

Sentencing Council



Sentencing Council Annual report

2022/23

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

This report is presented to Parliament pursuant to Section 119(2) of the Coroners and Justice Act 2009



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Foreword

by the Chairman



I am pleased to introduce the Sentencing Council's annual report for 2022/23. It is the Council's 13th report and my first as Chairman.

I took up the post of

Chairman of the Council in August 2022 as successor to Lord Justice Tim Holroyde. Tim has played a significant role in the life of the Sentencing Council. He served as a judicial member from April 2015. In August 2018 he was appointed as Chairman of the Council. He stepped down from that position in June 2022 when he was appointed as Vice President of the Court of Appeal Criminal Division last year. In that capacity he is continuing his membership of the Council. I am delighted that the Council has retained his unrivalled expertise in sentencing. I would like to thank Tim for his period of office between 2018 and 2022 during which time the Council went from strength to strength. That was due in no small measure to his skilled and inspirational leadership.

Developing and revising guidelines

Since the Council's inception in 2010, we have developed guidelines covering virtually all major offences seen regularly by the courts. With our revised motoring offence guidelines coming into effect in July 2023 and a consultation planned on aggravated vehicle taking guidelines in the coming year, we are on the verge of having replaced all guidelines produced by our predecessor body, the Sentencing Guidelines Council.

During 2022/23 the Council published new and revised offence specific definitive guidelines covering six types of offences.

First, we revised and brought up to date existing guidelines for arranging or facilitating the commission of a child sex offence and causing or inciting a child to engage in sexual activity. The revisions followed what was said by the Court of Appeal in two cases: *Privett and Others* [2020] EWCA Crim 557; *Reed and Others* [2021] EWCA Crim 572. These decisions gave guidance on how to approach the assessment of harm in cases where the child was a fiction or the offender was thwarted in his intention for some reason. The revised guidelines, which came into effect on 31 May 2022, advise judges and magistrates to identify the category of harm on the basis of the sexual activity the offender intended even in cases where no child exists or no sexual activity

takes place. At the same time, we made a series of minor amendments to provide clarity on aspects of other existing sexual offences guidelines.

Second, we published a new guideline for the offence of sexual communication with a child, which came into effect on 1 July 2022.

Third, we published revised guidelines for sentencing domestic, non-domestic and aggravated burglary offences. They came into effect on 1 July 2022. The original guidelines (in force from 16 January 2022) contained only two levels of harm and culpability respectively. The revised guidelines provided three levels of harm and culpability. The harm and culpability factors in the revised guideline allow sentencers fully to reflect the distress suffered by victims of burglary.

Fourth, we published guidelines revising the terrorism guidelines introduced in 2018. The revisions reflected the increases in maximum sentences and other changes introduced by the Counter-Terrorism and Border Security Act 2019 and the Counter-Terrorism and Sentencing Act 2021. These revised guidelines, which came into effect on 1 October 2022, also provided guidance for judges sentencing offenders who meet the criteria for the new serious terrorism sentence.

Fifth, we published two new guidelines for sentencing retailers, one for large organisations and the other for individual shop owners, who fail to ensure that adequate safeguards are in place to prevent the sale of knives to under 18s either in-store or online. This is a summary offence. Under these guidelines large organisations

whose culpability was high could face a fine of up to £1 million. The Council believes that the penalties under the new guidelines are substantial enough to bring home to both management and shareholders the need to operate within the law. The guidelines came into force on 1 April 2023.

Sixth, we published revisions to the guidelines for sentencing offenders convicted of child cruelty offences. The guidelines were updated to reflect changes in legislation. They created a new very high culpability level to reflect new maximum sentences for causing or allowing a child to die or suffer serious physical harm and for cruelty to a child introduced by the Police, Crime, Sentencing and Courts (PCSC) Act 2022. These revised guidelines also came into force on 1 April 2023.

We also made changes to various guidelines following our second annual consultation on miscellaneous amendments. Every year, the Council consults on changes to guidelines that we consider to be significant enough to warrant consultation but not so significant that a new guideline is required. Proposed changes are drawn from case law, commentary on sentencing and feedback from guideline users, as well as from work we have done on other guidelines. These miscellaneous amendments were in force from 1 April 2023.

The Council launched six consultations during the reporting year, including for the child cruelty and sale of knives guidelines that came into effect in April and the second tranche of miscellaneous amendments.

On 7 July 2022 we opened a consultation on proposals for 12 new and revised guidelines for motoring offences. Our proposals reflected the increase in maximum penalties for causing death by dangerous driving and causing death by careless driving while under the influence of drink or drugs introduced by the PCSC Act 2022. They also reflected new offences created since the Sentencing Guidelines Council guidelines were published in 2008, including causing serious injury by careless driving.

Between 10 May and 1 August 2022 we consulted on proposals to reflect increases in maximum sentences introduced by the Animal Welfare (Sentencing) Act 2021. We sought views on two draft guidelines: the first covered the most serious offences, including causing unnecessary suffering, tail docking and animal fighting; the second covered neglect and ill treatment of animals.

Our other consultation looked at the overarching guideline on totality, which sets out the approach for sentencing an offender for more than one offence or where the offender is already serving a sentence. The consultation sought views on a series of changes we are proposing in response to research carried out with sentencers in 2021. Both this and the animal cruelty guidelines were published in May 2023 to come into effect on 1 July 2023, along with the motoring offences guidelines.

Any guideline prepared by the Council must be published as a draft guideline in respect of which the Council is obliged to consult widely. The results of any consultation are vital to the Council's work, and we consider those results with

great care. We are always grateful to the people and organisations who give their valuable expertise and time to contribute to our consultations, and who help us to make improvements before publishing definitive guidelines.

Understanding the Council's impact

In addition to publishing guidelines, the Council is required to monitor and evaluate their operation and effect.

Once guidelines have been implemented, we assess the impact they may have had on sentencing and whether they have been implemented as the Council intended.

Where possible, we collect data both before and after a new guideline has come into effect. Analysis of data from these collections helps us explore what might be influencing outcomes and to understand how the guideline has been implemented in practice. In January 2023 we launched a data collection exercise in all magistrates' courts and all locations of the Crown Court. This six-month study covered a number of offences and asked sentencers to identify the culpability and harm factors they took into account and which aggravating and mitigating factors they considered relevant, to explain the sentence imposed by reference to the starting point and note any reduction for a plea of guilty.

Any data collection exercise of this kind is an imposition on magistrates and judges. It became apparent as the exercise progressed that it was placing too great a burden on sentencers. Consequently we reduced the number of offences to which

the data collection applied. We remain grateful to all those magistrates and judges who provide data in relation to their sentences. It is of critical importance to all aspects of the Council's work.

Each of the definitive guidelines we published and offence specific guideline consultations we launched during the reporting year was accompanied by a resource assessment. In these assessments we estimate the effects of the guidelines on the resource requirements of the prison, probation and youth justice services. They allow us and our stakeholders to understand better the consequences of our proposed or definitive guidelines.

There is more information on the Council's analysis and research work in chapter 2 and elsewhere throughout this report.

Setting our direction

Enhancing and strengthening the data and evidence that underpin our work, and making sure that all our work is evidence based, were among the objectives we set ourselves when we launched the Council's five-year strategy in November 2021. The strategy identified five priorities that would shape our work between 2021 and 2026. The chapters of this report set out our progress against each of these priorities. Producing and revising guidelines remains the Council's core focus, and chapter 1 details the guideline development work we have completed throughout the year. The progress we have made in enhancing and strengthening the evidence base of our guidelines is detailed in chapter 2. Allied to this work is the efforts we have made to reinforce our connections and exchange

knowledge with academics who share an interest in our work. In January 2023, with The City Law School and the Sentencing Academy, we hosted the second of what we hope will become a regular series of academic seminars designed to identify potential areas for research and strengthen relationships. There is a report of the seminar on pages 31-2.

