

Consultation stage resource assessment

Aggravated vehicle taking offences guidelines, disqualification and other motoring related matters

Introduction

This document fulfils the Council's statutory duty to produce a resource assessment which considers the likely effect of its guidelines on the resources required for the provision of prison places, probation and youth justice services ([s127 Coroners and Justice Act 2009](#)).

Scope

The guidelines for aggravated vehicle taking and vehicle registration fraud offences apply only to adults. This assessment therefore considers the resource impacts of the draft guidelines on prison and probation service resources. Any resource impacts which may fall elsewhere are not included in this assessment.

This resource assessment discusses five draft guidelines covering the following offences:

- Aggravated vehicle taking causing vehicle or property damage not exceeding £5,000, Theft Act 1968 (section 12A(2)(c) and (d))
- Aggravated vehicle taking causing vehicle or property damage exceeding £5,000, Theft Act 1968 (section 12A(2)(c) and (d))
- Aggravated vehicle taking involving dangerous driving, Theft Act 1968 (section 12A(2)(a))
- Aggravated vehicle taking causing injury, Theft Act 1968 (section 12A(2)(b))
- Aggravated vehicle taking causing death, Theft Act 1968 (section 12A(2)(b))
- Vehicle registration fraud, Vehicle Excise and Registration Act 1994 (section 44)

A single draft aggravated vehicle taking guideline is proposed to cover circumstances where the damage caused does not exceed £5,000 and where the damage caused exceeds £5,000. The statistics are provided separately for these offences in the 'Current sentencing practice' section.

The data presented for 'aggravated vehicle taking causing injury' in the 'Current sentencing practice' section do not include cases where a death was caused. Statistics on cases of aggravated vehicle taking where a death was caused are provided separately.

The Council has also revised guidance on driving disqualifications in the form of an overarching guideline. We do not expect there to be a direct impact on prison and probation resources arising from the disqualification guideline. As such, this guideline has not been discussed in this resource assessment.

Several miscellaneous amendments to various motoring related matters have also been proposed as part of this project. These changes are not anticipated to have an impact on prison and probation resources. Thus, these amendments have also not been considered within the resource assessment.

The data presented in this resource assessment only include cases where the specified offence was the principal offence committed. For more details see the 'Further information' section at the end of this document.

Rationale and objectives for new guideline

In May 2008, the Sentencing Guidelines Council (SGC) published the Magistrates' Court Sentencing Guidelines (MCSG), covering most of the offences regularly going before magistrates' courts. This included the offences of aggravated vehicle taking causing vehicle or property damage, aggravated vehicle taking involving dangerous driving and causing injury under the Theft Act 1968 and vehicle licence/registration fraud under the Vehicle Excise and Registration Act 1994.

There are no existing guidelines for these offences for use in the Crown Court. The Council has therefore produced new sentencing guidelines for these offences, for use in all courts.

The intention is that the new guidelines will encourage consistency of sentencing and in the vast majority of cases there will not be a change in overall sentencing practice.

Current sentencing practice

To ensure that the objectives of the guidelines are realised, and to better understand the potential resource impacts of the guidelines, the Council has carried out analytical and research work in support of it.

Sources of evidence have included the analysis of transcripts of Crown Court judges' sentencing remarks, references to case law, relevant news articles and sentencing data from the Ministry of Justice (MoJ) Court Proceedings Database. For more information on this data source please see the 'Further information' section at the end of this document. Knowledge of the sentencing starting points, ranges and factors used in previous cases has helped the Council to create guidelines that should maintain current sentencing practice.

During the consultation stage, some small-scale research will be conducted with a group of sentencers, to explore if the draft guidelines work as anticipated. This research may also provide some further understanding of the likely impact of the guidelines on sentencing practice.

Detailed sentencing statistics for the offences covered by the draft guidelines have been published on the [Sentencing Council: Statistical bulletins webpage](#).

