

# Sentencing Council



Sentencing Council  
Annual Report 2019/20



# **Sentencing Council Annual Report 2019/20**

The Sentencing Council is an independent, non-departmental public body of the Ministry of Justice

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# Foreword

## by the Chairman



I am pleased to introduce the Sentencing Council's annual report for 2019/20. It is the Council's tenth annual report and my second as Chairman, and it marks the year in

which the Council completes its first decade.

The primary duty of the Sentencing Council is to provide judges and magistrates with guidelines that promote a clear, fair and consistent approach to sentencing, while maintaining the independence of the judiciary. During this last year we have continued to meet this duty, bringing us ever closer to the goals we set ourselves for 2020: to have updated all the guidelines produced by our predecessor body the Sentencing Guidelines Council (SGC) and to have issued new guidelines for the most-frequently sentenced offences.

During the period covered by this report – 1 April 2019 to 31 March 2020 – the Council was, as ever, committed to ensuring that the equality and diversity implications of its work were fully explored and addressed. One such example is our investigation of the association between an offender's sex and ethnicity and the sentences imposed in the Crown Court for supply-related drugs offences (see pp13-14). There is now an increased focus on such matters, including issues relating to race and criminal justice, and in the year ahead we will continue to consider how the Council should respond.

### ***Sentencing guidelines***

In the year between April 2019 and March 2020, the Council published three definitive guidelines: *Arson and Criminal Damage* on 3 July 2019, the *General Guideline* on 24 July 2019 and *Public Order* on 16 October 2019.

The *Arson and Criminal Damage* guidelines came into force on 1 October 2019. The guidelines acknowledge that the harm caused by these offences can involve not only physical injury but long-term psychological effects, and that damage to property can be about more than just its financial value. The guidelines provide a framework to help the courts take account of the full impact of such offences whether that be the economic or social impact of damage caused to public amenities and services, the loss to the nation caused by acts such as vandalism to our heritage assets or the effect on communities when emergency services or other resources are diverted to deal with incidents of criminal activity.

The *General Guideline* also came into force on 1 October 2019. The Council produced this guideline for the courts to use when sentencing offences for which there is no existing offence-specific guideline. It applies to adult offenders and organisations, and has been developed to provide guidance for sentencing a wide range of offences with very different characteristics and maximum sentences. It is of particular value for sentencing those offences in magistrates' courts for which there are no relevant judgments from the Court of Appeal, and for sentencing in cases involving types of offence that do not often come before the courts.

Also coming into force on 1 October were the Expanded Explanations that the Council developed to supplement the *General Guideline*. The Expanded Explanations are embedded within the *General Guideline* and all existing offence-specific guidelines to provide useful additional information in relation to aggravating and mitigating factors. In some cases, the explanations reflect case law or provide links to or extracts from existing overarching guidelines, in others they help clarify the Council's intentions in identifying specific factors. The explanations enable all those involved in sentencing to be aware of the relevant considerations and ensure the factors are applied consistently. They also do much to add to the transparency of the sentencing guidelines for non-specialist users.

The Expanded Explanations take full advantage of the Council's move to digital guidelines. All offence-specific and overarching guidelines are now available to sentencers and other practitioners on the Council's website and in an iPad app specifically designed for magistrates. Were it not for the earlier move to digital, we would not have been able to realise the full value of the Expanded Explanations.

The *Public Order* guidelines, which came into effect on 1 January 2020, have provided a comprehensive package of guidelines to be used by all courts in England and Wales when sentencing offenders convicted of offences ranging from low-level disorderly behaviour to widespread public disorder. Prior to their publication, guidance for sentencing these offences had been very limited. There were no guidelines in the Crown Court for any of

the offences, no guidelines for riot or stirring up racial hatred and only limited guidance in the Magistrates' Courts Sentencing Guidelines for sentencing violent disorder, affray, threatening behaviour, disorderly behaviour with intent to harassment, alarm or distress and disorderly behaviour causing or likely to cause harassment, alarm or distress.

The new guidelines consider the wide range of harm that may be present in these offences, from physical damage to infrastructure and communities to the physical and psychological harm that may be caused to individual victims.

### ***Consultation***

Consultation continues to be an essential part of our approach to developing guidelines. We are grateful to all those whose contributions help inform our approach, be they members of the judiciary, our colleagues in the criminal justice system, others with an interest in criminal justice, individuals and organisations with expertise in our topic areas or members of the public.

During the year of this report, the Council ran four consultations for offence-specific guidelines. These consultations sought views on new draft guidelines for firearms offences, revised guidelines for terrorism offences, revised and new guidelines for drug offences and, together, for driving disqualification offences, breaches of community orders and totality.

We also consulted in spring 2019 on a proposed overarching guideline for sentencing offenders with mental disorders.



This important guideline will, when it comes into force in 2020, provide the courts with a clear structure and process to follow when sentencing people with mental disorders, developmental disorders or neurological impairments, including those with learning disabilities, autism, brain injury, substance misuse disorders and dementia. We developed the proposed guideline with assistance from experts within the medical profession, academics and charities representing people with mental disorders, and those who have been affected by offences committed by people with such disorders. In particular, we would like to thank Professor Pamela Taylor for her valuable work in defining and describing some of the more common disorders likely to be relevant in the criminal courts.

The guideline, *Overarching Principles: Sentencing Offenders with Mental Disorders, Developmental Disorders or Neurological Impairments*, will help judges and magistrates assess how much responsibility offenders retain for their crime, given their particular condition and how it affects them, and to take all relevant factors into account in determining the appropriate sentence.

### ***What next for the Sentencing Council?***

Our final consultation of the year opened on 10 March 2020 and was launched to mark the beginning of the Council's tenth anniversary. The Sentencing Council was established on

6 April 2010 and, over the last decade, has successfully provided judges and magistrates with an extensive body of sentencing guidelines. We have largely achieved our goals to replace the SGC guidelines and publish new guidelines for the most-frequently sentenced offences. But the Council does more than produce guidelines: we publish research and statistics on sentencing to improve understanding of the operation and effect of the sentencing guidelines; we undertake social research to inform the development of guidelines and identify the potential behavioural consequences of introducing new guidelines; and we promote public understanding of sentencing through our website, our presence in the media and the educational materials we provide for use in schools, and by working with and through other organisations to reach the public.

This anniversary has given the Council an opportunity to pause and reflect on all our achievements and our vision for the future. We have reviewed our performance in a number of areas, including: the statutory duties set out in the Coroners and Justice Act 2009; the independent review of the Council, conducted by Professor Sir Anthony Bottoms;<sup>1</sup> the report from a Tailored Review undertaken by the Ministry of Justice;<sup>2</sup> and commentaries published on the Council's work throughout the last 10 years, for example, from academics and interest groups.

In this consultation we ask our partners,

<sup>1</sup> A Report on Research to Advise on how the Sentencing Council can best Exercise its Statutory Functions: <https://www.sentencingcouncil.org.uk/news/item/council-publishes-independent-review/>

<sup>2</sup> Ministry of Justice (2019) Tailored Review of the Sentencing Council: <https://www.sentencingcouncil.org.uk/publications/item/tailored-review-of-the-sentencing-council-2019/>

supporters and critics where we should focus the Council's efforts in the next 10 years and how we should balance our priorities against limited resources. There is a vast amount of work that we could do, and there will be difficult decisions to make about what can be achieved within the Council's resources.

The consultation examines six areas: overarching general issues; developing and revising sentencing guidelines; analysis and research; promoting public confidence; costs and effectiveness in sentencing; and how we work. Many of the themes emerged from a series of conversations we held with our stakeholders throughout the summer of 2019. I am most grateful to all those who took part in these conversations for their insight and ideas and their willingness to challenge the Council.

The consultation was just one of a number of activities we had planned for the Council's tenth anniversary year. It was launched only days before the nation was put into lockdown on 23 March 2020 following the outbreak of the Covid-19 pandemic. Of necessity, we have adapted our anniversary activities, including postponing a one-day event which was to have been held in April. The event would have brought together a wide range of people with interest in the criminal justice system to consider the impact of the Council, the evolution of the sentencing guidelines and what effect these have had on the approach to sentencing and the work of the courts. We hope very much to be able to hold it at a later date, and will report on this and our other anniversary activities in next year's annual report.

## ***Membership of the Council***

As the Council works through our second decade and we fulfil our obligations and meet our priorities, we will face demanding times. I am looking forward to working with my colleagues to achieve our goals and meet the challenges ahead. I thank my colleagues on the Council for their expertise, commitment and energy. I also wish to thank all the members of the Office of the Sentencing Council: without their hard work, knowledge and insight, none of the Council's work would be possible, and I am very grateful for all they do.

This year, three new members have joined the Council: Lord Justice Adrian Fulford, Vice-President of the Court of Appeal, Criminal Division; District Judge (Magistrates' Courts) Mike Fanning; and Diana Fawcett, Chief Executive of Victim Support, who has specific responsibility on the Council for promoting the welfare of victims. I am pleased to welcome them all. I would also like to thank those members who have left the Council this year, each of whom has made a significant contribution to our work: Lady Justice Heather Hallett (now Baroness Hallett) and Her Honour Judge Sarah Munro QC, both of whom served on the Council for six years; and Rob Butler JP, now Rob Butler MP, whose time on the Council ended earlier than expected, as a result of his election to Parliament, but who had made a valuable contribution.

I am very grateful also to Assistant Commissioner Nick Ephgrave and Duncan Webster OBE JP for providing a police and magistrate presence at our Council meetings while we appoint permanent members for those roles.

I would also like to thank those Council members who have served over the last year on one of our three sub-groups: analysis and research, confidence and communication and governance. Our work benefits greatly from their challenge and scrutiny.

It is a privilege to lead this influential and successful organisation, and I am particularly delighted to be able to do so at such a pivotal point in the Council's evolution. We are now turning our minds to what the Council might achieve in the next 10 years and how we will work with magistrates, judges, practitioners, academics and others to ensure that the sentencing guidelines continue to play a vital role in delivering access to justice.

A handwritten signature in black ink, appearing to read 'Tim Holroyde', with a stylized flourish at the end.

Tim Holroyde

**Lord Justice Holroyde**

July 2020





Thames Magistrates' Court, London



# Introduction

The Sentencing Council is an independent, non-departmental public body of the Ministry of Justice. It was set up by Part 4 of the Coroners and Justice Act 2009 to promote greater transparency and consistency in sentencing, while maintaining the independence of the judiciary.

The aims of the Sentencing Council are to:

- promote a clear, fair and consistent approach to sentencing;
- produce analysis and research on sentencing; and
- work to improve public confidence in sentencing.

This annual report covers the period from 1 April 2019 to 31 March 2020. For information on past Sentencing Council activity, please refer to our earlier annual reports, which are available on our website at:

[www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk).

In 2019/20 the Council's work was aligned to the following four objectives:

- Prepare sentencing guidelines that meet their stated aims, with particular regard to the likely impact on prison, probation and youth justice services, the need to consider the impact on victims, and the need to promote consistency and public confidence.
- Monitor and evaluate the operation and effect of guidelines and draw conclusions.
- Promote awareness of sentencing and sentencing practice.
- Deliver efficiencies, while ensuring that the Council continues to be supported by high-performing and engaged staff.