Chapter 3 looks at the work we have done this year to meet our objective to explore issues of equality and diversity relevant to our work. Our action plan for meeting this objective extends the work we have already been doing around equality and diversity. This year we published research examining the language, concepts and factors of guidelines for any potential impact that could unintentionally lead to disparities in sentencing. We published the findings and recommendations of this research on 10 January 2023. There is more on this project on pages 39-42.

Our fourth strategic objective outlines the Council's commitment to considering and collating evidence on effectiveness of sentencing in preventing reoffending. Effectiveness is a complex concept. Our founding legislation provides that, in developing guidelines, the Council must have regard to the cost of different sentences and their relative effectiveness in preventing re-offending. It does not specify how we should have regard to this factor. In September 2022 we published an externally commissioned review of current literature on effectiveness of sentencing, the findings of which will allow the Council to consider the most up-to-date evidence when we develop and revise sentencing guidelines. See pages 46-7 for more.

In our fifth strategic objective, the Council made a commitment to improve confidence in sentencing among the public, including victims, witnesses and defendants. Our challenge here is not just to help people understand more about sentencing but to counter the steady stream of misunderstandings and common myths about sentencing that are repeated in the media.

Chapter 5 sets out the work we have done throughout the year in this regard. This work has included publishing the findings of research we commissioned to explore what drives the public's attitudes to and understanding of the criminal justice system and to suggest how the Council might reinforce and improve public confidence. The findings and recommendations stemming from this research are on pages 52-3.

The people behind the guidelines

I served previously as a judicial member of the Council between April 2012 and April 2015. Though the faces are different, the depth of expertise and experience around the table is still as great as it was then when Sir Brian Leveson was the Chairman. I would like to thank all members for their warm welcome and for the good grace and good humour with which they have approached our work this year. It is only in the last few months that we have begun to emerge from the problems created by the pandemic.

We have seen a number of changes in personnel throughout 2022/23. I extend my gratitude and that of my Council colleagues to those members who have left the Council, and wish them well for

the future. Mrs Justice Maura McGowan and Her Honour Judge Rebecca Crane left the Council in early 2023, both having served two terms. Rosina Cottage left in summer 2022, also having served two terms as defence representative, and Dr Alpa Parmar, who served as an academic member, left us early in the year.

We have also welcomed four new members to the Council. In July 2022 Dr Elaine Freer succeeded Dr Parmar as the academic representative; in May 2022, Stephen Leake joined us as the district judge representative; in August 2022 Richard Wright KC was appointed to provide the defence community's perspective and, most recently, in January 2023, Mr Justice Wall joined the Council as a judicial member.

Finally, I would like to pay tribute to the staff of the Office of the Sentencing Council. They are the Council's most valuable resource, and I have been greatly impressed by their expertise, professionalism and dedication.



**Lord Justice William Davis
Chairman**

July 2023

Introduction

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

On 4 November 2021, the Council published a five-year strategy and supporting work plan, which were developed following a public consultation held to mark the Council's 10th anniversary in 2020. The strategy commits the Council to five objectives.

- To promote consistency and transparency in sentencing through the development and revision of sentencing guidelines.
- To ensure that all our work is evidence-based and to enhance and strengthen the data and evidence that underpin it.

- To explore and consider issues of equality and diversity relevant to our work and take any necessary action in response within our remit.
- To consider and collate evidence on effectiveness of sentencing and seek to enhance the ways in which we raise awareness of the relevant issues.
- To work to strengthen confidence in sentencing by improving public knowledge and understanding of sentencing, including among victims, witnesses and offenders, as well as the general public.

This annual report documents the work undertaken by the Council between 1 April 2022 and 31 March 2023 in the context of the five strategic objectives.

Also included, in accordance with the Coroners and Justice Act 2009, are two reports considering the impact of sentencing factors (pages 58-62) and non-sentencing factors (pages 63-6) 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.

For information on past Sentencing Council activity, please refer to our earlier annual reports, which are available on our website at: [sentencingcouncil.org.uk](https://www.sentencingcouncil.org.uk)

Key events 2022/23

2022		
May	9	Animal cruelty offences statistical bulletin published
	10	Animal cruelty offences consultation opened; consultation paper and resource assessment published
	16	Sexual offences data tables published
	17	Sexual offences sentencing guidelines and response to consultation published
	18	Burglary offences data tables published
	19	Burglary offences sentencing guidelines and response to consultation published
	23	District Judge (Magistrates' Courts) Stephen Leake appointed to the Sentencing Council
	31	Sale of knives etc by retailers to persons under 18 statistical bulletin published
	31	Sexual offences sentencing guidelines came into effect
June	12	Sale of knives etc by retailers to persons under 18 consultation opened
	13	Sentencing Council business plan 2022/23 published
July	1	Dr Elaine Freer appointed to the Sentencing Council
	1	Sentencing guidelines for sexual communication with a child and burglary offences came into effect
	6	Motoring offences statistical bulletin published
	7	Motoring offences consultation opened; consultation paper and resource assessment published
	20	Sentencing Council annual report 2021/22 laid in Parliament and published
	26	Terrorism offences data tables published

2022		
	27	Terrorism offences sentencing guidelines and response to consultation published
	27	Council statement on broadcasting of Crown Court sentencing remarks issued
	29	Data release on sentencing drug offences published
August	1	Lord Justice William Davis appointed as Chairman of the Sentencing Council
	1	Richard Wright KC appointed to the Sentencing Council
	3	Child cruelty offences statistical bulletin published
	4	Child cruelty offences consultation opened; consultation paper and resource assessment published
September	7	Miscellaneous amendments to sentencing guidelines consultation opened; consultation paper published
	9	Council statement on the death of Her Late Majesty Queen Elizabeth II issued
	30	The effectiveness of sentencing options on reoffending literature review published
October	1	Terrorism guidelines came into effect
	5	Totality guideline consultation opened; consultation paper and resource assessment published
December	12	Public knowledge of and confidence in sentencing and the criminal justice system: 2022 report published
2023		
January	10	Equality and diversity in the work of the Sentencing Council report published
	13	Academic seminar on current issues in sentencing policy and research held at The City Law School
February	14	Sale of knives etc by retailers to persons under 18 data tables published
	15	Sale of knives etc by retailers to persons under 18 sentencing guidelines and response to consultation published

2023		
March	6	Child cruelty data tables published
	7	Child cruelty sentencing guidelines and response to consultation published
	9	Miscellaneous amendments to sentencing guidelines response to consultation published
	20	Council statement on the application of sentencing principles during a period when the prison population is very high issued
	22	Imposition of community and custodial sentences guideline trend analysis review published



Members and officials attending a meeting of the Sentencing Council, June 2023

Strategic objective 1:

Promoting consistency and transparency in sentencing through the development and revision of sentencing guidelines

The purpose of the Sentencing Council for England and Wales is to promote a clear, fair and consistent approach to sentencing by issuing sentencing guidelines that provide clear structures and processes for judges and magistrates to use in court.

This purpose is underpinned by the statutory duties for the Council that are set out in the Coroners and Justice Act 2009.

