence in the course of the activity 	<ul style="list-style-type: none"> • No previous convictions 	7 years
4	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct • Underlying offence very serious 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious impact on administration of justice 	4 years	<ul style="list-style-type: none"> • No remorse • In a position of trust as a police officer and in relation to his girlfriend 	<ul style="list-style-type: none"> • No previous convictions • Good character • Offence was not committed on bail 	5 years

¹⁸ Judge noted that the quantity of drugs could make a difference to the starting point.

5	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct • Underlying offence very serious 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious distress caused to innocent party • Serious impact on administration of justice 	4 years	<ul style="list-style-type: none"> • Offender involved others in conduct 	<ul style="list-style-type: none"> • None 	5 years
6	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct • Underlying offence very serious 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious impact on administration of justice • Substantial delay caused to the course of justice 	4 years	<ul style="list-style-type: none"> • None (thought involvement of others in conduct had been taken care of in harm) 	<ul style="list-style-type: none"> • No previous convictions 	3 years, 6 months
7	A	<ul style="list-style-type: none"> • Sophisticated and/or planned nature of conduct 	2	<ul style="list-style-type: none"> • Some distress caused to an innocent party • Suspicion cast upon an innocent party as a result of the offence 	2 years	<ul style="list-style-type: none"> • Offender involved others in conduct • <i>In a position of trust as a police officer</i> 	<ul style="list-style-type: none"> • None 	3 years, 8 months
8	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious impact on administration of justice 	4 years	<ul style="list-style-type: none"> • Offender involved others in conduct • <i>In a position of trust as a police officer</i> 	<ul style="list-style-type: none"> • None 	6 years
9	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious distress caused to innocent party • Serious impact on administration of justice 	4 years	<ul style="list-style-type: none"> • Evidence concealed/destroyed • <i>In a position of trust as a police officer</i> 	<ul style="list-style-type: none"> • None 	5 years
10	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious distress caused to innocent party • <i>Some</i> impact on administration of justice • Suspicion cast upon an innocent party as a result of the offence 	4 years	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • No previous convictions • Good character 	3 years, 3 months

11	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct • Underlying offence very serious 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious impact on administration of justice • <i>Ruined her career, long lasting consequences</i> 	8 years	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None 	6-7 years
12	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct • Underlying offence very serious 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious impact on administration of justice • Delay caused to the course of justice 	4 years	<ul style="list-style-type: none"> • Offender involved others in conduct • <i>Interfered with administration of justice</i> • <i>Use of position of authority – grave impact on public trust and confidence</i> 	<ul style="list-style-type: none"> • None 	6 years
13	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct • Underlying offence very serious 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious distress caused to innocent party • Serious impact on administration of justice • Delay caused to the course of justice 	4 years	<ul style="list-style-type: none"> • Offender involved others in conduct • <i>Use of position of authority to add credibility to claim</i> • <i>Motivated by malice and hostility</i> 	<ul style="list-style-type: none"> • None 	5 years
14	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct • Underlying offence very serious 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious distress caused to innocent party • Serious impact on administration of justice 	4 years	<ul style="list-style-type: none"> • None (not double counting) 	<ul style="list-style-type: none"> • No previous convictions 	5-6 years
15	A	<ul style="list-style-type: none"> • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct 	1	<ul style="list-style-type: none"> • Serious consequences for innocent parties • Serious distress caused to innocent party 	4 years	<ul style="list-style-type: none"> • <i>Abuse of position - serving police officer expected to uphold, respect and act within the law</i> 	<ul style="list-style-type: none"> • No previous convictions 	5 years, 6 months

Table 3: Witness Intimidation, Scenario A, sentenced using the draft guideline

	Culp	Factors	Harm	Factors	SP	Aggravating factors	Mitigating factors	Pre-GP sentence	Final sentence
Expected sentencing	B	<ul style="list-style-type: none"> • Non-violent conduct amounting to a threat • Other cases that fall between categories A and C¹⁹ because: <ul style="list-style-type: none"> ○ Factors are present in A and C which balance each other out and/or ○ The offender’s culpability falls between the factors described in A and C 	1	<ul style="list-style-type: none"> • Contact made at or in vicinity of victim’s home • Serious distress caused to victim • Serious impact on administration of justice 	1 years’ custody	<ul style="list-style-type: none"> • Commission of offence whilst under the influence of alcohol or drugs 	<ul style="list-style-type: none"> • Determination, and/or demonstration of steps taken to address addiction or offending behaviour 	1 years’ custody	8 months’ custody ²⁰
1	B	<ul style="list-style-type: none"> • Deliberately seeking out witnesses (A) • Unplanned and/or limited in scope and duration (C) 	1	<ul style="list-style-type: none"> • None stated 	9 months	<ul style="list-style-type: none"> • Under influence of alcohol 	<ul style="list-style-type: none"> • None 	42-45 weeks	28-30 weeks
2	A	<ul style="list-style-type: none"> • Deliberately seeking out witnesses • Breach of bail conditions 	1	<ul style="list-style-type: none"> • Contact made at victim’s home 	2 years	<ul style="list-style-type: none"> • Under influence of alcohol 	<ul style="list-style-type: none"> • Remorse • Steps taken to address addiction 	1 year 8 months	1 year 2 months SSO
3	A	<ul style="list-style-type: none"> • Deliberately seeking out witnesses • Actual or threat of violence to witnesses and/or their families 	1	<ul style="list-style-type: none"> • Contact made at victim’s home • Distress caused to victim 	2 years	<ul style="list-style-type: none"> • Under influence of alcohol 	<ul style="list-style-type: none"> • Remorse • Steps taken to address addiction 	1 year 3 months	10 months, suspended for 1 year 6 months
4	B	<ul style="list-style-type: none"> • Deliberately seeking out witnesses at home 	1	<ul style="list-style-type: none"> • Distress caused to victim 	1 year	<ul style="list-style-type: none"> • Under influence of alcohol • Previous anti-social behaviour 	<ul style="list-style-type: none"> • Pleading guilty 	1 year	8 months

