

Research to support a review of Sentencing Council resource assessments

Specification of requirements

Introduction

The Sentencing Council¹ was set up in 2010 under the Coroners and Justice Act 2009 and produces guidelines on sentencing for use by all members of the judiciary. As part of its statutory duties, it has to have regard to the resource implications of each guideline (s.127(1), (2), (3)). This is in the form of a resource assessment that considers the likely effect of that guideline on the resources required for the provision of prison places, probation provision and provision of youth justice services.

Resource assessments must be published alongside the draft and definitive guidelines. They are produced using both quantitative and qualitative research to provide an estimate, where possible, of any resource impacts. Each guideline provides different challenges and therefore, no two resource assessments are the same.

In 2020, the Council issued a consultation – *What Next for the Sentencing Council?*² – which asked for views on the Council's future priorities, including in relation to its analytical work. Amongst the responses was a call to enhance our resource assessments, including accessing more - and more robust - data to feed into these, and broadening out the impacts we focus on. As a result, the Council's strategic objectives for 2021-2026³ includes an action to "*Consider whether enhancements can be made to the way in which we measure and interpret the impact of our guidelines and our approaches to resource assessments by undertaking a review of our current practice.*"

As part of this work, we would like to consider the methodology we adopt for our assessments and whether we can alter and improve this in any way to address some of the issues raised as part of the consultation responses.

This specification seeks bids for a small piece of work to review our current methodological approaches to resource assessments and to advise on how these might be enhanced in the future. The contract will be worth a value of no greater than £9,950 and work should be completed by the end of June 2022.

Background

To comply with its duties, the Council's Analysis and Research team produce resource assessments to provide an insight into the potential resource impacts each guideline may have. They are produced using both quantitative and qualitative research to provide an estimate, where possible, of the potential impacts on prison and probation resources.

We initially set out a general methodology for assessing resource impacts in 2011⁴. However, approaches have had to adapt over time in accordance with the guideline in

¹ <https://www.sentencingcouncil.org.uk/>

² <https://www.sentencingcouncil.org.uk/publications/item/what-next-for-the-sentencing-council-response-to-consultation/>

³ https://www.sentencingcouncil.org.uk/wp-content/uploads/6.7742_SC_Strategic_Objectives_Report_2021-2026_Final_WEB.pdf

⁴ <https://www.sentencingcouncil.org.uk/publications/item/the-sentencing-council-resource-model/>

question and the data available, and it is likely that this methodology needs to be revisited to reflect these issues.

In addition, to date, many of these assessments have focused on impacts relating to the provision of prison places. This is due to several reasons. Firstly, many of the offences covered by the Council's early guidelines are largely concerned with custodial sentences (for example, robbery, burglary and sexual offences) and, other than the youth guidelines for robbery, sexual offences and bladed articles/offensive weapons, all the offence specific guidelines apply to adults only, for whom custodial sentences are more common.

Secondly, our main source of data for our resource assessments comes from the Ministry of Justice and, while data on sentence outcomes are available, gaps exist, especially for non-custodial sentences. The data does not include detailed information about community orders, for example the requirements attached to a community order or the length of the suspension period for a suspended sentence order. This lack of data means it is not possible to provide a numerical estimate of the potential resource impact of the guidelines on the probation service, as we are unable to assess the current allocation of non-prison resource. This is particularly problematic for offences that have a lot of community sentences within their range.

There is also limited information on the relative seriousness of the offences coming before the courts and this results in assumptions being made regarding the way in which offences would be distributed across the different harm and culpability categories in sentencing guidelines. This gap can be filled using transcripts of sentencing remarks; however, these are only available for Crown Court cases, and so for offences that are sentenced solely or almost entirely at magistrates' courts, we are often not able to estimate resource impacts to the same extent as for some of the higher volume or mostly Crown Court offences. The Council undertakes data collection exercises⁵ to fill in these and other gaps; however, this is done on an offence specific basis and as such is not available for all guidelines in development. This means that the evidence base remains restricted for some offences.