Responses to the 10th anniversary consultation held by the Council in 2020 provided broad support for our view that the production and revision of guidelines should remain our key focus.

The sentencing guidelines are intended to help ensure a consistent approach to sentencing, while preserving judicial discretion. Under the Sentencing Act 2020, 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 contributions, all of which are given full consideration by the Council.

The work conducted on all guidelines during the period from 1 April 2022 to 31 March 2023 is set out in this chapter. To clarify what stage of production a guideline has reached, reports of our work fall under one or more of four key stages:

1. Development
2. Consultation
3. Post-consultation
4. Evaluation and monitoring

The table at Appendix C sets out the production stages of all sentencing guidelines.

Animal cruelty

In 2021, the Animal Welfare (Sentencing) Bill received Royal Assent. The Act increased the maximum penalty from six months' to five years' imprisonment for a number of animal cruelty offences, including causing unnecessary suffering, tail docking and involvement in an animal fight.

Consultation

The Council consulted on draft guidelines between 10 May and 1 August 2022. To support the consultation 14 qualitative interviews were held with Crown Court judges and magistrates. Sentencers generally found the draft guidelines clear and easy to interpret.

To support the consultation, we also produced a draft resource assessment and statistical bulletin.

Post-consultation

Our consultation received 104 responses. Respondents were broadly supportive of the Council's proposals but many also offered suggestions to improve the guidelines further. In light of the responses received, the Council made some changes to the revised guidelines. We will report on these changes in next year's annual report.

The definitive guidelines were published in May 2023 and came into effect on 1 July 2023.

Media coverage

The consultation on these guidelines received coverage in the Independent, the Telegraph, Daily Express and Evening Standard, as well as on the BBC News website. An interview with Her Honour Judge Rosa Dean, the Council lead on the project, aired on Sky Radio, with clips also carried by LBC, Times Radio and Sky news. The consultation received attention on Twitter, including support from the Lord Chancellor, the RSPCA, Battersea and the Blue Cross.

Coverage focused on the new maximum penalty for serious offences.

“Animal cruelty is a serious offence and can cause great distress to animals who have been ill-treated or neglected or even forced to fight each other for entertainment.

“Animals are not able to defend themselves or draw attention to their suffering, and it is important that courts have the powers to deliver appropriate sentences to offenders who commit these crimes.”

Her Honour Judge Rosa Dean, Council member, on the launch of the consultation on sentencing guidelines for animal cruelty offences, 10 May 2022

Blackmail, kidnap, false imprisonment and threats to disclose private sexual images

There are currently no guidelines for blackmail, kidnap or false imprisonment offences. These are serious offences: the maximum penalty for kidnap and false imprisonment is life imprisonment; for blackmail, it is 14 years' custody. There is an existing guideline for offences of disclosing private sexual images.

Development

The Council has agreed to develop new guidelines for blackmail, kidnap and false imprisonment offences and to revise the guideline for disclosing private sexual images to take into account legislative changes in relation to threats to disclose images.

We have commenced development work on this project and intend to consult on draft proposals later in 2023. We will provide details of this consultation exercise and the outcome in next year's annual report.

Bladed articles and offensive weapons

The guidelines for sentencing offenders convicted of possessing or threatening to use a bladed article or offensive weapon came into effect on 1 June 2018.

Evaluation and monitoring

In 2019, we collected data on how cases of possession of a bladed article or offensive weapon were being sentenced across all magistrates' courts. During this year, we have been using these data to help us assess the impact and implementation of the bladed articles and offensive weapons definitive guidelines and expect to publish this evaluation in the last quarter of 2023/24.

Breach offences

In 2018, the Council issued guidelines to assist the courts in sentencing offenders who have not complied with 11 specific types of court order, including suspended sentence orders, community orders, restraining orders and sexual harm prevention orders. The guidelines came into effect on 1 October 2018.

Monitoring and evaluation

This year, we have continued our evaluation to help us assess the impact and implementation of nine of these sentencing guidelines for breach offences. Two of the breach guidelines introduced in 2018, Breach of disqualification from acting as a director and Breach of disqualification from keeping an animal, were not included in the evaluation because they are very low volume offences.

We have analysed the information we gathered from our 2019 data collection in magistrates' courts, data up to 2020 from MoJ's Court Proceedings Database and a sample of 2019 Crown Court sentencing transcripts to observe any changes to the factors relevant to sentencing and in the type of disposals being imposed. We also conducted survey research with sentencers and probation practitioners in 2022 to understand their experiences of using the guidelines.

We will publish our evaluation later in 2023.

Burglary

The definitive guidelines for sentencing burglary offences came into effect in January 2012. Following an evaluation exercise, which we completed in July 2017, and to bring the guidelines into line with the Council's newer stepped approach, the Council decided to revise the burglary guidelines.

Post-consultation

We consulted on proposed revisions to these guidelines between 9 June and 1 September 2021. We received 32 responses, which were broadly supportive of our proposed revisions, with some respondents making suggestions for amendments. To support the consultation, 21 qualitative interviews were conducted with sentencers. Sentencers generally found the draft guidelines clear. Some respondents felt that, as drafted, the harm factors were too subjective and therefore difficult to apply consistently, and the Council made a number of changes in response. We also amended harm factors to make sure

that they fully reflect the distress suffered by burglary victims, and revised the guidance around 'weapon carried' within aggravated burglary.

The revised guidelines have been structured in line with the Council's more recently developed stepped approach to sentencing.

The definitive guidelines were published on 19 May 2022 and came into effect on 1 July 2022. We have recently completed a data collection exercise, the results of which will help us evaluate the impact of changes made to the guidelines.

Media coverage

Our launch of the revised burglary guidelines was covered by the Telegraph and New Law Journal. Coverage focused on higher sentences for offences carried out at night.

“Burglary has a big impact on victims, often so much more than just a theft of property, especially when it occurs in a victim’s home, a sanctuary where they are entitled to feel safe.

“As a result of feedback from the consultation we have made changes to the assessment of harm to help courts better assess the impact of these offences on victims.”

Her Honour Judge Rebecca Crane, Council member, on publication of the definitive sentencing guidelines for burglary offences, 19 May 2022



Newport Magistrates' Court, Newport, Wales

Child cruelty

The existing sentencing guidelines for child cruelty offences came into effect from 1 January 2019 and replaced the Sentencing Guidelines Council guideline, Overarching Principles: Assaults on children and cruelty to a child. The guidelines cover the following child cruelty offences:

- Causing or allowing a child to die or suffer serious physical harm, Domestic Violence, Crime and Victims Act 2004 (section 5)
- Cruelty to a child, Children and Young Persons Act 1933 (section 1(1))

Development

The statutory maximum sentences for these offences were increased under the PCSC Act 2022, which came into force in April 2022. For offences committed on or after 28 June 2022, the statutory maxima have increased from 10 years' custody to 14 years' custody for both cruelty to a child and causing or allowing a child or vulnerable adult to suffer serious physical harm, and from 14 years' custody to life imprisonment for causing or allowing a child or vulnerable adult to die.

The Council agreed to revise the existing guidelines to reflect these changes in statutory maximum sentence.

Consultation

We consulted on draft revised guidelines between 4 August 2022 to 27 October 2022. Our proposals introduced a new 'very high culpability' level for the most serious cases, to reflect the new maximum sentences. This category would capture cases where culpability was extremely high or where there was a combination of high culpability features. We proposed that the culpability factors of other levels, the various harm factors and the sentence levels for all cases not falling into the new very high culpability level should remain the same.