5	A	<ul style="list-style-type: none"> Deliberately seeking out witnesses at home 	1	<ul style="list-style-type: none"> Contact made at victim's home 	2 years	<ul style="list-style-type: none"> Under influence of alcohol 	<ul style="list-style-type: none"> Remorse Real prospect of rehabilitation – moved away <i>Pleaded guilty</i> 	1 year 3 months	10 months
6	A	<ul style="list-style-type: none"> Deliberately seeking out witnesses 	1	<ul style="list-style-type: none"> Contact made at or in vicinity of victim's home <i>Confined victim to home</i> 	2 years	<ul style="list-style-type: none"> Under influence of alcohol <i>A single occasion</i> 	<ul style="list-style-type: none"> Steps taken to address alcoholism and moved away 	1 year 6 months	1 year
7	B/C	<ul style="list-style-type: none"> Threat of violence to witnesses and/or their families 	2	<ul style="list-style-type: none"> Contact made at or in vicinity of victim's home (<i>because they were neighbours</i>) 	None stated	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Steps taken to address alcoholism and moved away 	9 months, suspended sentence	6 months, suspends sentence
8	B	<ul style="list-style-type: none"> Non-violent conduct amounting to a threat 	1/2	<ul style="list-style-type: none"> Serious distress caused to victim <i>No impact on admin of justice</i> 	10 months	<ul style="list-style-type: none"> Under influence of alcohol 	<ul style="list-style-type: none"> Remorse Steps taken to address issue Pleaded guilty at first opportunity 	-	6 months CO
9	A	<ul style="list-style-type: none"> None stated 	1	<ul style="list-style-type: none"> None stated 	1 year	<ul style="list-style-type: none"> Under influence of alcohol 	<ul style="list-style-type: none"> Steps taken to address issues and moving away 	-	8 months

¹⁹ Factors for A: Actual or threat of violence to witnesses and/or their families; Deliberately seeking out witnesses; Breach of bail conditions; Conduct over a sustained period of time; Sophisticated and/or planned nature of conduct. Factors for C: Unplanned and/or limited in scope and duration; Involved through coercion, intimidation or exploitation; Offender's responsibility substantially reduced by mental disorder or learning disability

²⁰ Could suspend the sentence due to realistic prospects of rehabilitation.

Table 4: Witness Intimidation, Scenario B, sentenced with the draft guideline

	Culp	Factors	Harm	Factors	SP	Aggravating factors	Mitigating factors	Pre-GP sentence	Post-GP sentence
Expected	A	<ul style="list-style-type: none"> • Actual or threat of violence to witnesses and/or their families • Deliberately seeking out witnesses • Breach of bail conditions • Conduct over a sustained period of time • Sophisticated and/or planned nature of conduct 	1	<ul style="list-style-type: none"> • Contact made at or in vicinity of victim’s home • Serious distress caused to victim • Serious impact on administration of justice 	2 years’ custody	<ul style="list-style-type: none"> • Previous convictions • Offender involves others in the conduct 	• None	Up to 10 per cent reduction	3 years’ custody
1	A	<ul style="list-style-type: none"> • Threat of violence to witnesses and/or their families • Deliberately seeking out witnesses • Sophisticated and/or planned nature of conduct 	1	<ul style="list-style-type: none"> • Contact made at or in vicinity of victim’s home • Serious distress caused to victim 	2 years	<ul style="list-style-type: none"> • Previous convictions 	• GP	2 years 8 months	2 years 4 months
2	A	<ul style="list-style-type: none"> • Threat of violence to witnesses and/or their families • Deliberately seeking out witnesses • Sophisticated and/or planned nature of conduct 	1	<ul style="list-style-type: none"> • Contact made at or in vicinity of victim’s home • Serious distress caused to victim 	3 years	<ul style="list-style-type: none"> • Previous convictions • Committed while on bail • <i>Domestic Abuse</i> 	• None	3 years	2 years 8 months
3	A	<ul style="list-style-type: none"> • Threat of violence to witnesses and/or their families • Deliberately seeking out witnesses • Sophisticated and/or planned nature of conduct 	1	<ul style="list-style-type: none"> • Contact made at or in vicinity of victim’s home • Serious distress caused to victim • Risk of serious impact on administration of justice 	2 years	<ul style="list-style-type: none"> • Relevant previous convictions • Offender involves others in conduct • Committed while on bail 	• GP	3 years 4 months	3 years
4	A	<ul style="list-style-type: none"> • Threat of violence to witnesses and/or their families • Planned nature of conduct 	1	<ul style="list-style-type: none"> • Contact made at or in vicinity of victim’s home (<i>although delivering a letter seems like a loose link to someone’s house</i>) 	2 years	<ul style="list-style-type: none"> • Previous convictions • Offender involves others in conduct • Committed whilst on bail 	• GP	2 years 9 months	2 years 6 months