The activities for 2019/20 that contributed to the delivery of these objectives are outlined in this report.

Also in this report, produced in accordance with the Coroners and Justice Act 2009, are two reports considering the impact of sentencing (pp32-7) and non-sentencing factors (pp38-41) on the resources required in the prison, probation and youth justice services to give effect to sentences imposed by the courts in England and Wales.

# Key events of 2019/20

2019		
April	4	<i>Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences</i> – impact assessment published
	4	Diana Fawcett appointed as non-judicial member with specific responsibility for promoting the welfare of victims
	9	<i>Overarching Principles: Sentencing Offenders with Mental Health Conditions or Disorders</i> – draft guideline consultation opened
	23	Data collection commenced to assess impact and implementation of: bladed article and offensive weapons (possession); harassment and stalking; and three breach offence guidelines
May	31	Policy and procedures for minor revisions and corrections to digital guidelines published
July	3	<i>Arson and Criminal Damage</i> – definitive guidelines published
	4	Rosina Cottage QC reappointed as Council member with specific responsibility for representing defence practitioners
	11	<i>Sentencing Council Annual Report 2018/19</i> laid before Parliament
	24	<i>General Guideline</i> and Expanded Explanations – definitive guidelines published
August	7	<i>Public Knowledge of and Confidence in the Criminal Justice System and Sentencing</i> – research report published
September	1	District Judge (Magistrates' Courts) Michael Fanning appointed to the Council as a judicial member
October	1	<i>Arson and Criminal Damage</i> – definitive guidelines came into force
	1	<i>General Guideline</i> and Expanded Explanations – definitive guidelines came into force
	9	<i>Firearms Offences</i> – draft guidelines consultation opened
	16	<i>Public Order</i> – definitive guidelines published
	22	<i>Terrorism Offences</i> – revised guidelines consultation opened



2020		
January	1	<i>Public Order</i> – definitive guidelines came into force
	15	<i>Drug Offences</i> – revised guidelines consultation opened
	15	<i>Investigating the association between an offender’s sex and ethnicity and the sentence imposed at the Crown Court for drug offences</i> – research report published
	22	<i>Driving Offences Disqualifications, Breach of Community Order and Totality</i> – revised guidelines and some explanatory materials consultation opened
March	10	<i>What’s next for the Sentencing Council?</i> – consultation opened
	24	Magistrates’ Court Sentencing Guidelines (MCSG) – evaluation of 2017 updates published

# Sentencing guidelines

The sentencing guidelines are intended to help ensure a consistent approach to sentencing, while preserving judicial discretion. Under the Coroners and Justice Act 2009, a court must follow relevant sentencing guidelines unless satisfied in a particular case that it would be contrary to the interests of justice to do so.

When developing guidelines, the Council has a statutory duty to publish a draft for consultation. At the launch of a consultation, we will seek publicity via mainstream and specialist media, as well as promoting it via social media and on the Sentencing Council website. We make a particular effort to reach relevant professional organisations and representative bodies, especially those representing the judiciary and criminal justice professionals, but also others with an interest in a particular offence or group of offenders. Many of the responses come from organisations representing large groups so the number of replies does not fully reflect the comprehensive nature of the input.

The work conducted on all the guidelines during the period from 1 April 2019 to 31 March 2020 is set out in this chapter, separated into four key stages:

- development
- consultation

- post-consultation
- evaluation and monitoring

Because guidelines were at different stages of production during the year, reporting varies between guidelines. See Appendix C for more information on the production stages of the guidelines.

## Arson and criminal damage

### ***Post-consultation***

The *Arson and Criminal Damage* definitive guidelines were published on 3 July 2019 and came into force on 1 October 2019. The definitive guidelines cover the offences of arson, criminal damage/arson with intent to endanger life or reckless whether life endangered, criminal damage, including racially or religiously aggravated criminal damage, and threats to destroy or damage property.

We held a consultation on the draft guidelines in 2018, in which respondents broadly supported our approach. We made some changes in light of consultation responses, such as the inclusion of new text that prompts consideration of a community order with mental health, drug or alcohol treatment requirements as an alternative to a short or moderate custodial sentence.

Alongside the publication of the definitive guidelines, the Council also published a final resource assessment and updated data tables showing current sentencing practice for these offences.

### ***Evaluation and monitoring***

The Council is currently planning an exercise to collect data on criminal damage offences from magistrates' courts. This will supplement information collected in 2017/18 and will help to evaluate the impact and implementation of these guidelines.

### ***Media coverage***

The *Arson and Criminal Damage* definitive guidelines were published in July 2019. The launch featured on BBC Radio 5 Live and BBC 2, which led to coverage across most BBC regional stations, and received national coverage in *The Times* and the *Daily Telegraph*. It was also picked up by the Press Association, leading to articles in the regional titles *Northern Echo* and *Portsmouth News*. There was coverage in a number of specialist magazines, including *New Law Journal*, *Law Society Gazette*, *Forces Net*, *UK Fire* and *Fire & Security Matters*.

## **Assault and attempted murder**

### ***Development***

The *Assault* definitive guidelines were the first developed by the Sentencing Council and came into force in 2011. They include guidelines for sentencing offences under the Offences Against the Person Act 1861: section 18 GBH (Causing grievous bodily harm/wounding with intent); section 20 GBH (Inflicting grievous bodily harm/unlawful wounding); section 47 ABH (Assault occasioning actual bodily harm) and section 38 Assault with intent to resist arrest. The offences of assault on a police constable in the execution of his duty contrary to Section 89 of the Police Act 1996 and common assault contrary to Section 39 of the Criminal Justice Act 1988 are also included.

The Council published an evaluation of the guidelines in 2015. The evaluation assessed the impact of the guidelines on sentencing outcomes and whether there were any implementation issues. As a result of the evaluation findings, the Council decided to review the current *Assault* definitive guidelines in an effort to identify the causes of the unintended impacts of the guidelines and any action which may be required to address these.

The Council also decided to revise the *Attempted Murder* definitive guideline developed by our predecessor body the Sentencing Guidelines Council, as well as to develop a guideline for assaults on

emergency workers to reflect new legislative provisions introduced in 2018 for these offences.

Throughout 2019/20 the Council continued to revise and develop guidelines for the following offences:

- Common assault – section 39 Criminal Justice Act 1988; Racially/religiously aggravated Common assault - section 29 Crime and Disorder Act 1998
- Common assault of an emergency worker – section 1 Assaults on Emergency Workers (Offences) Act 2018
- Assault with intent to resist arrest – section 38 Offences Against the Person Act 1861
- Assault occasioning actual bodily harm - section 47 Offences Against the Person Act 1861; Racially/religiously aggravated ABH – section 29 Crime and Disorder Act 1998
- Inflicting grievous bodily harm/Unlawful wounding – section 20 Offences Against the Person Act 1861; Racially/religiously aggravated GBH/Unlawful wounding - section 29 Crime and Disorder Act 1998
- Causing grievous bodily harm with intent to do grievous bodily harm/Wounding with intent to do grievous bodily harm – section 18 Offences Against the Person Act 1861
- Attempted murder – section 1(1) Criminal Attempts Act 1981

While the evaluation highlighted a number of areas that may require consideration as part of revising the guidelines, extensive transcript and statistical analysis and research was undertaken during the development phase to identify implementation issues and the causes of any unintended impacts that may be attributable to the guidelines. Approximately 300 transcripts were analysed and initial discussions on specific aspects of sentencing these offences held with Crown Court and District Judges and with magistrates, to inform development and understand how the guidelines may be applied in practice.

### ***Consultation***

Consultation on the proposed guidelines opened in April 2020.

## **Bladed articles and offensive weapons**

### ***Evaluation and monitoring***

From April to September 2019, the Council collected data on how possession of a bladed article/offensive weapon cases are sentenced across all magistrates' courts. These data will be used to help assess the impact and implementation of the *Bladed Articles and Offensive Weapons* definitive guidelines since they came into force in June 2018.

## Breach offences

### ***Evaluation and monitoring***

From April to September 2019, the Council collected data on how three types of breaches (breach of community order, suspended sentence order and protective order) are sentenced across all magistrates' courts. These data will be used to help assess the impact and implementation of the *Breach Offences* definitive guidelines since they came into force in October 2018.

## Children and young people

### ***Evaluation and monitoring***

The Council's *Sentencing Children and Young People* definitive guideline came into force on 1 June 2017. The guideline applies to those aged under 18 years of age only.

The Council is currently undertaking an assessment of this guideline, drawing on quantitative and qualitative information to assess the impact of the guideline on sentencing outcomes and whether there have been any implementation issues. We will publish a report from this assessment in due course.

## Drug offences

### ***Consultation***

From 15 January to 7 May 2020 the Council consulted on a package of drug offences guidelines that included both revised and new guidelines.<sup>3</sup>

The Council first published guidelines for sentencing offences created by the Misuse of Drugs Act 1971 in February 2012. The Council evaluated the guidelines in 2018 and found that drug offending has changed over time as new drugs had emerged and the nature of offending changed. As a result, we concluded that these guidelines required revision. In addition, the Psychoactive Substances Act 2016 created new offences in relation to psychoactive substances not controlled under the Misuse of Drugs Act, and the Council decided that guidelines were required for these offences.

### ***Development***

To support the development of the *Drug Offences* guidelines, qualitative research with judges and magistrates was undertaken to explore how the draft guidelines might work in practice. In total, 26 in-depth interviews were conducted with judges on the production, possession with intent to supply and importation guidelines. Research was also carried out with approximately 60 magistrates at a consultation event.

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<sup>3</sup> The consultation period was extended from 7 April in recognition of the potential impact on consultees of the Covid-19 lockdown.

In addition, the Council conducted analysis of sentencing data to consider the association of different factors with sentencing outcomes in the Crown Court for selected drug offences (supply, possession with intent to supply and conspiracy to supply a controlled drug of classes A and B). In particular, the Council wanted to investigate the possible association between an offender's sex and ethnicity and the sentence imposed for these offences.

The research showed that, when taking into account the main sentencing factors for the three offences, the sex and ethnicity of offenders were associated with different sentencing outcomes.

The analysis allowed us to identify and statistically control for a wide range of factors considered by the judge in sentencing these offences (specifically the culpability of the offender, the harm caused by the offence, many of the relevant aggravating factors, including the number of previous convictions, and mitigating factors, whether and when the offender pleaded guilty, and the offender's age group). However, as not all factors considered by the judge could be included in the analysis, it is not possible to discount completely the influence of any factors that were not included, and so the results of this analysis should not be regarded as conclusive.

The Council has considered this analysis and outlined in the *Drug Offences: Consultation* some actions that it intends to take as a result of the findings, which are available on the Council's website.

### **Media coverage**

Publication of the revised *Drug Offences* guidelines consultation received national coverage in The Daily Mirror, the Guardian, Daily Telegraph, and the Daily Mail. The story also appeared in regional media, including in the Yorkshire Post, the Eastern Daily Express and East Anglian Daily Times. Online coverage included the Law Society Gazette, Police Oracle and BBC.