The consultation was supported with a draft resource assessment and statistical bulletin.

Post-consultation

The consultation received 16 responses. The vast majority were either supportive without qualification or in broad agreement with the approach, while making some observations and detailed suggestions.

We published the definitive guidelines on 7 March 2023, accompanied by a final resource assessment and data tables. The revised guidelines came into effect on 1 April 2023.

Media coverage

Our consultation on child cruelty guidelines in August 2022 received attention in the Daily Express, the Telegraph, The Times and Police Oracle. Our launch of the definitive guidelines was covered in national, regional and trade media. National titles included the Daily Mail, Daily Express, the Independent, the Telegraph and The Times. We were also mentioned in more than 20 regional and trade titles, including New Law Journal and Solicitors Journal. The coverage focused on the new maximum sentences for child cruelty offences.

Immigration

Development

There are currently no definitive guidelines for immigration offences. There are, however, a large number of separate immigration offences of varying levels of seriousness. Because of a number of changes that have taken place over recent years, including the UK's exit from the European Union and changes to legislation (for example changes brought in by the Nationality and Borders Act 2022), the Council had paused work on this project. However, we are now working to put into place a package of guidelines covering the most serious and higher volume offences.

We intend to consult on draft proposals towards the end of 2023.

Imposition of community and custodial sentences

The definitive guideline for the imposition of community and custodial sentences came into effect on 1 February 2017. The Council's aim in producing the guideline was to provide guidance to the courts about the approach that should be followed when deciding whether offenders should be given community or custodial sentences to make sure that the type of sentence imposed appropriately reflected the seriousness of the offending.

Evaluation and monitoring

To assess whether the imposition guideline has had its intended impact, we conducted trend analysis to examine the trends over time for community and custodial sentences.

The analysis of sentencing outcomes between 2011 and 2019 found that the guideline did not seem to have had an immediate impact on sentencing outcomes. However, following correspondence from the Council to sentencers in April 2018 that highlighted the guideline and clarified the principles to be followed when considering the imposition of suspended sentences, there was a subsequent increase in the proportion of community orders and an associated decrease in the proportion of suspended sentence orders.

We published the guideline evaluation in March 2023.

Development

In mid-2022, the Council considered some updates to the guideline as part of our annual assessment of potential miscellaneous amendments. Following consideration of further changes, including the pre-sentence report sections and issues relating to sentencing specific cohorts of offenders, we decided to undertake a full review, also incorporating relevant findings from the tend analysis evaluation of the existing guideline.

This review has included considering updates to existing sections in order to reflect sentencing practice, the intention of the guideline and changes to the Probation Service, which reunified in June 2021. We have also considered some new sections, including deferred sentencing, thresholds and purposes and effectiveness of sentencing.

Consultation

We will consult on the draft revised guideline in autumn 2023 and provide details of the outcome in next year's annual report.

Intimidatory offences

The Council's definitive guidelines for sentencing intimidatory offences came into effect on 1 October 2018. The guidelines cover offences of harassment, stalking, disclosing private sexual images, controlling or coercive behaviour, and threats to kill.

Evaluating and monitoring

We are continuing with work on the intimidatory offences guideline evaluation. This includes analysing data from the data collections that ran across magistrates' courts during 2017–18 and 2019, where sentencers were asked to provide details of the factors they took into account and the sentence they imposed when sentencing harassment and stalking offences. We are also examining data from MoJ's Court Proceedings Database and transcripts of judges' sentencing remarks.

The evaluation will be published in early 2024.

Miscellaneous amendments to sentencing guidelines

Since the Council's inception in 2010, we have built up a large body of sentencing guidelines and accompanying materials. In order to be able to address any issues that arise with guidelines, the Council holds an annual consultation on miscellaneous amendments to guidelines and the explanatory materials that accompany them.

Development

We began work on compiling the second miscellaneous amendments consultation in April 2022. The issues covered were drawn from feedback from guideline users (often received via the feedback function embedded in the online guidelines) and changes to legislation.

Consultation

We held the consultation between 7 September and 30 November 2022, asking consultees for views on the following proposals:

1. Matters relevant primarily to magistrates' courts
 - Clarifying the wording relating to disqualification from driving in the following:
 - Drug driving guidance
 - Excess alcohol guideline
 - Unfit through drink or drugs (drive/attempt to drive) guideline
 - Fail to provide specimen for analysis (drive/attempt to drive) guideline
 - Amending the wording in the explanatory materials on:
 - Discretionary disqualification
 - 'Totting up' disqualification
 - Obligatory disqualification
 - Football banning orders
2. Matters relevant to magistrates' courts and the Crown Court
 - Amending the guidelines for criminal damage to take account of the legislative change relating to memorials
 - Amending the wording regarding minimum sentences in the following guidelines:
 - Bladed articles and offensive weapons – possession
 - Bladed articles and offensive weapons – threats
 - Bladed articles and offensive weapons (possession and threats) – children and young people
 - Supplying or offering to supply a controlled drug/ Possession of a controlled drug with intent to supply it to another
 - Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug
 - Domestic burglary
 - Aggravated burglary (Crown Court only)
3. Matters relevant solely to the Crown Court
 - Adding wording to the Unlawful act manslaughter guideline relating to the required life sentence for an offence committed against an emergency worker

Post-consultation

There were 24 responses to the consultation. The majority of responses were supportive of the proposals and some made helpful suggestions for changes.

We published a response to the consultation in March 2023. The amended guidelines were published on our website on 1 April 2023 and came into force on publication.

The consultation included a general question inviting comment on the proposals. Some respondents used this to make suggestions for future changes to guidelines, which we welcome and will consider alongside other matters as part of the next annual miscellaneous amendments consultation, which we expect to hold in the autumn of 2023.

Motoring offences

The existing sentencing guidelines for offences under the Road Traffic Act 1988 were published in 2008 by the SGC. The guidelines cover:

- Causing death by dangerous driving (section 1)
- Dangerous driving (section 2)
- Causing death by careless driving (section 2B)
- Causing death by careless driving whilst under the influence of drink or drugs (section 3A), and
- Causing death by driving whilst unlicensed, disqualified or uninsured (section 3ZB)

Development

The PCSC Act 2022 raised the maximum penalties for causing death by dangerous driving and causing death by careless driving while under the influence of drink or drugs from 14 years' custody to life imprisonment, and created a new offence of causing serious injury by careless driving.

The Council agreed to revise the existing guidelines and develop new guidelines to reflect these legislative provisions and other changes and take into account developments in sentencing trends.

Consultation

Our consultation on the draft guidelines ran between 7 July and 29 September 2022. We received 306 written responses, of which just over half were individualised, standalone responses. The remainder consisted of campaign responses, some with a focus on road safety from a cycling perspective, calling for lengthy driving disqualifications, and some expressing concern about road safety and offering general support for the guidelines.

Alongside the consultation, we published a resource assessment and statistical bulletin showing current sentencing practices for the offences included. To support the consultation, we conducted 44 qualitative interviews with Crown Court judges and magistrates to help us understand more about how the guidelines might be used and applied in practice. Sentencers told us they found the draft guidelines generally clear and easy to interpret.

Post-consultation

In response to the consultation, the Council made various amendments to the culpability factors related to dangerous driving, as well as changes to the aggravating and mitigating factors common across most of the guidelines. Also following respondents' comments, we adjusted downwards the sentence levels for causing serious injury by careless driving, causing injury by wanton or furious driving and dangerous driving. We made a number of technical amendments to the guidelines related to drugs and drink in line with expert feedback from consultees. The Council has agreed to look further into the issue of disqualification, as this was a common theme across many of the responses we received.