5	A	<ul style="list-style-type: none"> • Threat of violence to witnesses and/or their families • Deliberately seeking out witnesses • Sophisticated nature of conduct 	1	<ul style="list-style-type: none"> • Contact made at or in vicinity of victim's home • Serious distress caused to victim 	2-4 years	<ul style="list-style-type: none"> • Previous convictions 	<ul style="list-style-type: none"> • None 	Outside the top of the range	Extended sentence
6	A	<ul style="list-style-type: none"> • Threat of violence to witnesses and/or their families • Deliberately seeking out witnesses • Planned nature of conduct 	1	<ul style="list-style-type: none"> • Contact made at or in vicinity of victim's home • Serious distress caused to victim 	2 years	<ul style="list-style-type: none"> • Previous convictions • Committed whilst on remand • Offender involved others in conduct • <i>Domestic violence – level of threat</i> 	<ul style="list-style-type: none"> • None 	3 years	2 years 8 months
7	A	<ul style="list-style-type: none"> • Threat of violence to witnesses and/or their families (<i>persistent threat</i>) 	1	<ul style="list-style-type: none"> • Serious distress caused to victim • <i>Domestic violence</i> 	1 year 8 months	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None 	-	1 year 6 months
8	A	<ul style="list-style-type: none"> • Threat of violence to witnesses and/or their families • Deliberately seeking out witnesses 	1	<ul style="list-style-type: none"> • Contact made at or in vicinity of victim's home • Serious distress caused to victim 	2 years	<ul style="list-style-type: none"> • Previous convictions • Offender involves others in conduct • <i>Domestic violence – level of threat</i> 	<ul style="list-style-type: none"> • None 	2 years 4 months to 2 years 6 months	2 years 2 months
9	A	<ul style="list-style-type: none"> • Threat of violence to witnesses and/or their families • Deliberately seeking out witnesses • Sophisticated and planned nature of conduct 	1	<ul style="list-style-type: none"> • Serious distress caused to victim 	4 years	<ul style="list-style-type: none"> • Previous convictions 	<ul style="list-style-type: none"> • None 		3 years 4 months

Perverting the course of justice and witness intimidation offences

These data tables provide statistics on the outcomes and demographics of offenders sentenced for offences covered by the Sentencing Council definitive guidelines for the course of justice and witness intimidation, which can be found here:

<https://www.sentencingcouncil.org.uk/crown-court/>

Section 1: Perverting the course of justice

Table 1.1	Number of adult offenders sentenced for perverting the course of justice, Crown Court, 2011-2021
Table 1.2	Number and proportion of adult offenders sentenced for perverting the course of justice, by sentence outcome, 2011-2021
Table 1.3	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for perverting the course of justice, 2011-2021
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Section 2: Witness intimidation

Table 2.1	Number of adult offenders sentenced for witness intimidation, all courts, 2011-2021
Table 2.2	Number and proportion of adult offenders sentenced for witness intimidation offences, by sentence outcome, 2011-2021
Table 2.3	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for witness intimidation offences, 2011-2021
Table 2.4	Sentence lengths received by adult offenders sentenced to immediate custody for witness intimidation offences, 2011-2021
Table 2.5	Demographics of adult offenders sentenced for witness intimidation offences, by sex, age and ethnicity, 2021
Table 2.6	Number and proportion of adult offenders sentenced for witness intimidation offences, by sex, age and ethnicity and sentence outcome, 2021
Table 2.7	Average custodial sentence lengths (ACSL) received by adult offenders sentenced for witness intimidation offences, by sex, age and ethnicity, 2021
Table 2.8	Sentence lengths received by adult offenders sentenced to immediate custody for witness intimidation offences, 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.

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.

