

Analysis and research at the Sentencing Council

Judicial involvement in our research

The Sentencing Council undertakes research and analysis to support the development and monitoring of sentencing guidelines, to ensure they are fit for purpose and meet the needs of guideline users.

We could not do this work without the support of the judiciary, and we would like to thank every one of you who has kindly agreed to be in our 'research pool' and who has given your valuable time to participate in our research interviews, surveys and focus groups. We would also like to thank all of you who have completed our court data collections. We appreciate that these types of exercises place a burden on sentencers, but they are critical to supporting all aspects of the Council's work and we are truly grateful to you for the valuable information you provide.

This roundup includes summaries of some of the recent work you have fed into as sentencers, as well as an overview of our publications over the last year and forthcoming research.

We are always looking for new members for our 'research pool' to support our ongoing research. If you are willing to be contacted occasionally to participate in short research exercises informing our future work, we would be very grateful if you could fill in this [short form](#). If you would be interested in finding out more, please get in touch with us at research@sentencingcouncil.gov.uk.

Developing the guidelines

As part of the guideline development and review process, we conduct research with circuit judges, district judges and magistrates, to understand how sentencers may use the guideline and what impact it may have on sentencing practice.

This section details some of the findings from sentencer participation in our research. Some of these contributed to changes made to the guidelines in development; other findings confirmed that the guideline should work as intended and therefore no changes were considered necessary. Other changes may, however, have been made in response to comments received as part of our public consultations on the guidelines.

Organisations: Sale of knives etc by retailers to persons under 18 and Individuals: Sale of knives etc by retailers to persons under 18. In force on 1 April 2023. See also the [consultation response](#).

We conducted interviews with ten magistrates in June 2022. As a result of the findings, alongside responses to the consultation, the Council:

- amended the guidelines' introductory text to clarify that 'a small quantity of knives' includes a single knife. The rest of the text was found to be 'self-explanatory' and 'clear'
- amended wording for some aggravating and mitigating factors to improve interpretation
- made no changes to the sentencing table, taking into account the need for flexibility alongside the mixed views in our interviews
- retained the proposed inclusion of one level of harm, and the wording for step 3 – adjustment of fine, due to general agreement from interviewees

Motoring offences. In force on 1 July 2023. See also the [consultation response](#).

We conducted interviews with 22 judges and 22 magistrates in August 2022. The following were among the key decisions taken as a result of the findings, alongside responses to the consultation.

In the guidelines for offences involving dangerous driving, the Council:

- added a new high culpability factor of 'obviously highly dangerous manoeuvre' and removed 'a brief but dangerous manoeuvre' from medium culpability factors, to avoid confusion about where cases might fall
- adjusted sentence levels in most categories to try and retain consistency with current sentencing practice for dangerous driving offences where no death or injury is caused

In the guidelines for offences involving drug driving, the Council:

- amended a culpability factor to provide extra clarification about evidence of drug or alcohol use within legal limits
- clarified that culpability factors applied to those who attempted to drive as well as those who actually drove

Across all motoring offence guidelines, the Council:

- amended aggravating factors by making specific reference to motorcyclists as vulnerable road users, adding 'obstructing or hindering attempts to assist at the scene', and clarifying that 'passengers' means those travelling in the offender's vehicle
- changed the mitigating factor relating to an offender's driving record from 'impeccable' to the more easily understood 'good'
- proposed to undertake further work to consider what else may usefully be provided to sentencers on the subject of disqualification

[Animal cruelty](#). In force on 1 July 2023. See also the [consultation response](#).

We conducted interviews with seven judges and seven magistrates in May and June 2022. The draft guideline was found to work well in interviews and sentencers found it to be clear and useable.

As a result of the findings, alongside responses to the consultation, the Council:

- added an aggravating factor for ‘offence committed while under the influence of alcohol or drugs’
- added a caveat of ‘where not already taken into account at step 1’ to the aggravating factor of ‘offender in a position of professional responsibility for animals,’ to avoid double counting

Data collection in courts

In January 2023 we launched a data collection exercise in all magistrates’ courts and all locations of the Crown Court. This six-month study covered a number of offences and asked sentencers to identify the factors taken into consideration when imposing the sentence, as well as the final sentence outcome and information such as whether a guilty plea was entered by the offender.

The data collection has now closed and we will be analysing the data and publishing findings from it in due course.