Aggravated vehicle taking causing vehicle or property damage not exceeding £5,000

In 2022, around 370 offenders were sentenced for aggravated vehicle taking causing vehicle or property damage not exceeding £5,000. The majority of offenders (56 per cent) received a community order, a further 16 per cent received immediate custody and 14 per cent received a suspended sentence order. Around 7 per cent received a fine, 3 per cent were 'Otherwise dealt with' (see the 'Further information' section for more details) and the remaining 2 per cent received an absolute or conditional discharge.

For those receiving immediate custody in 2022, the average (mean) custodial sentence length (ACSL) was 3 months, after any reduction for guilty plea. The maximum sentence that can be imposed for cases of aggravated vehicle taking where the damage caused does not exceed £5,000 is 6 months' custody (i.e. the limit in the magistrates' courts).

Aggravated vehicle taking causing vehicle or property damage exceeding £5,000

In 2022, around 160 offenders were sentenced for aggravated vehicle taking causing vehicle or property damage exceeding £5,000. Most offenders received a community order (46 per cent). A further 25 per cent received a suspended sentence order and 23 per cent received immediate custody. The remaining offenders received a fine (4 per cent), were 'Otherwise dealt with' (3 per cent) or received an absolute or conditional discharge (1 per cent).

The statutory maximum sentence for this offence is 2 years' custody. In 2022, the ACSL was 9 months and all offenders sentenced to immediate custody received a sentence of 18 months or less, after any reduction for guilty plea.

Aggravated vehicle taking involving dangerous driving

In 2022, around 250 adult offenders were sentenced for aggravated vehicle taking involving dangerous driving. Most offenders were sentenced to immediate custody (47 per cent). A further 29 per cent received a suspended sentence order, 19 per cent received a community order and 4 per cent were 'Otherwise dealt with'. The remaining offenders received a fine (1 per cent), or an absolute or conditional discharge (less than 1 cent).

The statutory maximum sentence for this offence is 2 years' custody. The ACSL in 2022 was 10 months and all offenders sentenced to immediate custody received a sentence of 18 months or less, after any reduction for guilty plea.

Aggravated vehicle taking causing injury

In 2022, around 40 offenders were sentenced for aggravated vehicle taking causing injury. Most offenders were sentenced to immediate custody (40 per cent) and a further 30 per cent received a community order. Around 28 per cent were given a suspended sentence order and the remaining 2 per cent were 'Otherwise dealt with'.

The statutory maximum sentence for this offence is 2 years' custody. In 2022, the ACSL was 8 months. Of those sentenced to immediate custody, nearly all offenders (94 per cent) received a sentence of 12 months or less.

Aggravated vehicle taking causing death

Cases of aggravated vehicle taking causing death are very low volume. In 2022, fewer than 5 offenders were sentenced and all offenders were sentenced to immediate custody.

Where a death has been caused by aggravated vehicle taking, the statutory maximum sentence is 14 years' custody. Due to the small number of offenders sentenced each year, the ACSL has been calculated for the last five years combined. Over the period 2018 to 2022, the ACSL was 4 years 8 months.

Vehicle registration fraud

Around 160 offenders were sentenced for vehicle registration fraud in 2022. The majority of offenders received a fine (60 per cent). A further 15 per cent were given a suspended sentence order, 10 per cent received a community order and 9 per cent received immediate custody. The remaining offenders received an absolute or conditional discharge (4 per cent) or were 'Otherwise dealt with' (1 per cent).

The statutory maximum sentence for this offence is 2 years' custody. Due to the small volume of immediate custodial sentences for this offence each year, the ACSL has been calculated for the last five years combined. Over the period 2018 to 2022, the ACSL was 5 months.

Key assumptions

To estimate the resource effect of a new guideline, an assessment is required of how it will affect aggregate sentencing behaviour. This assessment is based on the objectives of the new guideline and draws upon analytical and research work undertaken during guideline development. However, some assumptions must be made, in part because it is not possible precisely to foresee how sentencers' behaviour may be affected across the full range of sentencing scenarios. Any estimates of the impact of the new guidelines are therefore subject to a substantial degree of uncertainty.