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 numeric 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 captures 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

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 been 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

Press Office

enquiries: Kathryn Montague

Tel: 020 7071 5792

Table 1.1: Number of adult offenders sentenced for perverting the course of justice, Crown Court, 2011-2021 ¹[Index](#)

Court	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 ²	2021
Crown Court	984	870	932	928	895	780	787	629	576	404	570

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures shown here differ from those published by the MoJ, as there were 11 cases in the CPD between 2014-2021 where the record indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

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

Table 1.2: Number and proportion of adult offenders sentenced for perverting the course of justice, by sentence outcome, 2011-2021

[Index](#)

Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 ²	2021
Absolute and conditional discharge	11	9	6	11	12	5	5	4	4	2	4
Fine	6	2	5	6	7	3	5	1	2	1	1
Community sentence	91	81	46	69	44	25	17	26	14	15	20
Suspended sentence	406	352	360	409	380	340	350	245	246	171	246
Immediate custody	463	420	510	430	447	402	394	338	294	206	290
Otherwise dealt with ³	7	6	5	3	5	5	16	15	16	9	9
Total	984	870	932	928	895	780	787	629	576	404	570

Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 ²	2021
Absolute and conditional discharge	1%	1%	1%	1%	1%	1%	1%	1%	1%	<0.5%	1%
Fine	1%	<0.5%	1%	1%	1%	<0.5%	1%	<0.5%	<0.5%	<0.5%	<0.5%
Community sentence	9%	9%	5%	7%	5%	3%	2%	4%	2%	4%	4%
Suspended sentence	41%	40%	39%	44%	42%	44%	44%	39%	43%	42%	43%
Immediate custody	47%	48%	55%	46%	50%	52%	50%	54%	51%	51%	51%
Otherwise dealt with ³	1%	1%	1%	<0.5%	1%	1%	2%	2%	3%	2%	2%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures shown here differ from those published by the MoJ, as there were 11 cases in the CPD between 2014-2021 where the record indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

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

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

Table 1.3: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for perverting the course of justice, 2011-2021[Index](#)

ACSL (years) ^{1,2}	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 ³	2021
Mean	0.9	1.0	1.0	0.9	1.1	1.0	1.1	1.0	1.1	1.2	1.0
Median	0.7	0.7	0.7	0.7	0.7	0.7	0.8	0.7	0.8	0.7	0.7
Indeterminates as percentage of custodial sentences ⁴	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%

Source: Court Proceedings Database, Ministry of Justice

Notes:

- 1) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 2) The statutory maximum sentence for this offence is life imprisonment. Figures shown here differ slightly from those published by the MoJ, as there was 1 case in the CPD in 2021 which indicates that the offender was sentenced to immediate custody in a magistrates' court. This case has been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.
- 3) 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 perverting the course of justice, 2011-2021

[Index](#)

Sentence length (years) ^{1,2}	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 ³	2021
Less than 1 year	359	298	389	345	329	300	270	259	197	140	212
1 to 2	73	88	73	53	75	70	76	54	72	38	45
2 to 3	20	19	29	20	24	20	27	16	17	17	18
3 to 4	8	10	9	9	9	7	10	5	5	6	5
4 to 5	1	1	3	3	4	1	7	1	1	1	5
5 to 6	1	1	1	0	1	2	2	2	0	0	3
6 to 7	1	1	1	0	0	1	2	0	0	2	1
7 to 8	0	2	4	0	0	0	0	0	0	1	0
8 to 9	0	0	0	0	1	0	0	0	0	0	0
9 to 10	0	0	1	0	1	1	0	0	0	0	0
Greater than 10 years	0	0	0	0	3	0	0	1	2	1	0
Indeterminate ⁴	0	0	0	0	0	0	0	0	0	0	1
Total	463	420	510	430	447	402	394	338	294	206	290

Sentence length (years) ^{1,2}	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 ³	2021
Less than 1 year	78%	71%	76%	80%	74%	75%	69%	77%	67%	68%	73%
1 to 2	16%	21%	14%	12%	17%	17%	19%	16%	24%	18%	16%
2 to 3	4%	5%	6%	5%	5%	5%	7%	5%	6%	8%	6%
3 to 4	2%	2%	2%	2%	2%	2%	3%	1%	2%	3%	2%
4 to 5	<0.5%	<0.5%	1%	1%	1%	<0.5%	2%	<0.5%	<0.5%	<0.5%	2%
5 to 6	<0.5%	<0.5%	<0.5%	0%	<0.5%	<0.5%	1%	1%	0%	0%	1%
6 to 7	<0.5%	<0.5%	<0.5%	0%	0%	<0.5%	1%	0%	0%	1%	<0.5%
7 to 8	0%	<0.5%	1%	0%	0%	0%	0%	0%	0%	<0.5%	0%
8 to 9	0%	0%	0%	0%	<0.5%	0%	0%	0%	0%	0%	0%
9 to 10	0%	0%	<0.5%	0%	<0.5%	<0.5%	0%	0%	0%	0%	0%
Greater than 10 years	0%	0%	0%	0%	1%	0%	0%	<0.5%	1%	<0.5%	0%
Indeterminate ⁴	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	<0.5%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: Court Proceedings Database, Ministry of Justice

Notes:

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

2) The statutory maximum sentence for this offence is life imprisonment. Figures shown here differ slightly from those published by the MoJ, as there was 1 case in the CPD in 2021 which indicates that the offender was sentenced to immediate custody in a magistrates' court. This case has been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

3) 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) 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 1.5: Demographics of adult offenders sentenced for perverting the course of justice, by sex, age and ethnicity, 2021¹

[Index](#)

Sex	Number of adults sentenced	Percentage of all adults sentenced²
Female	148	26%
Male	421	74%
Not recorded/not known	1	
Total	570	100%

Age group	Number of adults sentenced	Percentage of all adults sentenced²
18 to 20	38	7%
21 to 24	68	12%
25 to 29	109	19%
30 to 39	203	36%
40 to 49	85	15%
50 to 59	49	9%
60 to 69	15	3%
70 and over	3	1%
Not recorded/not known	0	
Total	570	100%

Ethnicity^{3,4}	Number of adults sentenced	Percentage of all adults sentenced²
Asian	60	15%
Black	37	9%
Mixed	11	3%
Other	6	1%
White	290	72%
Not recorded/not known	166	
Total	570	100%

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) Figures shown here differ from those published by the MoJ, as there were 5 cases in the CPD in 2021 where the record indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

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 (29%), 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.