We published the definitive new and revised guidelines on 15 June 2023 to come into effect on 1 July 2023, accompanied by a final resource assessment and data tables.

To support our evaluation of the motoring guidelines, the Council's data collection, which we ran between January and June 2023, collected data on sentencing motoring offences before the new and revised guidelines came into effect. We will collect further data for comparison once the guidelines have been in effect for some time.

Perverting the course of justice and witness intimidation

Perverting the course of justice offences are serious offences with a maximum of life imprisonment. There are currently no guidelines for this range of offences and limited guidance for witness intimidation offences in the magistrates' courts only.

The Council agreed to develop new guidelines for perverting the course of justice offences and to revise the guideline for witness intimidation offences for use in all courts.

Consultation

We consulted on draft guidelines between 30 March and 22 June 2022. To support the consultation, we tested the guidelines with sentencers, completing qualitative interviews with 24 Crown Court Judges. Sentencers found the draft guidelines generally clear and easy to interpret.

We supported the consultation with a draft resource assessment and statistical bulletin.

Post-consultation

The 48 responses we received were broadly supportive of the draft guidelines, with some making suggestions for amendments, and we will continue our work considering these responses into the next reporting year.

The Council intends to publish the definitive guidelines in the summer of 2023.

We will report on the changes made as a result of the consultation in next year's annual report.

Sale of knives etc by retailers to persons under 18

The Council has developed two new guidelines for sentencing retailers for the offence of selling knives and certain articles with a blade or point to persons under the age of 18, contrary to s.141A of the Criminal Justice Act 1988.

Consultation

Between 1 June and 24 August 2022 we consulted on two draft guidelines for this offence; one for sentencing individuals and one for sentencing organisations.

Alongside the consultation, we published a resource assessment and statistical bulletin.

To support the consultation we tested the guidelines with sentencers, completing qualitative interviews with 10 magistrates, who told us they found the draft guidelines generally clear and easy to follow.

Post-consultation

The consultation received 34 responses, some from individuals and some from organisations. The Council made a number of revisions to the draft guidelines following the very helpful responses to the consultation and the research carried out with sentencers.

These included:

- amending the wording on the scope of the guidelines
- adding a reference to 'retailers' in the title of the guidelines
- amending the culpability factors better to reflect the realities of the measures that retailers can reasonably take to ensure against sales of knives to children
- removing some aggravating factors that were not relevant, and
- adding a mitigating factor relating to co-operation with the investigation

The definitive guidelines were published on 15 February 2023, alongside a final resource assessment and data tables, and came into effect on 1 April 2023.

Media coverage

The consultation for these guidelines achieved coverage in the Independent, The Times, the Daily Mirror and the Sun as well as receiving attention in a wide range of the regional press.

The launch of the definitive guidelines was covered nationally, including in the Telegraph, Independent and ITV News, and regionally, including in the Evening Chronicle Newcastle and the Northern Echo. Coverage in the trade media included Police Professional and Solicitors Journal, as well as The Grocer, Housewares News and Asian Trader.

Coverage focused mainly on the new, higher penalties for organisations.

“Selling knives to children can lead to very serious consequences. There is the risk of serious physical harm to the children who buy these knives and to other people as well as the risk of wider social harms associated with the circulation of weapons among children.

“It is important that all possible safeguards should be put in place to prevent the sale of knives to children, and that the penalties for organisations are substantial enough to bring home to both management and shareholders the need to operate within the law.”

Jo King JP, Council member, on the launch of the consultation on sentencing guidelines for the sale of knives etc by retailers to persons under 18, 1 June 2022

Sexual offences

We published the Council's first guidelines for sentencing sexual offences in 2013. The guidelines covered more than 50 offences including rape, child sex offences, indecent images of children, trafficking and voyeurism.

In 2020, the case of *R v Privett and others* [2020] EWCA Crim 557 set out the approach the courts should take for sentencing offences under section 14 of the Sexual Offences Act 2003 (arranging or facilitating the commission of a child sex offence) when no real child victim exists.

In response, the Council agreed to review elements of the 2013 sexual offences guidelines, covering the following offences under the 2003 Act:

- arranging or facilitating the commission of a child sex offence (section 14), even where no sexual activity takes place or no child victim exists
- causing or inciting a child to engage in sexual activity (section 10), and other similar offences, even where activity is incited but does not take place or no child victim exists, and
- sexual communication with a child (section 15A), a relatively new offence created by the Serious Crime Act 2015 and in force since 2017

Post-consultation

The consultation, which ran between May and August 2021, received 34 responses. These responses, along with research conducted with sentencers, helped to inform our development of the definitive guideline. We made a number of revisions to the draft, which were designed, for example, to clarify:

- the steps the court should take where no sexual activity has taken place
- the approach to take in assessing psychological harm
- the application of the guidance to offences committed remotely/online, and
- the guidance on sentencing historical sexual offences

The Council also made various changes to the draft guideline for sexual communication with a child, including providing for a broader range of digital content to be taken into account in assessing harm, and better providing for the situation where no real child victim exists.

The definitive guidelines were published on 17 May 2022, accompanied by a resource assessment and data tables. The revisions to existing guidelines came into effect on 31 May 2022, and the new guideline for sexual communication with a child came into effect on 1 July 2022.

Media coverage

Our launch of the sexual offences guidelines was covered by a number of national, regional and trade print media, including the Telegraph, the Independent, Solicitors Journal and Police Professional. It was also picked up by Times Radio and the BBC website. The coverage focused on sentencing offenders based on intent rather than harm.

Terrorism

The Council first published guidelines for sentencing terrorism offences in March 2018.

The Counter-Terrorism and Sentencing Act 2021, which received Royal Assent on 29 April 2021, made it necessary for the Council to make changes to these guidelines.

The Council had already drafted, and consulted on, changes to the guidelines arising from the Counter-Terrorism and Border Security Act 2019, and took the decision to make any additional revisions to the guidelines before publishing both sets of changes at the same time.

Post-consultation

We received 14 responses to our consultation on the draft guidelines, which ran from 20 October 2021 to 11 January 2022, including from the Justice Committee. In light of these responses and research conducted with judges, the Council made a number of modifications to the guidelines. The definitive guidelines were published on 27 July 2022, alongside a resource assessment, data tables and our response to the consultation.

All revisions to the terrorism guidelines reflecting changes brought in by both the Counter-Terrorism and Border Security Act 2019 and the Counter-Terrorism and Sentencing Act 2021 came into effect on 1 October 2022.

Media coverage

We received coverage for launch of the terrorism guidelines in the Telegraph, the Yorkshire Evening Post, The National (Wales), Police Oracle, Southend Echo, Bolton News, Shropshire Star and 21 regional commercial radio stations. The coverage focused on 'tougher sentences' for terrorism offences.

Totality

The Council's Totality guideline came into effect on 11 June 2012. The guideline provides the courts with guidance on how to arrive at a total sentence when sentencing an offender for multiple offences, or when sentencing an offender who is already serving an existing sentence.

Development

In September 2021, the Council published a report exploring sentencers' views of the Totality guideline, including the findings of a survey and interviews conducted to help us understand how sentencers use the guideline, explore their attitudes towards the guideline and identify any potential problems or issues. This research showed that sentencers generally found the guideline to be useful and clear and a practical help in sentencing, although some requested improvements to its format. Having considered the findings from the research, the Council decided to revise the guideline, focusing on bringing it up to date without changing the essence of the content.