Publications

Alongside our data collection and interviews with sentencers, we have also published a review of the Imposition of community and custodial sentences guideline, and commissioned external academics and organisations to explore areas of particular relevance to sentencing guidelines:

Review of trend analysis of the Imposition of community and custodial sentences guideline

In March 2023, we published a [review of trend analysis](#) of the impact of the Imposition guideline in clarifying the principles relating to the imposition of community and custodial sentences. This was carried out to help us meet our statutory duty to monitor the operation and effect of sentencing guidelines and consider what conclusions can be drawn. The analysis found that the guideline in conjunction with the correspondence issued in April 2018 by the then Chairman of the Sentencing Council seemed to be effective in clarifying the key principles in the Imposition guideline, including those involved in the decision to suspend a custodial sentence. This was evidenced by a shift in proportion of the relevant sentencing outcomes in April 2018. We are currently undertaking a wider project to review the entire Imposition guideline, which includes considering the results of this

assessment and other sections which were not in scope of this analysis, and we will be consulting on a revised guideline in autumn 2023.

The effectiveness of sentencing options on reoffending

In September 2022, we published a [literature review](#) that brings together evidence on the effectiveness of different sentencing options on reoffending. The review was commissioned in response to our [strategic objective](#) to “consider and collate evidence on effectiveness of sentencing” and to enable the Council to consider the most up-to-date evidence when developing and revising guidelines. The review covered research related to various topics, including: factors associated with reoffending and desistance; the (direct and indirect) costs of different types of sentences currently available in England and Wales; and how sociodemographic characteristics impact these issues. The Council has committed to review the evidence periodically to keep abreast of developments such as those in the research on effectiveness, societal trends and available disposals.

Public confidence in sentencing and the criminal justice system

In December 2022, we published research conducted by Savanta with adults in England and Wales to develop an understanding of the [public’s knowledge of and confidence in the criminal justice system and sentencing](#), in line with our statutory duty to have regard to the need to promote public confidence in the criminal justice system when developing sentencing guidelines and monitoring their impact. This was a follow-up to a [similar study undertaken in 2018](#). The evidence in this report provides a set of priority groups, and the channels by which they can be targeted, enabling us to contribute to the continued improvement of confidence in the effectiveness and fairness in the criminal justice system.

Equality and diversity in the work of the Sentencing Council

In 2021, we commissioned the University of Hertfordshire to conduct research into [Equality and diversity in the work of the Sentencing Council](#), in support of our [strategic objective](#) to “explore the potential for the Council’s work inadvertently to cause disparity in sentencing across demographic groups”. The research aimed to identify any potential for the Council’s work to cause disparity in sentencing outcomes across demographic groups, and to make recommendations for how to mitigate these disparities, if possible. In January 2023, we published a [response](#) to the findings and recommendations, setting out the steps we are taking.

Forthcoming publications

Thank you to the magistrates and judges who have contributed to research we are due to publish in due course, including:

User testing of the digital sentencing guidelines

We commissioned the Behavioural Insights Team to explore how sentencers access, navigate and use the digital guidelines published on our website. This also includes exploring whether their experience could be improved, and if so, how. This research is informed by a survey of sentencers' views on several areas of the website, including tools such as the fine and drink-driving calculators, as well as offence specific and overarching guidelines.

Review of expanded explanations within sentencing guidelines

We have conducted research to explore the awareness, interpretation and application of some of the existing [expanded explanations](#) in the sentencing guidelines, as well as considering some proposed new mitigating factors. The research will help us identify whether any of the guidance contained within these explanations needs revisiting or whether any new factors, such as those recommended in research on [Equality and diversity in the work of the Sentencing Council](#), might be needed.

Evaluation of the breach guidelines

In 2018, the Council issued a [package of breach guidelines](#) to consolidate and improve guidance and ensure a more consistent approach to sentencing breaches of orders. Breach guidelines covering eleven types of breach were produced for both the highest volume breach offences and those where it was thought consistency of approach to sentencing could be achieved through a guideline. We are evaluating the impact and implementation of nine of these breach guidelines, building upon previous [resource assessments](#).

Forthcoming research

In the next twelve months, we will be conducting interviews with sentencers to support the development and revision of the following guidelines:

- Aggravated vehicle taking
- Blackmail, kidnapping, and false imprisonment
- [Imposition of community and custodial sentences](#)
- Immigration offences

We hope sentencers will continue to engage with our research. If you have any questions about the content of this roundup, please contact us at research@sentencingcouncil.gov.uk.