Table 1.6: Number and proportion of adult offenders sentenced for perverting the course of justice, by sex, age and ethnicity, : sentence outcome, 2021

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Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Female	1	0	3	96	45	3	148
Male	3	1	17	149	245	6	421
Not recorded/not known	0	0	0	1	0	0	1

Age group	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
18 to 20	2	0	3	21	12	0	38
21 to 24	1	0	5	34	27	1	68
25 to 29	0	0	3	40	64	2	109
30 to 39	0	0	7	84	108	4	203
40 to 49	1	1	2	40	40	1	85
50 to 59	0	0	0	20	28	1	49
60 to 69	0	0	0	4	11	0	15
70 and over	0	0	0	3	0	0	3
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity ³	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Asian	0	0	2	20	36	2	60
Black	0	0	1	12	23	1	37
Mixed	0	0	0	5	6	0	11
Other	0	0	1	1	4	0	6
White	3	0	6	136	140	5	290
Not recorded/not known	1	1	10	72	81	1	166

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Female	1%	0%	2%	65%	30%	2%	100%
Male	1%	<0.5%	4%	35%	58%	1%	100%
Not recorded/not known	0%	0%	0%	100%	0%	0%	100%

Age group	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
18 to 20	5%	0%	8%	55%	32%	0%	100%
21 to 24	1%	0%	7%	50%	40%	1%	100%
25 to 29	0%	0%	3%	37%	59%	2%	100%
30 to 39	0%	0%	3%	41%	53%	2%	100%
40 to 49	1%	1%	2%	47%	47%	1%	100%
50 to 59	0%	0%	0%	41%	57%	2%	100%
60 to 69	0%	0%	0%	27%	73%	0%	100%
70 and over	0%	0%	0%	100%	0%	0%	100%
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity ³	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ²	
Asian	0%	0%	3%	33%	60%	3%	100%
Black	0%	0%	3%	32%	62%	3%	100%
Mixed	0%	0%	0%	45%	55%	0%	100%
Other	0%	0%	17%	17%	67%	0%	100%
White	1%	0%	2%	47%	48%	2%	100%
Not recorded/not known	1%	1%	6%	43%	49%	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 were 5 cases in the CPD in 2021 where the record indicates that the offender was sentenced in a magistrates' court. These cases have been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.
- 2) The category 'Otherwise dealt with' covers miscellaneous disposals. Please note that due to a data issue currently under investigation, there 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.
- 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 1.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for perverting the course of justice, by sex, age and ethnicity, 2021

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Sex	ACSL (years) ^{1,2}	
	Mean	Median
Female	1.3	0.8
Male	1.0	0.7
Not recorded/not known	-	-

Age group	Mean	Median
18 to 20	1.8	1.6
21 to 24	1.0	0.6
25 to 29	0.8	0.5
30 to 39	1.0	0.7
40 to 49	1.2	0.8
50 to 59	1.2	0.7
60 to 69	0.9	0.5
70 and over	-	-
Not recorded/not known	-	-

Ethnicity ³	Mean	Median
Asian	0.9	0.7
Black	1.0	0.7
Mixed	1.4	1.2
Other	*	*
White	1.1	0.7
Not recorded/not known	1.0	0.7

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

2) The statutory maximum sentence for this offence is life imprisonment. Figures shown here differ slightly from those published by the MoJ, as there was 1 case in the CPD in 2021 which indicates that the offender was sentenced to immediate custody in a magistrates' court. This case has been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.

3) 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 perverting the course of justice, by sex, age and ethnicity, 2021