Consultation

We ran a consultation between 5 October 2022 and 11 January 2023, asking for views on the content as well as the structure and format of the proposed revised guideline. The changes we proposed included:

- adding a section on sentencing for offences committed prior to other offences for which an offender has been sentenced
- adding examples in relation to sentencing where a statutory minimum sentence applies, and
- updating the list of circumstances where a fine cannot be imposed with another sentence

We also proposed changes to the format and structure of the guideline, including placing all examples in drop-down boxes to make the guideline easier to navigate, changing the order of some content and incorporating hyperlinks to legislation in the text rather than using footnotes.

We published a draft resource assessment alongside the consultation.

Post-consultation

We received 25 responses to our consultation. The Council considered these responses, and we published the revised definitive guideline alongside our response to the consultation and the final resource assessment on 31 May 2023. The guideline came into effect on 1 July 2023.

“The Magistrates’ Association welcomes the revision to this [burglary] guideline – the latest in a concerted effort underway since 2012 to improve the style and functionality of sentencing guidelines...

“We are also pleased that the guideline now better reflects the levels and types of emotional impact that can result from a burglary offence. This will provide magistrates with additional clarity when assessing the harm caused by crime.”

Val Castell, Chair of the Magistrates’ Association’s adult court committee, on the publication of the definitive sentencing guidelines for burglary offences, 19 May 2022



Officials from the OSC working together

Strategic objective 2:

Ensuring that all our work is evidence-based, and working to enhance and strengthen the data and evidence that underpin it

The Council carries out analysis and research into sentencing to enable us to meet the statutory duties set out in the Coroners and Justice Act 2009. Our analysis and research work is an integral part of the guideline development process, contributes to all stages of the guideline development process and ensures the Council develops guidelines that meet our aims and objectives. We draw on a range of different data sources, as well as undertaking our own research, both quantitative and qualitative, to inform our work.

The high volume and range of responses to the Council's 10th anniversary consultation that related directly to our analytical work indicate how important our stakeholders consider this area to be in terms of the overall functioning of the Council. It is a reflection of the importance placed on this work by our respondents that the Council has committed to prioritising analysis and research and has dedicated to it one of the five strategic objectives.

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, making sure, in particular, that guidelines are informed by the views and experiences of those who sentence. We conduct primary research with users of the guidelines, principally Crown Court judges, district judges and magistrates. We use a range of methods, including surveys, interviews and group discussions. Our researchers also review sentencing literature and analyse transcripts of Crown Court sentencing remarks. This work helps to inform the content of the guidelines at an early stage of development and explore any behavioural implications. At times, and where relevant, we also conduct research with victims, offenders and members of the public.

This year, to support further the development of guidelines, we have launched a research project to explore the use, interpretation and application of the expanded explanations that accompany some of the guideline factors. This research will help us identify whether any of the guidance contained within these explanations needs revisiting or whether any new factors, such as those recommended in our research on equality and diversity, might be needed.

During the development of draft guidelines, we also draw on a range of data sources, where available, 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, consider potential issues of disparity and fulfil the Council's public sector equality duty (see pages 70-1). In some instances, however, data are not available so there are limits to the analysis we can undertake.

When required, the Council also undertakes research and analysis to support some of our wider statutory duties, to provide further information in specific areas or to fill gaps in existing data. We are also continuing to seek opportunities to collaborate with academics and external organisations. During 2022/23, this work has included research to support our public confidence duties (see pages 52-3); examine issues related to effectiveness in sentencing and consider equality and diversity in the Council's work (see pages 39-42). We also held a seminar in January 2023, which discussed academic work in the field of sentencing (see pages 31-2), and we continue to attend academic events where possible.

“[Motoring offences] can be some of the most difficult cases to sentence, where what might seem a fairly minor example of bad driving can have the most tragic and long-lasting consequences. It is therefore right that we provide the courts with guidelines that will allow them to take a consistent approach.”

Mrs Justice Juliet May, Council member, on the launch of the consultation for sentencing guidelines for motoring offences, 7 July 2022

Sharing knowledge with the academic community

On Friday, 13 January 2023, the Council co-hosted a seminar with The City Law School, City, University of London, and the Sentencing Academy, bringing together academics, civil society organisations, commentators and others with an interest in the criminal justice system.

Equality and diversity in the work of the Sentencing Council – research presentation and panel discussion

Chaired by Professor Peter Hungerford-Welch, The City Law School

The University of Hertfordshire research team behind our report, Equality and diversity in the work of the Sentencing Council, presented their findings and recommendations for the Council (see pages 39-42). Panel member Dr Shona Minson, University of Oxford, spoke about the growing numbers of women being sent to prison. She called for the Council to include a step in all guidelines considering parental responsibility and for a separate guideline for sentencing women who are pregnant. Jacqui MacDonald-Davis, Chair of the Magistrates' Association Black, Asian and Minority Ethnic Network, noted that the sector needs more court data to fully understand issues such as intersectionality and racial, age and gender disparities. Among the points she raised was the importance of judges and magistrates understanding the lived experience of offenders so their multiple needs can be considered when sentencing.

Sentencing young adults – panel discussion

Chaired by Professor Julian Roberts KC (Hon), Sentencing Academy

Dr Laura Janes, GT Stewart Solicitors, opened the session pointing to the growing body of neuroscientific, psychological and sociological evidence that suggests maturation is not complete in the majority of young people until the age of 25, and argued that young adults need to be treated differently in sentencing. Professor Nathan Hughes, University of Sheffield, presented data on young adults in court in England and Wales that show 'shrinking numbers and increasing disparities', and identified the need for more local-court and person/offence-level data to help us more fully understand the real picture. Lady Dorrian, Lord Justice Clerk and Chair of the Scottish Sentencing Council, set out the principles behind the Scottish sentencing guideline for young people, which recognises that young people generally have lower levels of maturity and there is a greater possibility of rehabilitation and change.

What don't we know?

Chaired by Steve Wade, Head of the OSC

The last session of the day aimed to identify gaps in the sector's collective knowledge and suggest how they might be filled. Professor Nicola Padfield KC (Hon), Emeritus Professor Cambridge University, led the discussion, identifying gaps in evidence on effectiveness of sentencing. She asked how effectiveness can be evaluated when there is no order of priority for the purposes of sentencing, and called for research on the experiences of defendants and victims to help develop an understanding of the real impact of current sentencing. Peter Dawson, Director of the Prison Reform Trust, talked about changes in the sentencing profile of the prison population and looked at what elements are influencing population size, including decisions of the Parole Board. Professor Jessica Jacobson, Institute for Criminal and Justice Policy Research, identified two areas for further exploration: the custody threshold and victim personal statements. She talked about the need for a better understanding of how the custody-threshold test is applied in practice and how victim personal statements are perceived by victims and what their role is in sentencing.



Lord Justice William Davis, Chairman of the Sentencing Council, opening our 2023 academic seminar

Making our data on drug offences available for researchers

Collaborating and sharing knowledge with academics in our field, and strengthening our relationships with them, are important in helping us meet the Council's strategic objective to enhance and strengthen the data and evidence that underpin our work. One way we achieve this is by making available to external researchers the court data we gather through our bespoke collections.

In July 2022 we published **data from our collection on drug offences on the research and resources area of our website**. The data cover the factors taken into account when sentencing adult offenders for a selection of drug offences and details of the sentence imposed.