## **Firearms offences**

### **Development**

Offences involving firearms are treated very seriously by the courts but at present there is only one relevant guideline, that which provides guidance to magistrates sentencing the offence of carrying a firearm in a public place.

During this reporting year, the Council has continued to develop eight draft firearms guidelines that cover the highest-volume firearms offences and those with the greatest maximum penalties.

### **Consultation**

We consulted on the draft guidelines between 9 October 2019 and 21 January 2020.

The eight draft guidelines cover the following offences under the Firearms Act 1968:

- Possession, purchase or acquisition of a prohibited weapon or ammunition – sections 5(1), 5(1A);



- Possession, purchase or acquisition of a firearm/ammunition/shotgun without a certificate – sections 1(1), 2(1);
- Possession of a firearm or ammunition by person with previous convictions prohibited from possessing a firearm or ammunition – sections 21(4), 21(5);
- Carrying a firearm in a public place – section 19;
- Possession of firearm with intent to endanger life – section 16;
- Possession of firearm or imitation firearm with intent to cause fear of violence – section 16A;
- Use of firearm or imitation firearm to resist arrest/possession of firearm or imitation firearm while committing a Schedule 1 offence/carrying firearm or imitation firearm with criminal intent – sections 17(1), 17(2), 18; and
- Manufacture/sell or transfer/possess for sale or transfer/purchase or acquire for sale or transfer prohibited weapon or ammunition – section 5(2A).

Alongside the consultation the Council published a resource assessment, a statistics bulletin and information on the demographic makeup (specifically age, ethnicity and sex) of offenders for firearms offences.

Three consultation events were held to discuss the proposals and to help respondents coordinate their responses. These were hosted by:

- National Crime Agency
- Sentencing Academy
- Crown Prosecution Service

During the consultation period, to support the development of the guideline, we carried out qualitative research with judges and magistrates to explore how the draft guidelines might work in practice. We conducted 26 in-depth interviews with judges on the guidelines covering possession of a prohibited weapon, possession with intent to cause fear of violence and possession with intent to endanger life. We also carried out research with approximately 60 magistrates at a consultation event.

Alongside the consultation, the Council also published a resource assessment and statistical bulletin, showing current sentencing practice for these offences.

### ***Media coverage***

Our consultation on the draft *Firearms Offences* guidelines opened on 9 October 2019 and was covered by The Times, New Law Journal and Police Oracle.

## General guideline and expanded explanations

### ***Post-consultation***

The project to replace the Sentencing Guidelines Council (SGC) *Overarching Principles: Seriousness* guideline was undertaken in two parts:

1. The **General Guideline** – a new overarching guideline for use where there is no offence-specific guideline and which provides general guidance on the assessment of harm and culpability and includes expanded explanations of factors; and
2. The **Expanded Explanations** – expanded explanations of factors in offence-specific guidelines.

Both take advantage of the fact that all Sentencing Council guidelines are now published in digital format on the Council's website and that this is the format users are encouraged to use to make sure they have the latest versions of guidelines and can have access to all the information available.

There were 28 responses to the *General Guideline* consultation and 37 responses to the Expanded Explanations consultation. Many of the responses were from groups or organisations, though some were from individuals.

The responses to both consultations were broadly supportive of the guideline but there were suggestions for changes.

As a result of the consultations the Council made changes to the Expanded Explanations in offence-specific guidelines and to the *General Guideline*, and these were published along with a resource assessment and a response to consultation on 24 July 2019. They came into effect on 1 October 2019 and the SGC *Seriousness* guideline was withdrawn on that date.

## Guilty plea

### ***Evaluation and monitoring***

The *Reduction in Sentence for a Guilty Plea* definitive guideline came into effect on 1 June 2017, following which the Council established a dedicated monitoring group. Members of the group include representatives of the Sentencing Council, the police, the Crown Prosecution Service, Her Majesty's Courts and Tribunal Service, Victim Support, Judicial Office, Her Majesty's Prison and Probation Service, the Justices' Clerks Society and the Ministry of Justice.

Throughout 2019/20, the group continued its work to steer efforts to collect a range of data and information that will feed into an assessment of the implementation and impact of the guideline. A summary report of the analysis from this will be published later in 2020.







## Health and safety offences, corporate manslaughter and food safety and hygiene offences

### ***Evaluation and monitoring***

During 2018/19, the Council undertook an exercise to assess the impact of the *Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences* definitive guideline, which came into effect in February 2016.

We analysed data from the Ministry of Justice's Court Proceedings Database, along with prosecutions data provided by the Health and Safety Executive. We also carried out a content analysis of Crown Court judges' sentencing remarks and an analysis of a sample of judgments heard by the Court of Appeal.

A summary of our analysis was published in April 2019.

## Intimidatory offences

### ***Evaluation and monitoring***

To evaluate the impact of the *Intimidatory Offences* definitive guidelines, the Council collected data from magistrates' courts on the offences of harassment section 2 and stalking section 2A in the autumn of 2019. These data will be analysed in due course.

## Magistrates' Court Sentencing Guidelines (MCSG) and associated explanatory materials

### ***Development***

The Magistrates' Courts Sentencing Guidelines (MCSG) consists of sentencing guidelines for a wide range of offences that are sentenced in magistrates' courts. It was the subject of a major update in 2017. Since then the Council has continued to introduce or update guidelines for use in magistrates' courts.

The Council received suggestions from guideline users in magistrates' courts on minor improvements that could usefully be made to guidelines and the explanatory materials that accompany them.

### ***Consultation***

The Council considered these helpful suggestions and carried out a consultation in order to seek the views of a wide range of guideline users on the proposals. The proposed changes relate chiefly to the MCSG but may also impact on sentencing in the Crown Court for breach of a community order.

The proposals were for minor changes to the following guidelines:

- Drive whilst disqualified
- Breach of a community order
- Totality

Changes were also proposed to the following sections of the explanatory materials to the MCSG:

- Fines and financial orders:
  - Approach to the assessment of fines
  - Assessment of financial circumstances
  - Prosecution costs
  - Victim surcharge
- Road traffic offences: disqualification
  - "Totting up" disqualification

The consultation also proposed that we add a reference and link to the Equal Treatment Bench Book to each page of the explanatory materials in the digital guidelines.

The consultation was launched on 22 January 2020 to run until 15 April 2020. It was accompanied by a resource assessment.

## ***Evaluation and monitoring***

In March 2020, the Council published a quantitative assessment of 19 of the 27 offences covered in the MCSG that came into force in April 2017.

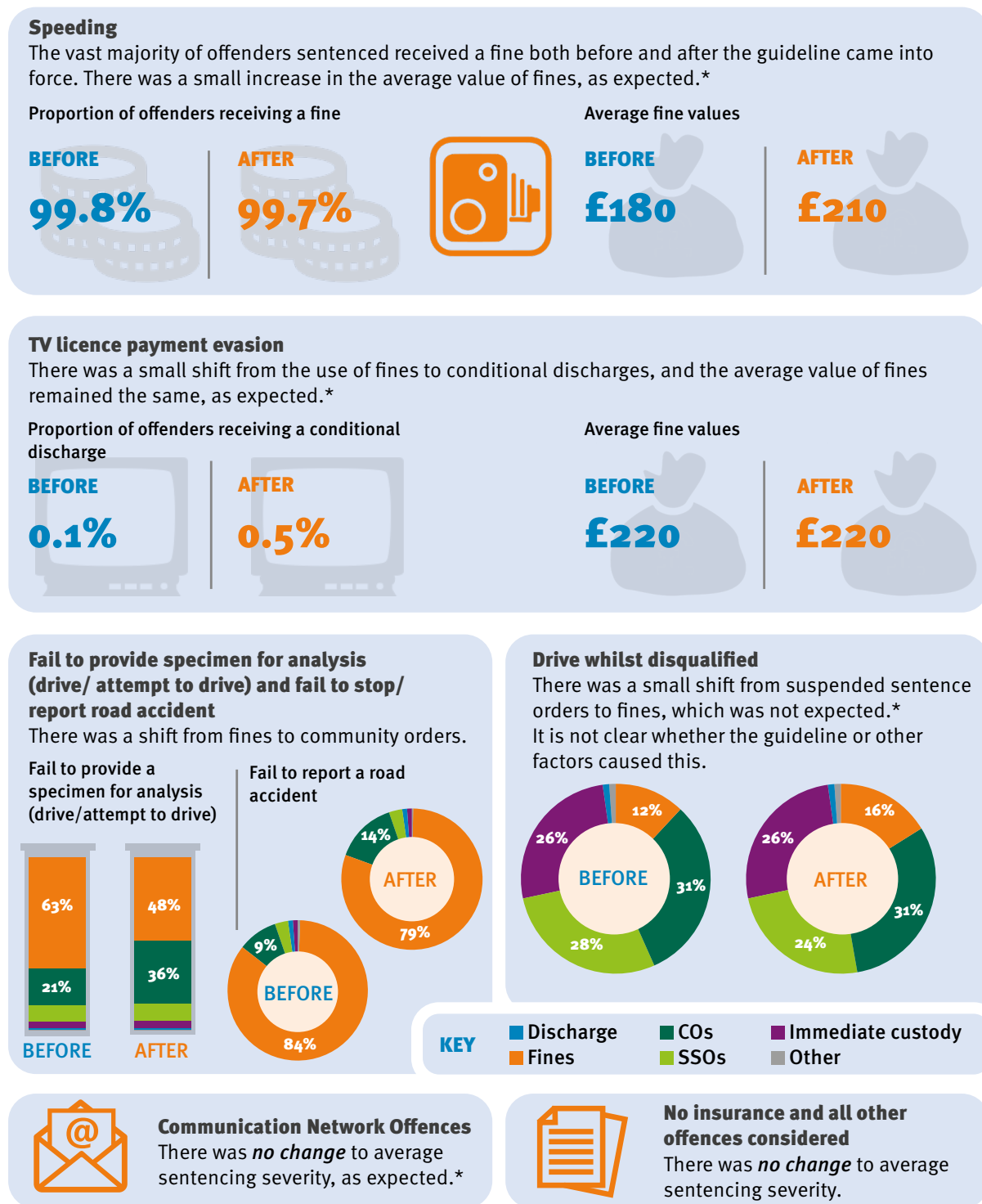
The findings suggest that the guidelines are having the anticipated impact for the vast majority of offences considered. For most offences, the guidelines have had no impact on average sentencing severity, while for most other offences the expected impact has been observed.

For driving whilst disqualified, failure to provide a specimen for analysis and failure to stop/report a road accident, the guidelines may have caused changes to average severity. However, the impacts of these changes have been relatively small, involving small shifts in the use of fines, community orders and suspended sentence orders. The guidelines do not appear to have had an impact on the use of immediate custody or average sentence lengths.

As a result, the Council is content that the guidelines are working well but will continue to monitor their impact.

Figure 1 (p20) illustrates the key findings of our assessment.

Figure 1



Source: Court Proceedings Database, Ministry of Justice.