Sex	Number of adults sentenced to each sentence length (year) ^{1,2}											Greater than 10 years	Indeterminate ³	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	8 to 9	9 to 10					
Female	30	6	5	0	1	2	0	0	0	0	0	0	0	1	45
Male	182	39	13	5	4	1	1	0	0	0	0	0	0	0	245
Not recorded/not known	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Age group	Number of adults sentenced to each sentence length (year) ^{1,2}											Greater than 10 years	Indeterminate ³	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	8 to 9	9 to 10					
18 to 20	5	5	0	1	0	1	0	0	0	0	0	0	0	0	12
21 to 24	20	4	1	1	1	0	0	0	0	0	0	0	0	0	27
25 to 29	53	9	1	0	1	0	0	0	0	0	0	0	0	0	64
30 to 39	80	14	10	0	1	1	1	0	0	0	0	0	0	1	108
40 to 49	24	10	2	3	1	0	0	0	0	0	0	0	0	0	40
50 to 59	21	3	2	0	1	1	0	0	0	0	0	0	0	0	28
60 to 69	9	0	2	0	0	0	0	0	0	0	0	0	0	0	11
70 and over	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Ethnicity ³	Number of adults sentenced to each sentence length (year) ^{1,2}											Greater than 10 years	Indeterminate ³	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	8 to 9	9 to 10					
Asian	29	3	1	1	1	0	0	0	0	0	0	0	0	1	36
Black	18	2	1	1	1	0	0	0	0	0	0	0	0	0	23
Mixed	3	2	1	0	0	0	0	0	0	0	0	0	0	0	6
Other	3	0	0	1	0	0	0	0	0	0	0	0	0	0	4
White	103	21	9	2	2	2	1	0	0	0	0	0	0	0	140
Not recorded/not known	56	17	6	0	1	1	0	0	0	0	0	0	0	0	81

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

Notes:

- 1) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than or equal to 1 year, and '1 to 2' includes sentence lengths over 1 year, and up to and including 2 years.
- 2) The statutory maximum sentence for this offence is life imprisonment. Figures shown here differ slightly from those published by the MoJ, as there was 1 case in the CPD in 2021 which indicates that the offender was sentenced to immediate custody in a magistrates' court. This case has been excluded from the above table as this offence is indictable only, and can therefore only be sentenced in the Crown Court.
- 3) 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) 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.

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Sex	Proportion of adults sentenced to each sentence length (year) ^{1,2}											Greater than 10 years	Indeterminate ³	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	8 to 9	9 to 10					
Female	87%	13%	11%	0%	2%	4%	0%	0%	0%	0%	0%	0%	0%	2%	100%
Male	74%	16%	5%	2%	2%	<0.5%	<0.5%	0%	0%	0%	0%	0%	0%	0%	100%
Not recorded/not known	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0%

Age group	Proportion of adults sentenced to each sentence length (year) ^{1,2}											Greater than 10 years	Indeterminate ³	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	8 to 9	9 to 10					
18 to 20	42%	42%	0%	8%	0%	8%	0%	0%	0%	0%	0%	0%	0%	0%	100%
21 to 24	74%	15%	4%	4%	4%	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%
25 to 29	83%	14%	2%	0%	2%	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%
30 to 39	74%	13%	9%	0%	1%	1%	1%	0%	0%	0%	0%	0%	0%	1%	100%
40 to 49	60%	25%	5%	8%	3%	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%
50 to 59	75%	11%	7%	0%	4%	4%	0%	0%	0%	0%	0%	0%	0%	0%	100%
60 to 69	82%	0%	18%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%
70 and over	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Ethnicity ³	Proportion of adults sentenced to each sentence length (year) ^{1,2}											Greater than 10 years	Indeterminate ³	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	8 to 9	9 to 10					
Asian	81%	8%	3%	3%	3%	0%	0%	0%	0%	0%	0%	0%	0%	3%	100%
Black	78%	9%	4%	4%	4%	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%
Mixed	50%	33%	17%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%
Other	75%	0%	0%	25%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%
White	74%	15%	6%	1%	1%	1%	1%	0%	0%	0%	0%	0%	0%	0%	100%
Not recorded/not known	69%	21%	7%	0%	1%	1%	0%	0%	0%	0%	0%	0%	0%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

Table 2.1: Number of adult offenders sentenced for witness intimidation offences, all courts, 2011-2021

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Court	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 ¹	2021
Magistrates' court	140	114	111	96	125	165	129	84	58	47	71
Crown Court	378	275	264	318	332	296	243	221	179	128	137
Total	518	389	375	414	457	461	372	305	237	175	208

Court	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 ¹	2021
Magistrates' court	27%	29%	30%	23%	27%	36%	35%	28%	24%	27%	34%
Crown Court	73%	71%	70%	77%	73%	64%	65%	72%	76%	73%	66%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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 witness intimidation offences, by sentence outcome, 2011-2021

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Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 ¹	2021
Absolute and conditional discharge	7	5	2	4	3	6	4	2	1	0	0
Fine	3	0	2	0	5	3	2	1	1	1	2
Community sentence	73	54	39	46	51	32	22	29	15	13	19
Suspended sentence	140	95	102	115	147	143	128	88	71	46	60
Immediate custody	277	227	223	238	243	266	208	178	142	110	118
Otherwise dealt with ²	18	8	7	11	8	11	8	7	7	5	9
Total	518	389	375	414	457	461	372	305	237	175	208

Outcome	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 ¹	2021
Absolute and conditional discharge	1%	1%	1%	1%	1%	1%	1%	1%	<0.5%	0%	0%
Fine	1%	0%	1%	0%	1%	1%	1%	<0.5%	<0.5%	1%	1%
Community sentence	14%	14%	10%	11%	11%	7%	6%	10%	6%	7%	9%
Suspended sentence	27%	24%	27%	28%	32%	31%	34%	29%	30%	26%	29%
Immediate custody	53%	58%	59%	57%	53%	58%	56%	58%	60%	63%	57%
Otherwise dealt with ²	3%	2%	2%	3%	2%	2%	2%	2%	3%	3%	4%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