The data were collected from magistrates' courts between November 2015 and January 2016 after the Council's initial set of drug offences guidelines came into effect in February 2012. They were used in the evaluation of the drug offences guidelines, which we published in June 2018, and cover possession of a controlled drug (class A and B) and production of a controlled drug (class B only) or cultivation of cannabis plant, where these offences were the principal offence.

The datasets contain information on the culpability and harm factors taken into account by sentencers, details of any aggravating or mitigating factors (including previous convictions), information about the guilty plea where relevant, including the reductions applied, and details of the final sentence imposed. They also contain information on the single most important factor affecting the sentence.

Since these data were collected, the drug offences guidelines have been replaced with new guidelines that came into effect on 1 April 2021. We nevertheless hope that publication of the raw, underlying data in respect of the 2012 guidelines will be useful to researchers and add to the knowledge base that will allow a better understanding of magistrates' courts sentencing factors in relation to outcomes.

Assessing 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 understand better 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 consideration of the factors that influence 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 to accompany our consultations and our definitive guidelines. Alongside our draft guidelines for consultation we also publish a bulletin summarising the statistical information that has helped inform their development.

Monitoring the operation and effect of guidelines and drawing conclusions

The real impact of a guideline on sentencing and consequently on resources is assessed through monitoring and evaluation after the guideline has been implemented. To achieve this, we use a range of different approaches and types of analysis. These include bespoke, targeted data collections in courts, where we collect information on a range of factors relevant to the sentencing decision, including harm and culpability factors, aggravating and mitigating factors, guilty plea reductions and sentence outcomes.

The most recent of these data collections ran between 9 January and 30 June 2023 in all magistrates' courts and locations of the Crown Court. Data was collected for selected offences and the information collected will help us assess whether guidelines are having any impact on sentencing outcomes and whether there have been any issues with their implementation.

We also conduct qualitative interviews and surveys with sentencers, analyse sentencing transcripts and undertake statistical analysis of administrative data.

Publishing Sentencing Council research

We publish our research, data and statistical outputs on the analysis and research pages of our website.

Between 1 October 2010 and 31 March 2015 the Council collected sentencing data from judges in the Crown Court. The data from the Crown Court Sentencing Survey (CCSS) is published on our website, as well as more recent data collected from magistrates' courts on theft from a shop or stall and drug offences. We will publish data from other such targeted data collections, including one planned for later in 2023 that will cover robbery offences.

More information about the analysis and research we have undertaken to support the development of new guidelines or evaluate existing guidelines is included throughout chapter 1 of this report.

Reporting on sentencing 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 pages 58-66.

“Child cruelty offences are by their very nature targeted against particularly vulnerable people – children – and it is important that courts have up-to-date guidelines that reflect the penalties set by Parliament.

“The revisions published today will ensure that the courts can reflect the new penalties consistently and transparently and will have available to them the full range of possible sentences when dealing with the worst cases of child cruelty.”

Lord Justice William Davis, Chairman, on publication of the definitive sentencing guideline for child cruelty offences, 7 March 2023

Strategic objective 3:

Exploring and considering issues of equality and diversity relevant to our work and taking any necessary action in response within our remit

It is the Council's long-held view that equality and diversity should be at the heart of all our work. As part of the five-year plan we made in 2021, we set ourselves a strategic objective to: explore and consider issues of equality and diversity relevant to our work and take any necessary action in response within our remit.

We have established a dedicated working group to advise the Council on matters relating to equality and diversity and make sure that the full range of protected characteristics are considered in our work. Members also consider ways in which the Council could engage more effectively with, and take account of the views and perspectives of, representatives of people with protected characteristics, and with offenders and victims.

Understanding the impact of sentencing guidelines

The Council's commitment to ensuring that sentencing guidelines apply fairly across all groups of offenders and do not cause or contribute to any potential disparity of outcome for different demographic groups is reflected throughout the development process.

We review any available evidence on disparity in sentencing for each guideline we develop or revise and, if the evidence suggests disparity, we highlight this as part of the consultation process. We place wording in the draft guideline to draw sentencers' attention to the disparities and, when we have examined the data for the offence and reviewed the consultation responses, the Council will then consider whether similar wording should be retained in the published definitive

guideline. We include in all definitive guidelines signposts to important information in the Equal Treatment Bench Book, which is compiled by the Judicial College, and remind sentencers of the need to apply guidelines fairly across all groups of offenders.

To enable the Council to explore fully the potential impact of sentencing guidelines on different demographic groups and groups with protected characteristics, we collect and analyse data, where available, and undertake in-depth analytical work. We now routinely publish sentencing breakdowns by age, sex and ethnicity alongside definitive guidelines and draft guidelines for consultation.

Learning from consultees' insight and experience

The potential for disparities in sentencing to arise from aspects of sentencing guidelines may not be obvious. Our consultation documents seek views from as wide an audience as possible on whether such potential exists, specifically asking consultees to consider whether there are:

- any aspects of the draft guidelines that they feel may cause or increase disparity in sentencing
- any existing disparities in sentencing of the offences covered in the guideline that they are aware of, which the draft guideline could and should address, and/or
- any other matters relating to equality and diversity that they consider the Council should be aware of and/or that we could and should address in the guideline

Guarding against potential causes of disparity

The Council made a commitment, when agreeing our five strategic objectives in 2021, to examine whether there is any potential for our work, or the way in which we carry it out, inadvertently to cause disparity in sentencing across demographic groups.

In autumn 2021, we commissioned the University of Hertfordshire to look at equality and diversity in the work of the Council. The aims of the research were to identify and analyse any such potential and to recommend actions we might take to guard against it.

For a report on the research, its findings and the Council's response, see pages 39-42.



Officials from the OSC working together

Researching equality and diversity in the Council's work

On 10 January 2023 the Council published the research report: **Equality and diversity in the work of the Sentencing Council and our response** to the recommendations made in the report. The research, conducted for us by a team from the University of Hertfordshire, was designed to explore the potential for the Council's work inadvertently to cause disparity in sentencing across demographic groups and, should any be identified, to recommend how that might be mitigated.

About the research

The researchers looked at the language, factors, explanatory texts and structure of guidelines, as well as our guideline development processes, communications and relationships with stakeholders. They examined three groups of offence specific guidelines: robbery, theft (theft from the person, theft from a shop or stall, theft in breach of trust, and handling stolen goods), and harassment and stalking (fear of violence), as well as the guideline for sentencing children and young people. The research considered protected characteristics under the Equality Act 2010, with a particular focus on those more relevant to sentencing and where sufficient data exist (namely race, age and sex), as well as potentially relevant issues such as primary carer status and socio-economic background. (The Act refers to race and sex but the dataset used refers to ethnicity and gender so the report primarily uses these terms.)

The team analysed data collected from the Crown Court Sentencing Survey (CCSS) between 1 January 2013 to 31 March 2015 (we ran the CCSS between October 2010 and March 2015), text analysis of the sampled guidelines, and co-production, engaging with civil society organisations, defence lawyers and sentencers.

Upward and downward factors in sentencing guidelines

Analysing the CCSS data, the researchers explored the impact of various guideline factors on two sentencing outcomes: the likelihood of receiving immediate custody and the length of the custodial sentence. They found that, as would be expected, the seriousness of the offence was associated with the largest change in sentencing, followed by upward factors, while downward factors were associated with the lowest change in sentencing. 'Upward factors' are those that might be associated with a more severe sentence, for example high culpability, great/medium harm, and aggravating factors; 'downward factors' might be associated with a less severe sentence, for example low culpability, lesser harm, and mitigating factors.