\* For more details of findings and expected impact on sentence levels, see: [www.sentencingcouncil.org.uk/publications/item/magistrates-court-sentencing-guidelines-assessment-of-guideline/](http://www.sentencingcouncil.org.uk/publications/item/magistrates-court-sentencing-guidelines-assessment-of-guideline/)



### **Media coverage**

The launch of the consultation received a large amount of coverage in the media, with the focus directed at the guideline on driving offences. There was national coverage in the Daily Mail, Daily Telegraph and The Times. There was coverage in 11 regional media titles, including Eastern Daily Press, Telegraph and Argus and Yorkshire Post. It also appeared in trade news titles, including Techregister and Fleetworld. There was regional broadcast coverage on BBC Radio Kent, Heart FM, LBC and others.

## **Mental disorders, developmental disorders or neurological impairments**

### **Development**

The Council's aim in developing the draft overarching principles guideline for sentencing offenders with mental disorders, developmental disorders or neurological impairments is to consolidate and explain information that will help the courts to pass appropriate sentences when dealing with offenders who have such conditions, and to promote consistency of approach in sentencing.

We undertook research to inform development of the draft guideline and explore its potential impact. In particular research was required to explore how sentencers might respond to the guideline

and how it might affect their practice. This work included interviews with 29 sentencers on the draft guideline, and group discussions and exercises with around 30 magistrates at a training day event.

### **Consultation**

Between April and July 2019 we ran a consultation on the draft guideline under the title: *Overarching Principles: Sentencing Offenders with Mental Health Conditions or Disorders*.

Before and during the consultation we carried out a two-stage research exercise to help gauge the likely impact of the guideline on sentencing and address any implementation issues. The sample consisted of 13 Crown Court judges, three district judges and 13 magistrates, all of whom carried out the online sentencing exercises and were subsequently interviewed.

The consultation was informed by a resource assessment, which was published alongside the consultation document.

### **Post-consultation**

We received 110 responses. Consultation respondents were generally supportive of the approach the Council had taken to the draft guideline.

The Council has been carefully considering the responses and research findings to identify whether any changes are required before we issue the definitive guideline, *Overarching Principles: Sentencing Offenders with Mental Disorders, Developmental*

*Disorders or Neurological Impairments*, which we expect to publish in summer 2020.

### **Media coverage**

The consultation, which launched on 9 April 2019, was covered by both national and regional media. The Council spokesperson, Her Honour Judge Rosa Dean, was interviewed on BBC Breakfast, which led to coverage on local BBC stations in Newcastle, Shropshire, Jersey and Somerset. The Chairman was interviewed by BBC London and there was coverage on BBC online, LBC and Talk Radio. The story appeared in national newspapers including The Times, the Daily Telegraph, the Independent, the Daily Mail and the Sun. There was also coverage in regional media.

## **Public order offences**

### **Post-consultation**

During 2019 the Council continued to consider consultation responses to inform the post-consultation development of the *Public Order* definitive guidelines. The consultation had sought views from respondents on the seven separate guidelines and received 95 responses.

The substantive themes emerging from the responses to the guidelines included that:

- the wording of some culpability and harm factors could be improved, and some

additional factors considered;

- the guidelines should guard against the risk of double counting of factors, particularly in respect of the offences of riot and violent disorder;
- some sentences should be higher, particularly in respect of violent disorder offences; and
- the proposed guidance for the racially or religiously aggravated s4 and s4A offences was overly complex and risked disproportionate sentences being imposed.

The Council responded to these comments by:

- rewording some culpability and harm factors across the guidelines;
- including additional guidance in the riot and violent disorder guidelines to remind sentencers to guard against the double counting of factors;
- including an additional harm category for violent disorder offences and including an additional tier of sentences for the most serious offences;
- including and amending a number of aggravating and mitigating factors across the guidelines; and
- revising the approach to sentencing racially and religiously aggravated disorderly behaviour offences.

The *Public Order* definitive guidelines were published on 16 October 2019 and came into force on 1 January 2020. The Council

also published a resource assessment and updated data tables showing current sentencing practice alongside the definitive guidelines.

### ***Media coverage***

The *Public Order* definitive guidelines were published on 16 October 2019 and received coverage in the Daily Mail.

## **Terrorism offences**

### ***Consultation***

From 22 October to 3 December 2019 the Council consulted on revised sentencing guidelines for some terrorism offences.

The Council issued terrorism guidelines in March 2018, which came into effect on 27 April 2018. The guidelines were based on the Terrorism Acts 2000 and 2006, which created a large number of terrorist offences. In April 2019 the Counter Terrorism and Border Security Act 2018 came into force, making significant changes to the terrorism legislation, including increasing the statutory maximum sentences for many offences. Following the introduction of this legislation, the Council revised the existing terrorism guidelines to reflect the changes made.

The main changes include:

- Increased sentencing levels for the guidelines covering encouragement of terrorism, failure to disclose information about acts of terrorism and collection of terrorist information, to reflect the new increased statutory maximum sentences;
- Amendment to the culpability factors in:
  - the Support of Proscribed Organisations guideline, to provide for offenders convicted of the new offence of expressing supportive views for a proscribed organisation, reckless as to whether others will be encouraged to support it; and
  - the Collection of Terrorist Information guideline, to provide for offenders convicted of the new offence of viewing or streaming terrorist information over the internet.
- Including additional aggravating and mitigating factors in the guidelines covering funding terrorism, to assist judges to sentence cases where either the offender had knowledge that the money or property would or may be used for terrorism, or where the offender did not know or suspect that the money would or may be used for terrorism. This is an issue that was raised in case law and so the Council took the opportunity to assist sentencers by providing greater guidance.

A resource assessment and data tables showing current sentencing practice were also produced to accompany the consultation and can be found on the Council's website.

Since the close of the consultation the Government has announced an intention to make further changes to terrorism legislation, both with regard to sentencing and release provisions. New legislation has already come into force that restricts the early release of some terrorist offenders under the Terrorist Offenders (Restriction of Early Release) Act 2020, and further legislation has now been introduced to make changes to sentencing.

As a result of the changes to sentencing legislation the Sentencing Council has decided to delay publishing the revised terrorism guidelines.

### ***Media coverage***

The consultation on the revised guidelines for terrorism offences opened on 22 October 2019. The Council spokesperson, the Hon Mr Justice Goose, was interviewed on Sky News, and the story featured on Sky Online, several commercial radios and a number of online channels. Other broadcast stations carrying the story included LBC, Tower FM, Revolution, Love Sport Radio and Town 102 FM. The consultation also received national coverage in the Daily Telegraph, the Daily Mail and the Guardian. Regional coverage included the Southern Daily Echo and Yorkshire Post.



# Communication

The Sentencing Council has a statutory obligation, in producing guidelines, to have regard to “the need to promote public confidence in the criminal justice system”. To help the Council meet this duty, we have set ourselves a strategic objective: to improve awareness and understanding of sentencing among victims, witnesses, offenders and the public.

The Communication team has a central role to play in supporting this objective, which we do by delivering high-quality, proactive and reactive communications that aim to:

- inform and equip our professional audiences, and strengthen their confidence in the Council, the sentencing guidelines and the Council’s sentencing model; and
- inform and educate our public audiences, and improve their understanding of, and confidence in, sentencing and the criminal justice system.

## ***Public confidence***

To meet our statutory duty to have regard to the need to promote public confidence, the Council must have a clear and detailed picture of current levels of understanding of sentencing among the public. In August 2019,

we published a report of research into public knowledge of, and confidence in, sentencing and the criminal justice system.<sup>4</sup>

The research, which the Council had commissioned from independent agency ComRes, shows the importance of the sentencing guidelines to people’s confidence in sentencing: 67 per cent of the public and 68 per cent of victims of crime said that the existence of sentencing guidelines improved their confidence in the fairness of sentencing at least a little. The report identifies key audiences for the Council and provides insight into the sort of messages that would be relevant and meaningful to these audiences and that might help dispel some of the more common myths and misunderstandings about sentencing. The findings have helped us develop a clear understanding of current levels of public confidence and influenced the shape of our communication strategy.

## ***Working with the media***

The Council publicises its work via general and specialist media. Our aim is to make sure that sentencers, criminal justice practitioners and the wider public are aware of what work the Council is undertaking and are kept informed about the publication of new guidelines. We also make sure that

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<sup>4</sup> ComRes (2019) Public Knowledge of and Confidence in the Criminal Justice System and Sentencing, Sentencing Council: <https://www.sentencingcouncil.org.uk/publications/item/public-confidence-in-sentencing-and-the-criminal-justice-system/>



practitioners and stakeholders with an interest in specialist topic areas are aware of our consultations so that they are able to respond and share their knowledge and expertise with the Council.

The definitive guidelines and consultations published over the period of this annual report were supported by a programme of communication activities targeting the media, including criminal justice publications, national and regional print and broadcast channels and other specialist titles where relevant. Council members were fully briefed and prepared to talk to the media for each announcement and undertook a number of interviews, including on high-profile, national programmes such as Sky News, BBC News, the Today programme on BBC Radio 4, BBC Breakfast and BBC Radio 5 Live, as well as on BBC Asian Network and regional radio.

The work of the Council remained of significant interest to the media and, over the course of the year, there were 148 mentions of the Council in print media, 646 broadcast mentions and 342 mentions online, not including social media.

Our press office also routinely answers media enquiries about sentencing issues, provides background for sentencing related articles and puts forward spokespeople, where appropriate.

The office also handles many calls and emails from members of the public enquiring about sentencing and the guidelines. While we are not able to provide advice or comment on individual cases, we provide information and alternative sources where we can.

### ***Working to engage the public and victims of crime***

As in previous years, the Council has worked with partner organisations who have direct contact with the public, to improve understanding of sentencing particularly among victims and witnesses.

We focus on our communication with the police service, aiming to reach the officers who most often engage with the public. Our activities have included ensuring police publications receive Council announcements, working with Police Professional magazine to provide articles and features on aspects of sentencing and establishing relationships with relevant groups of officers, such as Family Liaison Officers (FLOs), who, among their other duties, provide the link between bereaved families and the police during major investigations.

Throughout the year the Witness Service continued to use our materials about sentencing to support and reassure witnesses and victims.

Videos on our YouTube channel continue to attract a consistent level of attention. Our most viewed video, which describes how sentencing works in clear, easy-to-follow terms, and which we promote on our website, was watched more than 22,800 times during the year.

### ***Reaching young people***

The 2019 public confidence research tells us that young people between school-leaving age and early 30s have greater



confidence in the effectiveness and fairness of the criminal justice system than older people, and most say that hearing about the sentencing guidelines increases their levels of confidence. However, young people are less likely than any other age group to know about the guidelines.

To mitigate this lack of knowledge among the next generation of young adults, the Council has identified young people of secondary-school age as a priority audience.

Our aim is to equip them with a knowledge and understanding of sentencing that will improve their confidence in the criminal justice system, whether they encounter it as victims, witnesses or defendants, and enable them to become critical readers of the media's reporting of sentencing.

To this end, the Council has developed a teaching pack for schools to deliver as part of the citizenship curriculum for key stage 3 and 4 pupils. These resources help pupils in England and Wales develop an understanding of how criminal sentencing works and give them the opportunity to try sentencing for themselves through interactive scenarios. The pack is available via the Sentencing Council website as well as through the Association for Citizenship Teaching, Young Citizens, and the Times and Guardian educational pages. In this reporting year, 2,966 visits were made to the Council's teaching resources webpage, 1,663 of which were by new users.