Historical data on changes in sentencing practice following the publication of guidelines can help inform these assumptions, but since each guideline is different, there is no strong evidence base on which to ground assumptions about behavioural change. The assumptions thus have to be based on careful analysis of how current sentencing practice corresponds to the guideline ranges presented in the proposed new guidelines, and an assessment of the effects of changes to the structure and wording of the guidelines where a previous guideline existed.

The resource impact of the new guidelines is measured in terms of the change in sentencing practice that is expected to occur as a result of it. Any future changes in sentencing practice which are unrelated to the publication of the new guidelines are therefore not included in the estimates.

In developing sentence levels for the different guidelines, existing guidance and data on current sentence levels have been considered. The new revised motoring guidelines published in 2023 have also been considered to ensure consistency and proportionality.

While data exist on the number of offenders and the sentences imposed, assumptions have been made about how current cases would be categorised across the levels of culpability and harm proposed in the new guidelines, due to a lack of data available regarding the seriousness of current cases. As a consequence, it is difficult to ascertain how sentence levels may change under the new guidelines.

It therefore remains difficult to estimate with any precision the impact the guidelines may have on prison and probation resources. To support the development of the guidelines and mitigate the risk of the guidelines having unintended impacts, research will be undertaken with sentencers during the consultation period, which may provide more information on which to base the final resource assessment accompanying the definitive guideline.

Resource impacts

This section should be read in conjunction with the draft guidelines available on the [Sentencing Council consultations webpage](#).

Overall impacts

It is difficult to estimate the impact of the guidelines, due to a lack of data available on how current cases would be categorised under the new guidelines. However, it is aimed that the new guidelines will improve consistency of sentencing for these offences and where data has been available to analyse, overall, it is expected that the guidelines should not lead to a substantial impact on prison and probation resources.

For these offences, a considerable proportion of cases are sentenced at the magistrates' courts and transcripts of sentencing remarks are not available for the magistrates' courts. Although we have obtained sentencing remarks for a sample of cases sentenced at the Crown Court, the evidence from these transcripts is unlikely to be representative and this limits its usefulness in understanding the resource impacts of the guidelines.

Additionally, for aggravated vehicle taking offences, some transcripts of Crown Court judges' sentencing remarks included limited information about the offence. Further, aggravated vehicle taking is often sentenced alongside other offences and, in a number of the transcripts available, there was a level of uncertainty as to which offence was the principal offence being sentenced in the case. As a result, only a limited number of transcripts were available to be analysed for the resource assessment.

Aggravated vehicle taking causing vehicle or property damage

The existing Magistrates' Court Sentencing Guidelines (MCSG) guideline for aggravated vehicle taking causing vehicle or property damage has three categories of seriousness reflecting the 'nature of activity'.

The draft guideline covers offences where the damage caused does not exceed £5,000 and offences where it does. It adopts the Sentencing Council's standard stepped approach and consists of three levels of culpability and three levels of harm. Harm category 3 covers offences where the damage caused does not exceed £5,000 and applies to the magistrates' courts only (as the offence is summary only). Harm categories 1 and 2 cover offences where the value of damage exceeds £5,000 and applies to all courts. The sentencing table in the draft guideline ranges from a fine to 18 weeks' custody for damage not exceeding £5,000 and a community order to 2 years' custody for damage exceeding £5,000.

It is expected that there may be a slight shift in sentence outcome for cases where the damage caused does not exceed £5,000. Given that each of the three starting points in harm category 3 are community orders, it is anticipated that the draft guideline may lead to more offenders receiving a community order and fewer receiving a custodial sentence. In 2022, around 56 percent of offenders received a community order and 31 per cent received a custodial sentence (either suspended or immediate).