For guidelines that cover offences that are low volume, or concern more cross-cutting issues, such as the Council's overarching guidelines, these also pose difficulties when estimating resource impacts as there is often a lack of appropriate data available. We are discussing with HMCTS what opportunities the roll-out of the Common Platform in courts might offer in the future; however, it is unclear at this stage how and to what extent this might be used to inform our resource assessments. Therefore, we need to review and identify any improvements we can make using the data we currently have access to rather than what we may have access to in the future.

These issues collectively make the assessment of the resource implications of individual guidelines challenging. As a result, the Council is seeking advice on the methodological approaches to adopt in the future for its resource assessments.

Aims and objectives

The objectives of this study are to:

- Review the Council's methodological approaches to conducting resource assessments and the pros and cons of these;

⁵ <https://www.sentencingcouncil.org.uk/research-and-resources/data-collections/>

- Advise on considerations for future work in this area: for example, how the different types of currently available data could be used (both quantitative and qualitative); how best to express impacts (e.g. costs, prison places, or both).
- Recommend a methodological/ analytical approach that best meets the needs of the Council and addresses its statutory duties.

In doing so, the successful tenderer should review and consider:

- The different types of resource assessments the Council has undertaken to date, covering both offence-specific and overarching guidelines;
- The Council's published document from 2011⁴ on its approach at the time to resource assessments;
- The type of methodology and analysis that might be suitable for future assessments, taking account of any data limitations faced (now and in the future);
- How best to broaden out the range of impacts which assessments cover (specifically how best to cover the part of the statutory duty concerning probation impacts and, where relevant, youth justice impacts, and whether costs information should be included); and,
- How best to ensure that the current/ proposed methodology can be used for future resource assessments when more data may become available (for example from the Common Platform) and how this could be fed into the methodology.

Some initial work has been undertaken internally and it will be important that the successful tenderer considers this and undertakes discussions with the Council's statistical team on their current work in this area. These discussions should also cover responses to the Council's 2020 consultation on resource assessments to ensure that the views of stakeholders and interested parties can be taken account of.

Tenderers are invited to outline how they intend to meet the objectives and considerations outlined above as well as any other aspects that they might include in this work.

Outputs

Contractors must submit the findings from this work in the form of an interim summary of findings and a final report. The final report should cover a review of the sources that have been drawn upon for the work with commentary on how they may or not be relevant for future work in this area, or how they might feed into a new design and analytical approach. The report should also contain clear recommendations for future work, that are fully justified and highlight any pros and cons for the Council.

The interim summary of findings to date should be submitted by **13th May**. A draft final report will be needed by **30th June 2022**. Comments will be returned in time for a final report to be submitted by **22nd July**.

Day-to-Day Management

Contractors must liaise with the project manager closely throughout the course of the project and provide a weekly email update on progress.

A minimum of two meetings will be required with the contractors:

- An inception meeting/ discussion to finalise the project design; and,
- A meeting to discuss key findings, recommendations and OSC feedback.

Timetable

The following outlines the key dates for commissioning this research:

Activity	Date
Invitations to tender dispatched	28 th January 2022
Deadline for pre-tender questions	10 th February 2022
Tenders returned	Noon 17 th February 2022
Presentation of bids (if required)	w/c 21 st February 2022
Contract awarded	w/c 28 th February 2022
Summary of interim findings submitted and discussed with the OSC	13 th May 2022
Draft report submitted to OSC	30 th June 2022
Final report signed off	22 nd July 2022

At the discretion of the Office of the Sentencing Council, presentations for clarification purposes may be requested – to be held virtually via MS Teams - with shortlisted bidders. If appropriate, scores may be moderated based on the clarification information from the presentation.

Budget

The maximum budget for this exploratory project is £9,950 excluding VAT.

Suggested milestone payments are set out below:

Milestone payment 1: (40%) Approach to the review agreed, including the sources to take account of and discussion with OSC analytical team completed	End March 2022
Milestone payment 2: (20%) Interim report submitted and discussed with the OSC	Mid May 2022
Milestone payment 3: (20%) Draft final report submitted	End June 2022
Milestone payment 4: (20%) Final report submitted	Mid July 2022

Content of proposals

Proposals should be submitted in the form of a Word document (maximum 5,000 words).