The Council also aims to contribute to teaching activities such as mock trial competitions that are run by a number of our

criminal justice system partners who have far greater reach into schools than the Council could achieve alone.

During the year we developed materials to be included in the Bar Mock Trial competition run by Young Citizens, an education charity that works in primary and secondary schools to help educate, inspire and motivate young people. In the competition, students aged 15-18 from all over the UK are given details of a case and, taking on the role of barristers, prepare legal arguments and compete with other schools to prosecute and defend the case. The Council's contribution leads participants through the steps the judges take to reach their sentencing decisions so the young people can see for themselves how the guidelines enable a consistent approach to sentencing.

The finals of the competition were due to have taken place on 11 March 2020 at the Old Bailey. Officials from the Council had been invited to attend and to showcase some of our guidelines and other materials, but the event was postponed because of the Covid-19 pandemic. We hope they will be staged at some point later in the year and look forward to continuing to work with Young Citizens on this and their other school competitions.

### ***Developing relationships with partners and interested parties***

To further our work to engage stakeholders and build relationships across the criminal justice system, Council members and staff from the Office of the Sentencing Council (OSC) gave a series of speeches and

presentations throughout the year covering all aspects of sentencing and developing guidelines. We contributed to a number of events, including the Criminal Law Review conference, the National Police Chiefs' Council's Criminal Justice conference and the annual conferences of the Magistrates' Association and the Public Defender Service. Our audiences included magistrates, judges, legal practitioners, police officers, academics and NGOs.

In May 2019 Council Member Mrs Justice McGowan took part in a conference held by Middle Temple that brought together the bars and benches of England, Scotland, Northern Ireland and the Republic of Ireland, informing a discussion about the introduction and role of sentencing guidelines in each of those nations.

Every year the Council accepts requests from overseas jurisdictions seeking to learn more about the Sentencing Council and understand how the guidelines are developed and used and where they fit within the criminal justice system.

In April 2019 the Chairman was invited to visit Taiwan to give a lecture to the Judicial Yuan about the Court of Appeal and sentencing, including touching on human rights issues. The Yuan is the judicial branch of the government of the Republic of China on Taiwan. Its Justices of the Constitutional Court are charged with interpreting the Constitution. The Chairman also met the Judges of the Taiwan Supreme Court and the President of the Judges' Academy, where he also gave a lecture on sentencing. The Council was also

visited during the year by Judge Ho and Judge Hu of the Taiwan High Court and, in August, hosted a delegation of Taiwanese judges led by the President of the Judicial Yuan, Tzong-Li Hsu.

In May we hosted a delegation from the Sentencing Committee of Uganda in a series of meetings from which the delegates wanted to learn about the process we follow to develop our guidelines.

On 30 July 2019 two members of the OSC met Judges Zhou and Zhu from the Supreme People's Court of China in a visit arranged by the Great Britain China Centre.

For two days in September 2019 we hosted a delegation from Bangladesh, who included Justice Refaat Ahmed, a justice of the Bangladesh Supreme Court. Shortly after their visit the Supreme Court Reform Committee agreed to appoint a subcommittee to implement sentencing guidelines in Bangladesh.

Between September and November 2019 we hosted judicial visitors from Korea and Ethiopia, including the Chief Justice of Ethiopia, and met Judge Otake from Kagoshima District Court in Japan, who was in the UK to research the judicial system as part of a Japanese exchange programme.

Following a visit in October 2019 from officials from the Supreme Court of the Republic of Kosovo, two members of the OSC visited Kosovo in February 2020 to help the country's Sentencing Commission develop guidelines for corruption offences based on the Council's guidelines for bribery offences.

Our officials attended a meeting of the Commission to make the case for step-by-step-guidelines as opposed to a narrative approach and to emphasise the importance of road testing guidelines with judges.

### ***Website and social media***

The Sentencing Council's website, [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk), has continued to be a source of information for sentencers and others in the criminal justice system, as well as for victims, witnesses, the public and journalists. Traffic to the website has remained consistently high, with the number of unique visitors rising to over 1.3 million: from 1 April 2019 to 31 March 2020, there were 1,348,544 unique visitors compared with 978,212 the preceding year.

We have been working with the digital development agency that manages our website to revise both the design and content of the site. The aim of this development work is to enable the Council to continue to serve the professional users of our website while creating more compelling public-facing content that would contribute to meeting our objective of improving public confidence in sentencing. We expect to launch the redesigned site later in 2020.

### ***Twitter***

Twitter is widely used by legal practitioners, commentators and academics, and criminal justice reformers. The Council uses a corporate Twitter account to tell our followers about consultations and guideline launches as well as to monitor and respond to what is being said about sentencing and the Council.

***Newport (South Wales) Magistrates' Court***



# Analysis and research

The statutory duties of the Council include requirements to carry out analysis and research into sentencing. Our work in this area includes the following.

## ***Undertaking research and analysis to support the development of guidelines and other statutory duties***

The Council regularly carries out social research and analysis that aims to augment the evidence base underpinning guidelines, ensuring, in particular, that guidelines are informed by the views and experiences of those who sentence. We conduct primary research with users of the guidelines: primarily Crown Court judges, district judges and magistrates, using a range of methods. These methods include surveys, face-to-face and telephone interviews and group discussions. Our researchers also review sentencing literature and analyse the content of Crown Court sentencing-remark transcripts. This work helps to inform the content of the guidelines at an early stage of development.

During the development of draft guidelines, we also draw on a range of data sources to produce statistical information about current sentencing practice, including offence volumes, average custodial sentence lengths and breakdowns by age, gender and ethnicity.

We use this information to understand the parameters of current sentencing practice, and to fulfil the Council's public sector equality duty.<sup>5</sup>

Where necessary, the Council also undertakes research and analysis to support some of our wider statutory duties. This includes work to support our public confidence duties and issues related to effectiveness in sentencing.

## ***Conducting an assessment of the resource implications of guidelines***

The Council has a statutory duty to produce a resource assessment to accompany each sentencing guideline that estimates the effects of the guideline on the resource requirements of the prison, probation and youth justice services. This assessment enables the Council and our stakeholders to better understand the consequences of the guidelines in terms of impact on correctional resources.

The work that goes into resource assessments also results in wider benefits for the Council. The process involves close scrutiny of current sentencing practice, including analysis of how sentences may be affected by guilty plea reductions and consideration of the factors that influence

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<sup>5</sup> The public sector Equality Duty, s.149 of the Equality Act 2010, applies to the public bodies listed in Schedule 19 <https://www.gov.uk/government/publications/equality-act-2010-schedule-19-consolidated-april-2011>



sentences. This analysis provides a “point of departure” for the Council when we are considering the appropriate sentencing ranges for a guideline.

Where the Council intends a guideline to improve consistency, while causing no change to the overall severity of sentencing, the guideline sentencing ranges will aim to reflect current sentencing practice, as identified from the analysis. Where we intend a guideline to effect changes in the severity of sentencing for an offence, the Council may set sentencing ranges higher or lower than those indicated by current sentencing practice.

We publish resource assessments alongside our consultations and our definitive guidelines. We also publish alongside our draft guidelines for consultation a statistical bulletin summarising statistical information that has helped inform their development.

### ***Monitoring the operation and effect of sentencing guidelines and drawing conclusions***

The actual impact of the guideline on sentencing and, consequently, on resources, is assessed through monitoring and evaluation after the guidelines have been implemented. To achieve this, we may use a range of different approaches and types of analysis, including putting in place bespoke, targeted data collections in courts, qualitative interviews with sentencers, transcript analysis and analysis of administrative data. These data are supplemented by data collected through the Crown Court Sentencing Survey (which ran between October 2010 and March 2015).

### ***Publishing Sentencing Council research***

We publish our research and statistical outputs on the analysis and research pages of our website: [www.sentencingcouncil.org.uk/analysis-and-research/](http://www.sentencingcouncil.org.uk/analysis-and-research/).

More information about the analysis and research we have undertaken to support the development of new guidelines or to evaluate existing guidelines is included in the Sentencing guidelines chapter of this report (pp10-24).

### ***Reporting on sentencing factors and non-sentencing factors***

The Council has a statutory duty to produce sentencing factors and non-sentencing factors reports. These reports can be found on the following pages.

# Sentencing factors report

In accordance with section 130 of the Coroners and Justice Act 2009, the Sentencing Council's annual report must contain a sentencing factors report. This report considers changes in the sentencing practice of courts and their possible effects on the resources required in the prison, probation and youth justice services.

Sentencing guidelines are a key driver of change in sentencing practice. Some guidelines aim to increase the consistency of approach to sentencing while maintaining the average severity of sentencing. Other guidelines explicitly aim to cause changes to the severity of sentencing.

Changes in sentencing practice can also occur in the absence of new sentencing guidelines and could be the result of many factors such as Court of Appeal guideline judgments, legislation and changing attitudes towards different offences.

This report considers only changes in sentencing practice caused by changes in sentencing guidelines.

## Sentencing guidelines

During its tenth year (to 31 March 2020), the Council published the following definitive guidelines:

- *Arson and Criminal Damage*
- *General Guideline* and Expanded Explanations
- *Public Order Offences*

### ***Arson and criminal damage***

Overall, the *Arson and Criminal Damage* definitive guidelines aim to improve consistency of sentencing but not to change sentencing practice.

For most of the offences covered, it is not possible to predict whether the guidelines will have an impact on prison and probation resources because of a lack of data available on how current cases would be categorised under the new guidelines. This includes arson, criminal damage with a value exceeding £5,000, racially or religiously aggravated criminal damage, criminal damage/arson with intent to endanger life or reckless as to whether life endangered, and threats to destroy or damage property. For some of these offences, however, analysis of the limited data available indicates that current sentence levels vary within offences, with the likelihood being that some sentences

will increase under the new guidelines, and some will decrease. Overall, these effects may offset one another, although it is not possible to say for certain what the net effect will be. We do, however, anticipate that sentencing for these offences will become more consistent.

We anticipate that the guideline for criminal damage with a value not exceeding £5,000, will result in some changes to fine levels. Specifically, we estimate that up to around 4,000 offenders may receive a lower fine than previously.<sup>6</sup> This estimate is based on the assumption that offenders placed in the lowest category of seriousness (who currently have a starting point of a Band B fine) will, under the new guideline, have a starting point of a Band A fine. The guidelines for these offences are not, however, expected to have any impact on prison or probation resources.

### ***General guideline and expanded explanations***

The *General Guideline* and Expanded Explanations in sentencing guidelines contain guidance on the application of factors to sentencing. The *General Guideline* is applicable to approximately 15 per cent of offenders sentenced each year, where there is currently no offence-specific guideline. The Expanded Explanations in sentencing guidelines have the potential to affect the remainder of sentences but, as the explanations relate to factors at step two of guidelines – after the starting point has been determined – the potential impact is limited.