For aggravated vehicle taking causing damage exceeding £5,000, there is a possibility that a higher proportion of cases could fall into harm category 1. This is due to the wording of the harm 1 factor 'high value damage' in the draft guideline. In this scenario, there could be an increase in sentence levels, with more offenders receiving custodial sentences and fewer receiving community orders. However, if offenders are evenly distributed across harm 1 and 2, the sentence levels for this offence are anticipated to remain relatively similar. In 2022, around 46 per cent of offenders received a community order and 47 per cent received a custodial sentence (either suspended or immediate). It is difficult to estimate how many cases would fall into harm 1 and 2, due to limited detail in the transcripts available. In almost all transcripts analysed, the value of damage caused was not mentioned.

Aggravated vehicle taking involving dangerous driving

There is an existing Magistrates' Court Sentencing Guidelines (MCSG) guideline for the offence of aggravated vehicle taking involving dangerous driving. The MCSG guideline includes three categories of seriousness reflecting the 'nature of activity' and covers aggravated vehicle taking involving dangerous driving and causing injury. Separate guidelines are proposed for offences involving dangerous driving and offences resulting in injury.

The draft guideline for aggravated vehicle taking involving dangerous driving consists of three levels of culpability and two levels of harm. It adopts the Sentencing Council's stepped approach and applies to all courts. The sentence table in the draft guideline ranges from a community order to 2 years' custody (the statutory maximum sentence for this offence).

Analysis of a small number of transcripts of Crown Court judges' sentencing remarks was conducted to assess whether sentencing might change under the new guideline (a total of 9 transcripts from 2019 were analysed). The transcript analysis undertaken did not offer any indication that the guideline would result in an increase to sentence levels overall. However, given that the number of transcripts analysed represents a very small proportion (3 per cent) of the total number of offenders sentenced, and some transcripts included limited information, these findings should be viewed as indicative only. Further, the analysis is based on Crown Court cases only and around a quarter of offenders are sentenced at the magistrates' courts, for which sentencing remarks are not available. Therefore, there are no suitable data sources available to assess how magistrates' court cases would be sentenced under the draft guideline.

Aggravated vehicle taking causing injury

The existing MCSG guideline includes three categories of seriousness reflecting the 'nature of activity' and covers cases of aggravated vehicle taking where injury was caused and where dangerous driving was involved. The proposed draft guidelines separate these variants of the offence and the guideline for aggravated vehicle taking causing injury consists of three levels of culpability and three levels of harm.

The sentence table in the draft guideline ranges from a community order to 2 years' custody (the statutory maximum sentence for this offence). Given the lack of robust data available on how current cases would be categorised under the new guideline, it is difficult to estimate what the resource impact of the draft guideline might be. However, given the low volumes of offenders sentenced each year (around 40 in 2022), it is expected that any impact on prison and probation resources will be limited.

Aggravated vehicle taking causing death

A separate guideline is proposed for cases of aggravated vehicle taking causing death. The draft guideline includes three levels of culpability and one level of harm. The sentence table is entirely custodial and ranges from 2 years' to 12 years' custody. Given the very low volumes of cases where aggravated vehicle taking causes death (fewer than 5 offenders were sentenced in 2022), it is expected that any impact of the guideline on prison and probation resources will be negligible.

Vehicle registration fraud

There is an existing Magistrates' Court Sentencing Guidelines (MCSG) guideline for the offence of vehicle licence/registration fraud. The existing guideline is to a large extent based on the fraudulent use of tax discs. However, in 2014, the Finance Act 2014 abolished the requirement to present physical tax discs on vehicles (these are now administered and monitored digitally). The draft guideline therefore has been developed with a view to remove any reference or applicability to tax discs and will also apply in all courts.

The MCSG guideline consists of three categories of seriousness reflecting the 'nature of activity'. The highest level of seriousness includes community orders and custody in the Crown Court. The medium and low categories include fines.

The draft guideline includes two levels of culpability and two levels of harm. Similar to the MCSG guideline, the sentence table in the draft guideline also includes community orders and custody in the Crown Court only. Three of the four starting points in the sentence table are fines and only one starting point is custodial. This is broadly in line with current sentencing practice. In 2022, most offenders received a non-custodial sentence (60 per cent were given a fine and 10 per cent were given a community order, while 25 per cent received either a suspended sentence or immediate custody).

