

CONSULTATION STAGE RESOURCE ASSESSMENT: IMPOSITION OF COMMUNITY AND CUSTODIAL SENTENCES GUIDELINE

1 INTRODUCTION

1.1 This document accompanies the consultation document and draft Imposition of Community and Custodial Sentences guideline. It fulfils the Council's statutory duty, under section 127 of the Coroners and Justice Act 2009, to produce a resource assessment which considers the likely effect of its guidelines on the resources required for the provision of prison places, probation and youth justice services.

1.2 Any resource impacts which may fall elsewhere, or that are attributable to factors other than the guideline, are not included in this assessment.

2 RATIONALE AND OBJECTIVES FOR THE IMPOSITION GUIDELINE

2.1 The Sentencing Council is proposing to issue a new definitive guideline for the imposition of community and custodial sentences, which includes suspended sentences of imprisonment, to bring it up-to-date and improve guidance on these sentences. This guideline will replace the *New Sentences: Criminal Justice Act 2003* guideline.¹

2.2 The new guideline seeks to ensure that suspended sentence orders (SSOs) and community orders (COs) are imposed correctly and that the guideline is more functional, while retaining key information and highlighting principles that are paramount in imposing these sentences.

3 DATA

3.1 In the 12 months up to the end of June 2015, there were around 90,000 sentences of immediate custody, 52,000 SSOs and 108,000 COs imposed across all courts in England and Wales.² Over the last ten years, the number of sentences of immediate custody has fallen slightly (from around 103,000 to 90,000), whilst the number of SSOs has substantially risen (from less than 4,000 in 2005, to 46,000 in 2010 to over 52,000 in 2015) and the number of COs has substantially declined (from almost 203,000 in 2005 to 188,000 in 2010 to less than 108,000 in 2015).

3.2 Some discussions conducted earlier in 2015 to support development of a separate breach guideline³ indicated that one possible reason for this trend of increasing SSOs and a corresponding decrease in COs may be that in some cases, SSOs are being imposed as a more severe form of CO where offending has not crossed the custody threshold.

¹ Sentencing Guidelines Council, 2004.

² Table Q5.1, *Criminal Justice Statistics Quarterly Update to June 2015*, Ministry of Justice, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/480076/overview-tables.xlsx

³ More details on these discussions will be available as part of the consultation on the separate breach guideline.

4 RESOURCE IMPACT

4.1 The Imposition of Community and Custodial Sentences guideline is not intended or expected to affect the average severity of sentences – rather it seeks to clarify the key principles associated with the imposition of these sentences (in particular SSOs and COs).

4.2 Whilst one impact may be an increase in the number of COs and a corresponding decrease in the numbers of SSOs (in cases where the latter was being used as a more severe form of the former), as none of these sentences will be served in custody, it is not anticipated that there will be any overall change in the relative proportions of sentences involving either immediate custody or being served in the community.⁴ It is therefore estimated that the guideline will have no overall resource impact on the prison, probation or youth justice services.

5 RISKS

5.1 The guideline is not intended to affect the average severity of sentencing, and as such, no resource effect is expected. However, it is possible that by clarifying the guidance on imposition of these orders there could be a lower number of SSOs which would be activated in the event of a breach; at this stage, it is not possible to quantify the extent to which this is likely. A further assessment of these effects will, however, be considered as part of the resource assessment on the forthcoming breach guideline during summer 2016.

⁴ Sentences being served in the community would include at this stage a SSO as the offender would not be serving an immediate custodial sentence for which a prison place would be required. For the purposes of this resource assessment, and as no data is available on requirements imposed for SSOs and COs, it is assumed that the cost of each is similar.