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 witness intimidation offences, 2011-2021

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ACSL (years) ^{1,2}	2011 ³	2012	2013	2014	2015	2016	2017	2018	2019	2020 ⁴	2021
Mean	0.8	0.8	0.7	0.8	0.8	0.8	0.9	0.9	0.9	0.9	0.9
Median	0.7	0.7	0.5	0.7	0.7	0.7	0.8	0.8	0.8	0.8	0.7
Indeterminates as percentage of custodial sentences ⁵	-	-	-	-	-	-	-	-	-	-	-

Source: Court Proceedings Database, Ministry of Justice

- = not applicable.

Notes:

- 1) The ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 2) The statutory maximum sentence for this offence is 5 years' custody.
- 3) Excludes 1 case from 2011 that appears to be incorrectly assigned as an indeterminate sentence in the CPD data, therefore figures presented here may not match figures published by the Ministry of Justice.
- 4) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.
- 5) 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 witness intimidation offences, 2011-2021

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Sentence length (years) ^{1,2}	2011 ³	2012	2013	2014	2015	2016	2017	2018	2019	2020 ⁴	2021
Less than 1 year	220	185	185	187	191	198	152	128	102	79	93
1 to 2	48	38	31	45	44	60	48	40	36	28	19
2 to 3	6	2	6	5	8	7	6	7	3	3	5
3 to 4	2	2	1	1	0	1	2	3	1	0	1
4 to 5 years	0	0	0	0	0	0	0	0	0	0	0
Total	276	227	223	238	243	266	208	178	142	110	118

Sentence length (years) ^{1,2}	2011 ³	2012	2013	2014	2015	2016	2017	2018	2019	2020 ⁴	2021
Less than 1 year	80%	81%	83%	79%	79%	74%	73%	72%	72%	72%	79%
1 to 2	17%	17%	14%	19%	18%	23%	23%	22%	25%	25%	16%
2 to 3	2%	1%	3%	2%	3%	3%	3%	4%	2%	3%	4%
3 to 4	1%	1%	<0.5%	<0.5%	0%	<0.5%	1%	2%	1%	0%	1%
4 to 5 years	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: Court Proceedings Database, Ministry of Justice

Notes:

- 1) Sentence length intervals do not include the lower bound, but do include the upper bound sentence length. For example, the category 'Less than 1 year' includes sentence lengths less than or equal to 1 year, and '1 to 2' includes sentence lengths over 1 year, and up to and including 2 years.
- 2) The statutory maximum sentence for this offence is 5 years' custody.
- 3) Excludes 1 case from 2011 that appears to be incorrectly assigned as an indeterminate sentence in the CPD data, therefore figures presented here may not match figures published by the Ministry of Justice.
- 4) Figures presented for 2020 include the time period since March 2020 in which restrictions were placed on the criminal justice system due to the COVID-19 pandemic. It is therefore possible that these figures may reflect the impact of the pandemic on court processes and prioritisation and the subsequent recovery, rather than a continuation of the longer-term series, so care should be taken when interpreting these figures.

Table 2.5: Demographics of adult offenders sentenced for witness intimidation offences, by sex, age and ethnicity, 2021

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Sex	Number of adults sentenced	Percentage of all adults sentenced¹
Female	27	13%
Male	181	87%
Not recorded/not known	0	
Total	208	100%

Age group	Number of adults sentenced	Percentage of all adults sentenced¹
18 to 20	12	6%
21 to 24	26	13%
25 to 29	34	16%
30 to 39	78	38%
40 to 49	30	14%
50 to 59	24	12%
60 to 69	2	1%
70 and over	2	1%
Not recorded/not known	0	
Total	208	100%

Ethnicity^{2,3}	Number of adults sentenced	Percentage of all adults sentenced¹
Asian	15	9%
Black	10	6%
Mixed	4	2%
Other	1	1%
White	141	82%
Not recorded/not known	37	
Total	208	100%

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 (18%), 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.

Table 2.6: Number and proportion of adult offenders sentenced for witness intimidation offences, by sex, age and ethnicity, and sent outcome, 2021

[Index](#)

Sex	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ¹	
Female	0	1	2	12	11	1	27
Male	0	1	17	48	107	8	181
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 ¹	
18 to 20	0	0	4	2	5	1	12
21 to 24	0	1	1	8	15	1	26
25 to 29	0	1	1	6	23	3	34
30 to 39	0	0	5	28	45	0	78
40 to 49	0	0	4	6	20	0	30
50 to 59	0	0	3	9	9	3	24
60 to 69	0	0	1	0	1	0	2
70 and over	0	0	0	1	0	1	2
Not recorded/not known	0	0	0	0	0	0	0

Ethnicity ²	Number of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ¹	
Asian	0	0	1	5	6	3	15
Black	0	0	1	1	8	0	10
Mixed	0	1	0	1	2	0	4
Other	0	0	0	0	1	0	1
White	0	1	15	38	82	5	141
Not recorded/not known	0	0	2	15	19	1	37