Due to a lack of data available on how current cases would be categorised under the new guideline, it is difficult to estimate the impact on prison and probation resources. The majority of offenders (65 per cent in 2022) are sentenced at the magistrates' courts for which transcripts of sentencing remarks are not available. However, given the small proportion of immediate custodial sentences for this offence (9 per cent in 2022) and the relatively low statutory maximum, it is anticipated that any impact of the guideline on prison resources would be limited.

Risks

Risk 1: The Council's assessment of current sentencing practice is inaccurate

An important input into developing sentencing guidelines is an assessment of current sentencing practice. The Council uses this assessment as a basis to consider whether current sentencing levels are appropriate or whether any changes should be made. Inaccuracies in the Council's assessment could cause unintended changes in sentencing practice when the new guidelines come into effect.

This risk is mitigated by information that is gathered by the Council as part of the guideline development and consultation phase. This includes providing case scenarios as part of the consultation exercise which are intended to test whether the guidelines have the intended effect and inviting views on the guidelines. However, there are limitations on the number of factual scenarios which can be explored, so the risk cannot be fully eliminated.

Risk 2: Sentencers do not interpret the new guidelines as intended

If sentencers do not interpret the guidelines as intended, this could cause a change in the average severity of sentencing, with associated resource effects.

The Council takes a number of precautions in issuing a new guideline to try to ensure that sentencers interpret it as intended. Sentencing ranges are agreed on by considering sentencing data in conjunction with Council members' experience of sentencing. Transcripts of Crown Court sentencing remarks for the various aggravated vehicle taking offences and vehicle registration fraud cases have also been studied to ensure that the guidelines are developed with current sentencing practice in mind. However, for aggravated vehicle taking, some transcripts included limited information, and so, there was a lack of robust data available for analysis and some assumptions were made regarding how cases would be categorised under the new guidelines. Research with sentencers carried out during the consultation period should also enable issues with implementation to be identified and addressed prior to the publication of the definitive guidelines.

Consultees can also feed back their views of the likely effect of the guidelines, and whether this differs from the effects set out in this consultation stage resource assessment. The Council also uses data from the Ministry of Justice to monitor the effects of its guidelines to ensure any divergence from its aims is identified as quickly as possible.

Further information

Data sources and quality

The Court Proceedings Database (CPD), maintained by the Ministry of Justice (MoJ), is the data source for these statistics. Every effort is made by MoJ and the Sentencing Council to ensure that the figures presented in this publication are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

Further details of the processes by which MoJ validate the records in the CPD can be found inside the 'Technical Guide to Criminal Justice Statistics' within the [Criminal Justice System Statistics Quarterly \(CJSQ\) publication](#).

The data in this report were generated using the Ministry of Justice's (MoJ) Court Proceedings Database (CPD), aligning with figures published in the Criminal Justice System statistics quarterly: December 2022 publication (CJSQ) which was originally published in May 2023. Since then, the CJSQ publication has been revised to reflect changes to the underlying data, which have not been reflected in these statistics. As such, the latest MoJ published statistics will not match the statistics in this report. Further information on changes to MoJ's data processing can be found in the [changes and revisions section](#) of the latest publication.

The data presented in this resource assessment only include cases where the specified offence was the principal offence committed. When an offender has been found guilty of two or more offences, the principal is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe. Although the offender will receive a sentence for each of the offences that they are convicted of, it is only the sentence for the principal offence that is presented here. Further information about these sentencing data can be found in the accompanying statistical bulletin and data tables published on the [Sentencing Council: Statistical bulletins webpage](#).

The average custodial sentence lengths presented in this resource assessment are mean average custodial sentence length values for offenders sentenced to determinate custodial sentences, after any reduction for guilty plea.

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

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

General conventions

Actual numbers of sentences have been rounded to the nearest 100, when more than 1,000 offenders were sentenced, and to the nearest 10 when fewer than 1,000 offenders were sentenced.

Proportions of sentencing outcomes have been rounded to the nearest integer. Percentages in this report may not appear to sum to 100 per cent, owing to rounding.