The Council has designed the *General Guideline* and Expanded Explanations to reflect current best practice rather than to alter sentencing practice. In some cases the explanations provide links to or extracts from existing overarching guidelines.

The Council's aim is to improve consistency and transparency in sentencing but, if sentencers are not currently following best practice, then it is possible that the guideline could lead to an increase or decrease in individual sentences.

The resource assessment focuses on those areas that have been identified as having the potential to have an impact because the guideline is designed to alter sentencing practice and/or because it will apply to a large number of cases, or where these factors have been identified by respondents to the consultation as potentially having an impact on sentences.

A summary of these areas and the possible associated impacts is as follows:

- **The wording of step one of the *General Guideline* around reaching a provisional sentence**

The *General Guideline* will apply to a large number of offenders sentenced each year, and step one of any guideline will likely have the biggest impact on sentences. Therefore, any changes to how harm and culpability are assessed have the potential to have an impact on sentencing severity. However, we believe

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<sup>6</sup> Figures have been rounded to the nearest 1,000 offenders.

the approach to sentencing taken in the *General Guideline* to be in line with how cases are currently sentenced where there is no offence-specific guideline. In addition, the preceding SGC *Seriousness* guideline set out the approach to sentencing offences and included many of the same principles as in the *General Guideline*, such as information on the five purposes of sentencing. Therefore, we do not anticipate that step one of the *General Guideline* will have an impact on prison or probation resources.

- **Changes to the wording of culpability B factors in three specific definitive guidelines (robbery, theft and fraud)**

The Council has changed one of the factors in category B culpability for theft, robbery and fraud offences. This change amends the wording of the medium culpability (B) factor in these guidelines. Culpability B was previously defined by the absence of high (A) or low (C) culpability factors, but is now defined as: “Other cases that fall between categories A or C because: (i) Factors are present in A and C which balance each other out and/or, (ii) The offender’s culpability falls between the factors as described in A and C”.

For those offences where a high proportion of offenders currently fall into culpability A (robbery and fraud), there is potential for this change to lead to a small decrease in overall sentencing severity as a result of some cases now being placed in culpability B instead. In contrast, for theft offences, a large proportion of offenders already fall into either culpability

B or C and, as a result, the Council does not expect that this change in wording will cause a change in the proportion of offenders falling into culpability B.

- **Eight aggravating and mitigating guideline factors where the provision of further information could impact on their use:**

- For previous convictions and for the factor of “Offender under the influence of drugs or alcohol”, the Expanded Explanations represent current best practice and are not designed to alter sentencing practice. We, therefore, do not expect any change in average sentencing severity.
- The Expanded Explanation for the factor “Determination and/or demonstration of steps having been taken to address addiction or offending behaviour” emphasises that a sentence that focuses on rehabilitation may be justified where this factor applies, and encourages the court to obtain a Pre-Sentence Report. This may lead to a small number of cases resulting in a non-custodial rather than a custodial sentence. However, we do not consider this to be a change, rather a reflection of best practice.
- The Council anticipates that there may be an increase in the use of the factor “Age or lack of maturity”. The Expanded Explanation clarifies that this mitigating factor will typically apply to offenders aged 18 to 25. It is



possible that at present sentencers are not always considering the relevance of this factor for offenders towards the top of this age range. Therefore, there could be an increase in the use of this mitigating factor in these cases. Additionally, analysis of sentencing data has shown that, although this factor is generally associated with a statistically significant decrease in sentencing severity, this is not the case for all offences studied. Therefore, for some offences, there may be a change in the way this factor is applied. These changes may then lead to a subsequent decrease in sentencing severity.

- For the factors of “Location” and “Timing” we expect that, in most cases, these are already being taken into account when relevant and sentences are being aggravated accordingly; therefore, it is not expected that these Expanded Explanations will cause changes to sentencing severity.
- For factors related to victim vulnerability, the Expanded Explanation draws on case law to provide balanced guidance on where vulnerability may be relevant. The explanation makes it clear that it is for the court in each case to weigh up the impact of victim vulnerability on the sentence. Therefore, we do not anticipate that the explanation will have any impact on prison and probation resources.

- For the factor “Offence committed in custody”, the explanation that sentences for such offences will usually be consecutive to any sentence being served includes reference to the *Totality* guideline, which is already in force, and therefore this is not expected to have an effect on average sentencing severity. The Council assumes that offences committed in custody are already treated more seriously than would otherwise be the case. We therefore anticipate that, as a reflection of current sentencing practice, the guideline would not have an impact on prison or probation resources.

### ***Public order offences***

The *Public Order* definitive guidelines aim to improve consistency of sentencing but, for the majority of cases, the Council does not anticipate a change to sentencing practice.

For riot and stirring up hatred based on race, religion or sexual orientation, the number of offenders sentenced is low, and sentence ranges have been set based on a review of a number of transcripts of sentencing remarks for these offences (where available). We do not anticipate any impact on prison and probation resources.

For violent disorder, the guideline sentence ranges have been based on transcripts of sentencing remarks for this offence and the latest available sentencing statistics. A review of this information suggests that the definitive guideline is reflective of current sentencing practice and, therefore, we do not

expect there to be any impact on prison or probation resources.

For affray, the guideline ranges were set with current sentencing practice in mind, and the consultation stage research found that sentencing was generally similar under the existing guideline and under the draft guideline. Sentence levels in the definitive guideline are the same as in the draft guideline and, therefore, the guideline is not expected to have an impact on prison or probation resources.

For threatening behaviour and disorderly behaviour with intent, there have been some reductions to sentencing ranges and starting points for the different levels of offence seriousness, compared with the Magistrates' Court Sentencing Guidelines (MCSG). It is possible that the decrease in sentence levels in the guideline could lead to a decrease in sentencing severity for these offences, whereby some individuals who currently receive a custodial sentence may now receive a community order. However, it is also possible that much of the decrease in sentencing severity could come from offenders who currently receive suspended sentence orders now receiving community orders. Therefore, there is an upper estimate that the guideline will not have an impact on the requirement for prison places or probation resources, and a lower estimate that the guideline could lead to a reduction in the requirement for up to 30 prison places per year and a small increase in the use of community orders.

For racially or religiously aggravated threatening behaviour and racially or religiously aggravated disorderly behaviour with intent, sentencers are first asked to sentence the basic offence, and then to increase the sentence having regard to the level of racial or religious aggravation involved. This "uplift" approach reflects Court of Appeal guidance on how aggravated offences should be sentenced and aligns with current practice in relation to assessing the level of aggravation present in offences. This is the same process as used in the Council's *Arson and Criminal Damage* definitive guidelines, which the consultation stage research found could result in slightly higher sentences. It is therefore possible that the guideline could cause an increase to sentencing severity. However, as noted at the start of the preceding paragraph, some of the starting points and sentence ranges for the basic offence are lower than under the current guideline, which could offset these potential increases. Therefore, there is a lower estimate that the guideline will not have an impact on the requirement for prison places or probation resources and an upper estimate that the guideline could lead to a requirement for up to 40 additional prison places per year and a small decrease in the use of community orders.

For the offences of disorderly behaviour and racially or religiously aggravated disorderly behaviour, the maximum sentence is a fine and therefore the guideline will not have an impact on prison and probation resources. For the offence of disorderly behaviour, the

guideline introduces a new higher category of offending with a higher level of fine than in the existing MCSG guidance (a Band C fine). The guideline may, therefore, increase fine values for this offence. Also, because a fine is included for all levels of offending for racially or religiously aggravated disorderly behaviour – whereas data suggests that around 12 per cent of offenders sentenced for this offence received an absolute or conditional discharge in 2018 (after any reduction for guilty plea) – it is also possible that the guideline could increase the number of offenders sentenced to a fine for this offence.



*Newport (South Wales) Magistrates' Court*

# Non-sentencing factors report

The Sentencing Council is required under the Coroners and Justice Act 2009 to prepare a report of non-sentencing factors to identify the quantitative effect that non-sentencing factors are having, or are likely to have, on the resources needed or available to give effect to sentences imposed by courts in England and Wales.

We begin this report by defining non-sentencing factors and explaining their importance to resource requirements in the criminal justice system. We then signpost the most recently published evidence on these factors.

## Definition of non-sentencing factors and their significance

The approach taken by the courts to sentencing offenders is a primary driver of requirements for correctional resources in the criminal justice system. We discuss this in our report on sentencing factors (see pp32-7). However, non-sentencing factors also exert an important influence on requirements for correctional resources.

Non-sentencing factors are factors that do not relate to the sentencing practice of the

courts but which may affect the resources required to give effect to sentences. For example, the volume of offenders coming before the courts is a non-sentencing factor: greater sentencing volumes lead to greater pressure on correctional resources, even if the courts' treatment of individual cases does not change. Release provisions are another example: changes in the length of time spent in prison for a given custodial sentence have obvious resource consequences.

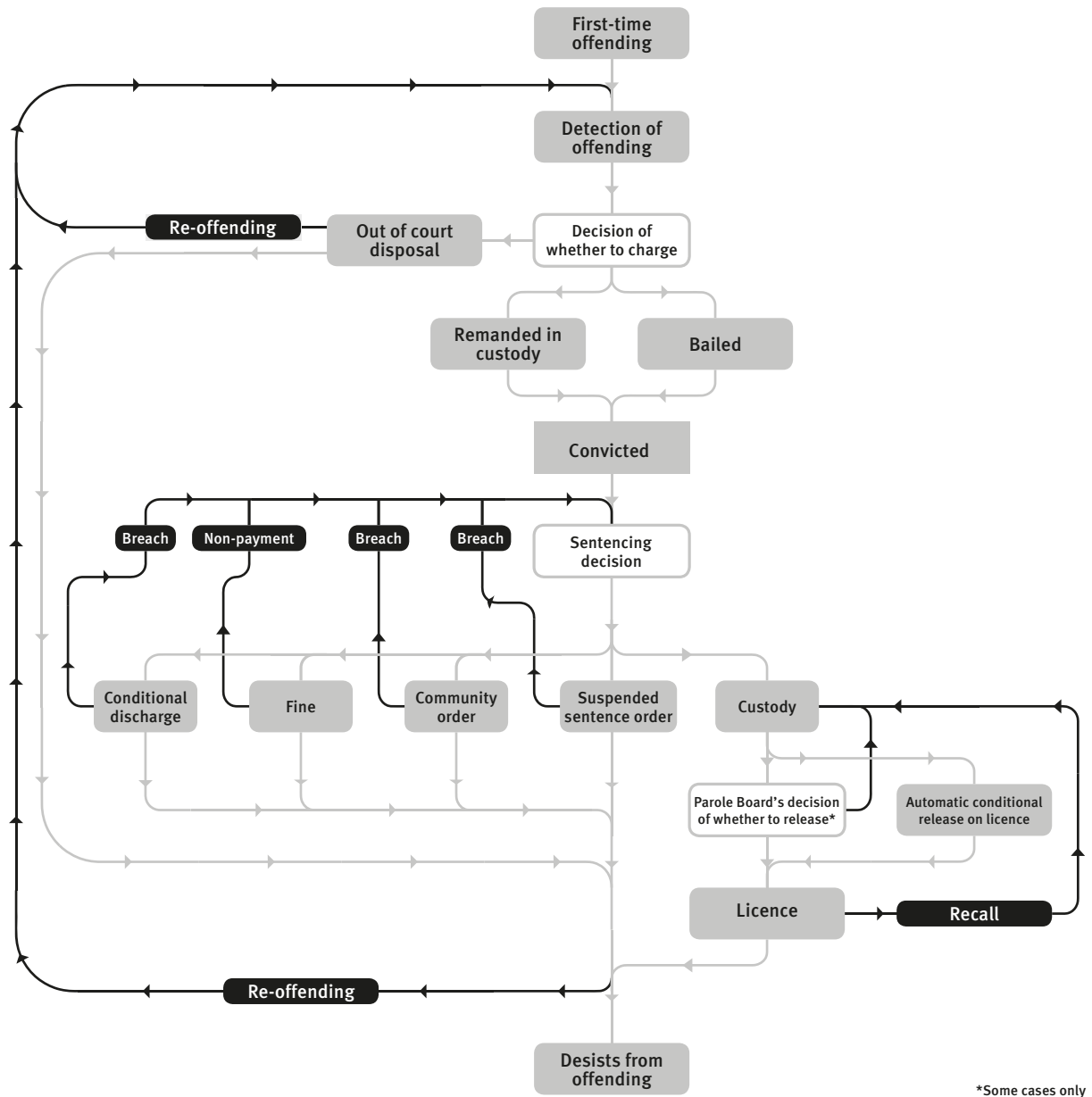
## Statistics on the effect of non-sentencing factors on resource requirements