All proposals must include:

- Approach: A clear explanation of how the work will seek to address the aims and objectives of this review.
- Support required: e.g. any support required from the OSC.
- Proposed timetable: for each individual part of the work.
- Costs: Each part of the research should be costed separately to allow the OSC to make a final decision. In addition, staff rates must be specified and a detailed

breakdown of the proportion of time spent by key staff on the different elements of the research provided. Costs should be exclusive of taxes and VAT.

- Staff: details of staff and any relevant experience should be outlined (including experience of undertaking these types of methodological reviews and working with limited data). Please provide information on the role/ responsibilities that each member of the team will cover. The successful contractor must ensure and confirm that all staff working on the project have had a Baseline Personnel Security Standard (BPSS) and DBS check.
- Quality assurance procedures: the bidder must commit to undertake quality assurance of all deliverables and to guarantee the accuracy of all outputs to the OSC Council. Bidders must provide details of the quality assurance procedures they have in place.
- Risks: bidders must identify and assess the risks associated with undertaking the research and the proposals for managing and overcoming these. Bidders must provide a full risk register for all elements of the project.
- Ethical issues: Where relevant, the research will be expected to meet the requirements of the Government Social Researcher (GSR) Professional Guidance: Ethical Assurance for Social Research in Government ([GSR Ethical Assurance for Social and Behavioural Research - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/government-social-researcher-professional-guidance-ethical-assurance-for-social-research-in-government)). Bidders must provide details of any ethical issues relevant to the proposal and how these will be addressed.
- Data protection: the successful contractor will be required to store all data in accordance with data protection legislation and current OSC/ MoJ data security procedures. Please see: <https://ministryofjustice.github.io/security-guidance/supplier-corporate-it/#supplier-corporate-it>.

Bidders must provide details of data protection issues relevant to the proposal and explain how these will be addressed in compliance with the Data Protection Act 2018. This should include (but not be limited to): how information will be collected from individuals; how it will be stored (and in what storage location); secure transfer of information; disposal of information following completion of the project; who will have access to the data and how this will be managed. Contractors are responsible for ensuring all necessary permissions are acquired for the use of data, visuals or other materials throughout the project that are subject to copyright law, and that materials are used in accordance with the permissions that have been secured. Contractors are also responsible for ensuring suitable referencing of materials in all project outputs including project data.

Tender evaluation

Proposals will be evaluated on the following criteria and using the scoring system set out below:

	Main Criteria	Criteria weighting
1	A clear explanation of the approach to the work and how it will seek to address the aims and objectives of this review.	20%
2	Evidence of the practicality, project management and quality assurance of proposals (including systems for continuous feedback to contract manager, strength of proposed project management and risk management arrangements, timetable, awareness of ethics and data protection issues, flexibility to respond to changing requirements and quality assurance processes). <i>Ability to meet the deadlines involved in this project will be particularly important in this assessment</i>	20%
3	Evidence of experience/ knowledge in conducting methodological reviews and methods of estimating impacts from limited data.	20%
4	Demonstration of an understanding of the Sentencing Council, its guidelines and resource assessments and general sentencing trends.	20%
5	Overall value for money	20%

A	100	Excellent Exceeds the requirement. Exceptional demonstration by the Supplier of the relevant ability, understanding, experience, skills, resource and quality measures required. Evidence identifies factors that will offer significant added value.
B	90	Good Satisfies the requirement and offers some additional benefits. Above average demonstration by the Supplier of the relevant ability, understanding, experience, skills, resource and quality measures required. Evidence identifies factors that will offer some added value.
C	80	Acceptable Satisfies the requirement. Demonstration by the Supplier of the relevant ability, understanding, experience, skills, resource and quality measures required.
D	70	Minor Reservations Satisfies the requirement with minor reservations. Some minor reservations about the Supplier's relevant ability, understanding, experience, skills, resources and quality measures required.

E	60	<p>Major Reservations Satisfies the requirement but with major reservations. Serious concerns about the Supplier's relevant ability, understanding, experience, skills, resources and quality measures required.</p>
F	0	<p>Unacceptable Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the Supplier has the relevant ability, understanding, experience, skills, resources and quality measures required. Little or no evidence to support the response.</p>

There will be an evaluation panel formed from members of the OSC.