Sex	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ¹	
Female	0%	4%	7%	44%	41%	4%	100%
Male	0%	1%	9%	27%	59%	4%	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 ¹	
18 to 20	0%	0%	33%	17%	42%	8%	100%
21 to 24	0%	4%	4%	31%	58%	4%	100%
25 to 29	0%	3%	3%	18%	68%	9%	100%
30 to 39	0%	0%	6%	36%	58%	0%	100%
40 to 49	0%	0%	13%	20%	67%	0%	100%
50 to 59	0%	0%	13%	38%	38%	13%	100%
60 to 69	0%	0%	50%	0%	50%	0%	100%
70 and over	0%	0%	0%	50%	0%	50%	100%
Not recorded/not known	-	-	-	-	-	-	-

Ethnicity ²	Proportion of adults sentenced						Total
	Absolute and conditional discharge	Fine	Community sentence	Suspended sentence	Immediate custody	Otherwise dealt with ¹	
Asian	0%	0%	7%	33%	40%	20%	100%
Black	0%	0%	10%	10%	80%	0%	100%
Mixed	0%	25%	0%	25%	50%	0%	100%
Other	0%	0%	0%	0%	100%	0%	100%
White	0%	1%	11%	27%	58%	4%	100%
Not recorded/not known	0%	0%	5%	41%	51%	3%	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 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 2.7: Average custodial sentence lengths (ACSL) received by adult offenders sentenced for witness intimidation offences, by sex, age and ethnicity, 2021

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Sex	ACSL (years) ^{1,2}	
	Mean	Median
Female	0.9	0.7
Male	0.9	0.7
Not recorded/not known	-	-

Age group	Mean	Median
18 to 20	1.0	1.0
21 to 24	0.7	0.7
25 to 29	0.9	0.7
30 to 39	1.0	0.8
40 to 49	0.8	0.5
50 to 59	0.8	0.6
60 to 69	*	*
70 and over	-	-
Not recorded/not known	-	-

Ethnicity ³	Mean	Median
Asian	1.3	0.9
Black	0.8	0.7
Mixed	*	*
Other	*	*
White	0.9	0.7
Not recorded/not known	0.7	0.5

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 ACSL calculation excludes life and indeterminate sentences, for offences where these types of sentences apply.
- 2) The statutory maximum sentence for this offence is 5 years' custody.
- 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 2.8: Sentence lengths received by adult offenders sentenced to immediate custody for witness intimidation offences, by sex, age and ethnicity, 2021

Sex	Number of adults sentenced to each sentence length (years) ^{1,2}					Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5 years	
Female	8	3	0	0	0	11
Male	85	16	5	1	0	107
Not recorded/not known	0	0	0	0	0	0

Age group	Number of adults sentenced to each sentence length (years) ^{1,2}					Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5 years	
18 to 20	3	2	0	0	0	5
21 to 24	14	1	0	0	0	15
25 to 29	18	4	1	0	0	23
30 to 39	32	9	4	0	0	45
40 to 49	17	2	0	1	0	20
50 to 59	8	1	0	0	0	9
60 to 69	1	0	0	0	0	1
70 and over	0	0	0	0	0	0
Not recorded/not known	0	0	0	0	0	0

Ethnicity ³	Number of adults sentenced to each sentence length (years) ^{1,2}					Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5 years	
Asian	4	1	1	0	0	6
Black	6	2	0	0	0	8
Mixed	2	0	0	0	0	2
Other	1	0	0	0	0	1
White	64	13	4	1	0	82
Not recorded/not known	16	3	0	0	0	19

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

Notes:

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

2) The statutory maximum sentence for this offence is 5 years' custody.

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.

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Sex	Proportion of adults sentenced to each sentence length (years) ^{1,2}					Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5 years	
Female	73%	27%	0%	0%	0%	100%
Male	79%	15%	5%	1%	0%	100%
Not recorded/not known	-	-	-	-	-	-

Age group	Proportion of adults sentenced to each sentence length (years) ^{1,2}					Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5 years	
18 to 20	60%	40%	0%	0%	0%	100%
21 to 24	93%	7%	0%	0%	0%	100%
25 to 29	78%	17%	4%	0%	0%	100%
30 to 39	71%	20%	9%	0%	0%	100%
40 to 49	85%	10%	0%	5%	0%	100%
50 to 59	89%	11%	0%	0%	0%	100%
60 to 69	100%	0%	0%	0%	0%	100%
70 and over	-	-	-	-	-	-
Not recorded/not known	-	-	-	-	-	-

Ethnicity ³	Proportion of adults sentenced to each sentence length (years) ^{1,2}					Total
	Less than 1 year	1 to 2	2 to 3	3 to 4	4 to 5 years	
Asian	67%	17%	17%	0%	0%	100%
Black	75%	25%	0%	0%	0%	100%
Mixed	100%	0%	0%	0%	0%	100%
Other	100%	0%	0%	0%	0%	100%
White	78%	16%	5%	1%	0%	100%
Not recorded/not known	84%	16%	0%	0%	0%	100%