It is relatively straightforward to analyse the available data on non-sentencing factors. However, it is extremely difficult to identify why changes have occurred and to isolate the resource effect of any individual change to the system. This is because the criminal justice system is dynamic and its processes are interconnected.

Figure 2 shows a stylised representation of the flow of offenders through the criminal justice system. This figure demonstrates the interdependence of the system and how changes to any one aspect will have knock-on effects in many other parts.



Figure 2



On the following pages we examine the available data on non-sentencing factors. Because of the complexities explained above, we have not attempted to untangle the interactions between different non-sentencing factors to explain the causes of observed changes and their impact on resources.

## Volume of sentences and composition of offences coming before the courts

The Ministry of Justice (MoJ) publishes on [www.gov.uk](http://www.gov.uk) *Criminal Justice System Statistics Quarterly*, which gives quarterly statistics on the volume of sentences and the offence types for which offenders are sentenced.<sup>7</sup>

For the most detailed information on sentencing outcomes, follow the link on [www.gov.uk](http://www.gov.uk) for *Criminal Justice System Statistics Quarterly: December 2019* to use the sentencing tool. The tool provides statistics on the total number of sentences passed and how this has changed through time. The statistics can be broken down by sex, age group, ethnicity, court type and offence group.

## The rate of recall from licence

An offender is recalled to custody by the Secretary of State if they have been released from custody but then breach the conditions of their licence or appear to be at risk of doing so. Because time served in custody is considerably more costly than time spent on licence, recall decisions have a substantial resource cost.

Statistics on recall from licence can be found in the MoJ publication, *Offender Management Statistics Quarterly*.<sup>8</sup>

The tables concerning licence recalls, Table 5.1 to Table 5.11, can be found on [www.gov.uk](http://www.gov.uk) via the link *Offender Management Statistics Quarterly: October to December 2019*. For example, Table 5.1 contains a summary of the number of licence recalls since 1984.

## Post-sentence supervision

The Offender Rehabilitation Act 2014 expanded license supervision, which means that since 1 February 2015 all offenders who receive a custodial sentence of less than two years are subject to compulsory post-sentence supervision (PSS) on their release for 12 months. MoJ publishes statistics on the number of offenders under PSS in *Offender Management Statistics Quarterly*.<sup>9</sup>

Follow the link "Probation: 2019" and see Table A4.13.

## The rate at which court orders are breached

If an offender breaches a court order, they must return to court. Their revised sentence will typically add or augment requirements to the order or involve custody. Breaches can therefore have significant resource implications.

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<sup>7</sup> <https://www.gov.uk/government/collections/criminal-justice-statistics-quarterly>

<sup>8</sup> <https://www.gov.uk/government/collections/offender-management-statistics-quarterly>

<sup>9</sup> Ibid.

Statistics on breaches can also be found in *Offender Management Statistics Quarterly*. Follow the link "Probation: 2019" and see Table A4.22, for a breakdown of terminations of court orders by reason.<sup>10</sup>

## Patterns of reoffending

Moj publishes reoffending statistics in *Proven Reoffending Statistics*.<sup>11</sup>

The frequency and severity of reoffending is an important driver of changes in requirements for criminal justice resources. Detailed statistics of how reoffending rates are changing through time can be found in the report. Additional statistics can be found in supplementary tables.

## Release decisions by the Parole Board

Many offenders are released from prison automatically under release provisions that are set by Parliament and Moj. However, in a minority of cases, which are usually those of very high severity, the Parole Board makes release decisions.

Statistics on release rates for these cases can be found in the annual reports of the Parole Board for England and Wales.<sup>12</sup>

## Remand

Decisions to hold suspected offenders on remand are a significant contributor to the prison population. The remand population can be broken down into the untried population and the convicted but yet to be sentenced population.

Statistics on the number of offenders in prison on remand can be found in Moj's *Offender Management Statistics Quarterly*.<sup>13</sup>

The prison population tables can be found via the link *Offender Management Statistics Quarterly: October to December 2019*. For example, Table 1.1 contains data on how the remand population has changed through time.

<sup>10</sup> Ibid.

<sup>11</sup> <https://www.gov.uk/government/collections/proven-reoffending-statistics>

<sup>12</sup> <https://www.gov.uk/government/publications?departments%5B%5D=parole-board>

<sup>13</sup> <https://www.gov.uk/government/collections/offender-management-statistics-quarterly>

# Budget

## Financial report

### *The cost of the Sentencing Council*

The Sentencing Council's resources are made available through the Ministry of Justice; the Council is not required to produce its own audited accounts. However, the Council's expenditure is an integral part of the Ministry's resource account, which is subject to audit. The summary below reflects expenses directly incurred by the Council and is shown on an accrual basis.

	2019/20 (actual) <sup>14</sup> £000s
<b>Total funding allocation</b>	1,466
Staff costs	1,184
Non-staff costs	162
<b>Total expenditure</b>	<b>1,347</b>

<sup>14</sup> The total expenditure has been rounded to the nearest £1,000 independently from the constituent parts, therefore summing the parts may not equal the rounded total.



# Appendices

## Appendix A: About the Sentencing Council

The primary function of the Sentencing Council is to prepare sentencing guidelines,<sup>15</sup> which the courts must follow unless it is contrary to the interests of justice to do so.<sup>16</sup>

The Council also fulfils other statutory functions:

- Publishing the resource implications in respect of the guidelines we draft and issue<sup>17</sup>
- Monitoring the operation and effect of our sentencing guidelines, and drawing conclusions<sup>18</sup>
- Preparing a resource assessment to accompany new guidelines<sup>19</sup>
- Consulting when preparing guidelines<sup>20</sup>
- Promoting awareness of sentencing and sentencing practice<sup>21</sup>

- Publishing a sentencing factors report<sup>22</sup>
- Publishing a non-sentencing factors report<sup>23</sup>
- Publishing an annual report<sup>24</sup>

### **Governance**

The Sentencing Council is an advisory non-departmental public body (NDPB) of the Ministry of Justice (MoJ). Unlike most advisory NDPBs, however, the Council's primary role is not to advise Government ministers but to provide guidance to sentencers.

The Council is independent of the government and the judiciary with regard to the guidelines we issue to courts, our resource assessments, our publications, how we promote awareness of sentencing and our approach to delivering these duties.

The Council is accountable to Parliament for the delivery of our statutory remit set out in the Coroners and Justice Act 2009. Under section 119 of the Act, the Council must make

<sup>15</sup> s.120 Coroners and Justice Act 2009

<sup>16</sup> s.125(1) *ibid*

<sup>17</sup> s.127 *ibid*

<sup>18</sup> s.128 *ibid*

<sup>19</sup> s.127 *ibid*

<sup>20</sup> s.120(6) *ibid*

<sup>21</sup> s.129 *ibid*

<sup>22</sup> s.130 *ibid*

<sup>23</sup> s.131 *ibid*

<sup>24</sup> s.119 *ibid*

an annual report to the Lord Chancellor on how we have exercised our functions.

The Lord Chancellor will lay a copy of the report before Parliament, and the Council will publish the report.

Ministers are ultimately accountable to Parliament for the Council's effectiveness and efficiency, for our use of public funds and for protecting our independence.

Section 133 of the 2009 Act states that the Lord Chancellor may provide the Council with such assistance as we request in connection with the performance of our functions.

The Council is accountable to the Permanent Secretary at MoJ as Accounting Officer and to ministers for the efficient and proper use of public funds delegated to the Council, in accordance with MoJ systems and with the principles of governance and finance set out in *Managing Public Money*, and other relevant Treasury instructions and guidance.

The budget is delegated to the Head of the Office of the Sentencing Council (OSC) from the Director General, Policy, Communications and Analysis Group at MoJ. The Head of the OSC is responsible for the management and proper use of the budget.

The Director General, Policy, Communications and Analysis Group at MoJ is accountable for ensuring that there are effective arrangements for oversight of the Council in its statutory functions and as one of MoJ's arm's-length bodies.

### ***How the Council operates***

The Council is outward-facing, responsive and consultative. We draw on expertise from relevant fields where necessary while ensuring the legal sustainability of our work. The Council aims to bring clarity in sentencing matters, in a legally and politically complex environment.

The Council aims to foster close working relationships with judicial, governmental and non-governmental organisations and individuals while retaining our independence. These include: the Attorney General's Office; the College of Policing; the Council of Circuit Judges; the Council of Her Majesty's District Judges (magistrates' courts); the Criminal Procedure Rules Committee; the Crown Prosecution Service; the Home Office; the Judicial Office; the Justices' Clerks' Society; the Magistrates Association; the Ministry of Justice; the Magistrates' Leadership Executive, the National Police Chiefs' Council and many academics in related fields.

The Council engages with the public on sentencing, providing information and improving understanding.

The Council meets 10 times a year to discuss current work and agree how it should be progressed. The minutes of these meetings are published on our website.<sup>25</sup>

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<sup>25</sup> [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk)

The Council has sub-groups to enable detailed work on three key areas of activity:

- Analysis and Research – to advise and steer the analysis and research strategy, including identifying research priorities so that it aligns with the Council’s statutory commitments and work plan. Chaired by: Dr Alpa Parmar.
- Confidence and Communication – to advise on and steer the work programme for the Communication team so that it aligns with the Council’s statutory commitments and work plan. Chaired by: the Hon Mr Justice Goose.
- Governance – to support the Council in responsibilities for issues of risk, control and governance, by reviewing the comprehensiveness and reliability of assurances on governance, risk management, the control environment and the integrity of financial statements. Independent member: Elaine Lorimer, Chief Executive, Revenue Scotland. Chaired by: Beverley Thompson OBE.

The sub-groups’ roles are mandated by the Council, and all key decisions are escalated to the full membership.

### ***Public sector equality duty***

The Council is committed to meeting its obligations under the public sector equality duty (PSED).<sup>26</sup> The PSED is a legal duty that requires public authorities, when considering a new policy or operational proposal, to have due regard to three ‘needs’:

- to eliminate discrimination, harassment, victimisation and any other conduct prohibited under the 2010 Act;
- to advance equality of opportunity between those who share a protected characteristic and those who do not; and
- to foster good relations between those who share a protected characteristic and those who do not.<sup>27</sup>

In developing guidelines, the Council considers the PSED in the context of the individual offence(s). Where there are offences that are aggravated by reasons of being related to a protected characteristic, this will be of particular relevance. Most guidelines include statutory aggravating factors at step two, relating to offences motivated by, or demonstrating hostility based on, protected characteristics. In addition, to assist sentencers in employing the principles of fair treatment and equality, we have this year placed links in all the guidelines to the Equal Treatment Bench Book.<sup>28</sup>

<sup>26</sup> Equality Act 2010, s149.

<sup>27</sup> Protected characteristics under the PSED are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

<sup>28</sup> Judicial College, Equal Treatment Bench Book: <https://www.judiciary.uk/publications/new-edition-of-the-equal-treatment-bench-book-launched/>.

The Council also considers data in relation to offenders sentenced for individual offence(s), including data on volumes of offenders sentenced grouped by gender, ethnicity and age and this is published alongside the draft and definitive guidelines. Consultations include a consideration of the issues raised by the data and seek views as to whether there are any other equality or diversity implications the guideline has not considered. In all our communications, we actively seek to engage diverse audiences and ensure multiple voices and interests are represented, particularly in our consultations.

### ***Relationship with Parliament***

The Council has a statutory requirement to consult Parliament, specifically the House of Commons Justice Select Committee.

The Council informs all organisations and individuals who respond to our consultations that their responses may be shared with the Justice Select Committee in order to facilitate its work.

### ***The Office of the Sentencing Council***

The Council is supported in its work by the Office of the Sentencing Council (OSC), in particular in:

- preparing draft guidelines for consultation and publication, subject to approval from the Council;
- ensuring that the analytical obligations under the Act are met;
- providing legal advice to ensure that the Council exercises its functions in a legally sound manner;
- delivering communication activity to support the Council's business; and
- providing efficient and accurate budget management, with an emphasis on value for money.

At 31 March 2020 there were 17 members of staff, including the Head of the Office of the Sentencing Council.

In the 2019 Civil Service Staff Engagement Survey, the OSC recorded a staff engagement index of 79 per cent, an increase in 3 per cent from last year's index. This places the Office 14 percentage points ahead of other MoJ arm's-length bodies and 11 percentage points ahead of other high-performing units across the Civil Service.



### Senior management team

The work of the OSC is overseen by a senior management team comprising the Head of Office and senior staff. The role of the team is to:

- monitor and evaluate progress of the Council's workplan, as published in the Business Plan;
- monitor and evaluate budget expenditure, and make decisions regarding budget allocation;
- undertake regular review of the risk register on behalf of the Governance sub-group, with a view to ensuring that all information regarding delivery of the Sentencing Council's objectives and mitigation of risks is current and updated; and

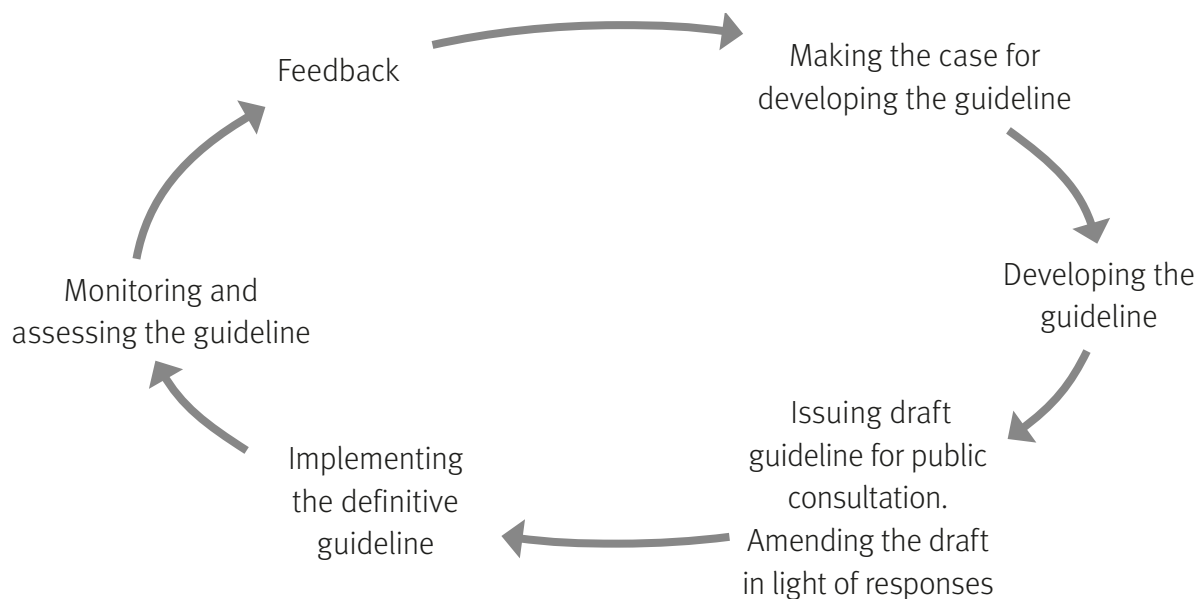
- consider and make decisions on any other issues relating to the work of the OSC as may be relevant.

### Guideline development

In developing guidelines, the Council follows a process that is based on the policy cycle set out by HM Treasury in the *Green Book: Central Government Guidance on Appraisal and Evaluation* (2018) and allows a culture of continuous improvement to be embedded. The process, from first consideration by the Council to publication of a definitive guideline, can extend to 18 months or more. However, if the Council believes there to be a pressing need, it can be expedited.

Figure 3 illustrates the guideline development cycle.

**Figure 3**



## Appendix B: Membership of the Sentencing Council

The Lord Chief Justice of England and Wales, the Right Honourable the Lord Burnett of Maldon, is President of the Council. In this role he oversees Council business and appoints judicial members, with the agreement of the Lord Chancellor.

The Right Honourable Lord Justice Holroyde, a Court of Appeal judge, was appointed Chairman of the Sentencing Council from 1 August 2018.

The Lord Chancellor and Secretary of State for Justice appoints non-judicial members, with the agreement of the Lord Chief Justice.

### Membership of the Council at 31 March 2020

#### *Judicial members*

Chairman: the Right Honourable Lord Justice Holroyde, appointed 6 April 2015, appointed as Chairman 1 August 2018

In order of appointment:

The Honourable Mr Justice Goose,  
26 June 2014

The Honourable Mrs Justice McGowan,  
2 January 2017

Her Honour Judge Rebecca Crane,  
1 April 2017

Her Honour Judge Rosa Dean, 6 April 2018

The Right Honourable Lord Justice Adrian Fulford, 1 September 2019

District Judge (Magistrates' Courts)

Mike Fanning, 1 September 2019

#### *Non-judicial members*

In order of appointment:

Rosina Cottage QC, barrister, 18 July 2016

Dr Alpa Parmar, academic, University of Oxford, 6 April 2018

Beverley Thompson OBE, CJS Consultant and former CEO of Probation, 15 June 2018

Max Hill QC, Director of Public Prosecutions and Head of the Crown Prosecution Service, 1 November 2018

Diana Fawcett, Chief Executive, Victim Support, 5 April 2019

#### **Register of members' interests**

At 31 March 2020, no members of the Council had personal or business interests to declare.

## Appendix C: Sentencing guidelines production stages

Guideline	Production stage	Timing
<b>Arson and criminal damage</b>	Development	Throughout 2016/17
	Consultation	March to June 2018
	Post-consultation	Published 3 July 2019 Came into force 1 October 2019
	Evaluation and monitoring	In progress 2020
<b>Assault and attempted murder</b>	Development	Throughout 2018/19 and 2019/20
	Consultation	April to September 2020
	Post-consultation	
	Evaluation and monitoring	
<b>Bladed articles and offensive weapons</b>	Development	Throughout 2015/16
	Consultation	October 2016 to January 2017
	Post-consultation	Published 1 March 2018 Came into force 1 June 2018
	Evaluation and monitoring	April to September 2019
<b>Breach offences</b>	Development	Throughout 2016/17
	Consultation	October 2016 to January 2017
	Post-consultation	Published 7 June 2018 Came into force 1 October 2018
	Evaluation and monitoring	April to September 2019
<b>Children and young people</b>	Development	Throughout 2015/16
	Consultation	May to August 2016
	Post-consultation	Published 7 March 2017 Came into force 1 June 2017
	Evaluation and monitoring	In progress 2020

Guideline	Production stage	Timing
<b>Drug offences (revised)</b>	Development	Assessment of original guidelines and interim guidance published June 2018
	Consultation	January to May 2020
	Post-consultation	
	Evaluation and monitoring	
<b>Firearms</b>	Development	Throughout 2018/19 and 2019/20
	Consultation	October 2019 to January 2020
	Post-consultation	
	Evaluation and monitoring	
<b>General guideline and expanded explanations</b>	Development	Throughout 2017/18 and 2018/19
	Consultation	June to September 2018
	Post-consultation	Published 24 July 2019 Came into force 1 October 2019
	Evaluation and monitoring	
<b>Guilty plea</b>	Development	Throughout 2015/16
	Consultation	February to May 2016
	Post-consultation	Published 7 March 2017 Came into force 1 June 2017
	Evaluation and monitoring	Throughout 2019/20
<b>Health and safety offences, corporate manslaughter and food safety and hygiene offences</b>	Development	Throughout 2013/14
	Consultation	November 2014 to February 2015
	Post-consultation	Published 3 November 2015 Came into force 1 February 2016
	Evaluation and monitoring	Guideline assessment published 4 April 2019



Guideline	Production stage	Timing
<b>Intimidatory offences</b>	Development	Throughout 2016/17
	Consultation	March to June 2017
	Post-consultation	Published 5 July 2018 Came into force 1 October 2018
	Evaluation and monitoring	Impact assessment conducted autumn 2019, for later publication
<b>Mental disorders, developmental disorders or neurological impairments</b>	Development	Throughout 2018
	Consultation	April to July 2019
	Post-consultation	Publication expected summer 2020
	Evaluation and monitoring	
<b>Public order offences</b>	Development	Throughout 2017/18
	Consultation	May to August 2018
	Post-consultation	Published 16 October 2019 Came into force 1 January 2020
	Evaluation and monitoring	
<b>Terrorism (revised)</b>	Development	From April 2019 (Counter Terrorism and Border Security Act 2018 came into force)
	Consultation	October 2019 to December 2019
	Post-consultation	
	Evaluation and monitoring	







Copies of this report may be downloaded from our website: [www.sentencingcouncil.org.uk](http://www.sentencingcouncil.org.uk)

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