The CCSS findings were supported by the text analysis, which revealed that the sampled guidelines devote more words to describing upward factors than downward factors. Civil society partners and defence lawyers were concerned that mitigating factors might not have a sufficient impact on sentencing outcomes because they are considered only at step two in the guidelines.

Upward factors

Co-production partners expressed concern about the potential impact of four upward factors – ‘group membership’, ‘previous convictions’, ‘failure to comply with current court orders’ and ‘offence committed on bail or licence’ – fearing that they might lead to disparity in sentencing due to racial bias, age bias and other equality, diversity and inclusion-related issues. However, analysis of the CCSS data showed mixed results in this regard.

Downward factors

Co-production partners raised concerns around three downward factors – ‘determination to address addiction or offending behaviour’, ‘remorse’ and ‘mental disorder and/or learning disability’ – saying that some ethnic groups may not have strong family support to help them address offending behaviour, while others argued that class inequality could be an issue. Cultural differences were highlighted in terms of expressing remorse, as well as lack of maturity, learning disabilities and communication difficulties. Some ethnic groups were also thought to be less likely to disclose a mental disorder.

However, analysis of the CCSS data shows that downward factors did mitigate against receiving immediate custody and the length of custody for some offences.

Offence specific issues

For all offences studied, far more upward factors than downward factors were identified as significant in CCSS data analysis, which suggests that upward factors have a stronger impact on sentencing outcomes than downward factors. Almost all the significant downward factors were common across many offences, for example ‘remorse’.

Gender

CCSS data analysis showed that men were more likely than women to receive immediate custody for offences of robbery and all types of theft, contrary to some civil society partners' views that women are treated more harshly than men.

The association between gender and length of sentence was less consistent across the different offences and there was no evidence that certain upward or downward factors might have a differential association with the likelihood of receiving immediate custody or the length of custody for male and female offenders.

Ethnicity

The researchers found no strong or consistent evidence of sentencing disparities for different ethnic groups, either directly or through the impact of upward or downward factors. However, this does not mean that disparity does not exist in other settings or for other offences. For example, [research conducted by Amber Isaac](#) for the Sentencing Council in 2020 found an association between an offender's ethnicity and the sentence imposed for drug-related offences.

Age

Analysis of CCSS data supported the co-production partners' perception that younger offenders receive more favourable sentencing outcomes. For example, the younger the offender, the lower the likelihood of them receiving immediate custody. Age as a downward factor was not used extensively for offenders older than 60.

Other equality, diversity and inclusion issues and intersectionality

Adult offenders with the downward factor 'physical or mental illness' were less likely to receive immediate custody for all offences studied. There was no equivalent finding for children and young people. No significant difference in outcomes was found for offenders deemed to be from a 'difficult/deprived background'.

The researchers found no difference in the length of custodial sentence or the probability of a custodial sentence between men and women of different ethnic groups. They also found no difference in sentencing outcomes between men and women relative to their socio-economic background or offenders of different ethnic groups relative to their socio-economic background ('difficult/deprived background' was used as a proxy measure).

What does this mean for the Council?

The Council is committed to placing issues of equality and diversity at the heart of everything we do, and we are considering carefully the recommendations made in this report. We have committed to take forward a number of actions, some of which were already in train and which include:

- reviewing the use and application of aggravating and mitigating factors and expanded explanations in sentencing guidelines
- reviewing the Imposition of community and custodial sentences guideline, which is looking at whether and when sentencers request pre-sentence reports and so receive all the information needed about an offender
- collecting data in magistrates' courts and the Crown Court that will provide further information for research, and
- conducting user testing of our digital guidelines, to explore how sentencers use the sentencing guidelines, including how they use the expanded explanations

All our planned actions are set out in the Council's response to the research report, both of which are **available on our website**.

“Knife crime causes devastation in local communities and blights many young lives. Consistent sentencing rules are important when action is taken against those who sell knives to children. Trading Standards strongly support this move by the Sentencing Council to seek to achieve this important outcome.”

Lord Michael Bichard, Chair of National Trading Standards, on publication of the definitive sentencing guidelines for the sale of knives etc by retailers to persons under 18, 15 March 2023



Thames Magistrates' Court, London

Strategic objective 4:

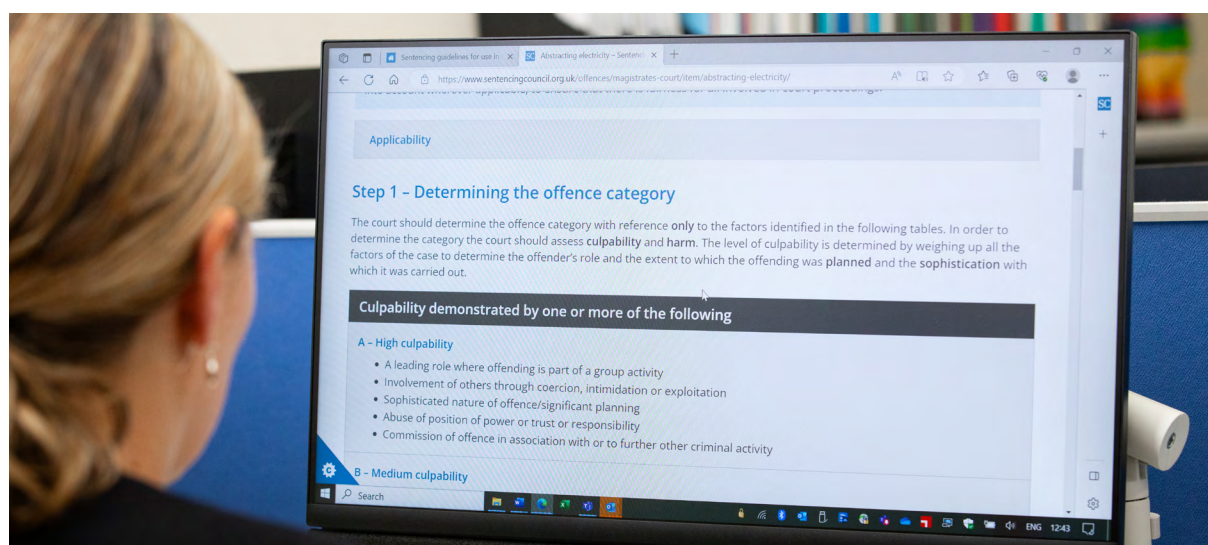
Considering and collating evidence on effectiveness of sentencing and seeking to enhance the ways in which we raise awareness of the relevant issues

The Council's duty in relation to cost and effectiveness appears in two sections of the Coroners and Justice Act 2009. Section 120 states that the Council should have regard to the cost of different sentences and their relative effectiveness in preventing reoffending when preparing guidelines. Section 129 states that the Council may also promote awareness of these issues.

The approach previously taken to discharging this duty involves the consideration by Council members of an annual internal digest and review of current research and evidence of effectiveness. This supplements Council members' significant existing expertise and experience in sentencing matters and is brought to bear in Council discussions when considering the development of guidelines.

When publishing our strategic objectives in November 2021, the Council responded to the views of respondents to our 10th anniversary consultation that the annual digest should be publicly available. We agreed to publish a review every two years that will outline the latest research evidence, allow the Council to be more transparent about the evidence we consider and help us promote knowledge and understanding of effectiveness among sentencers.

To meet this commitment, in September 2022, we published a literature review, *The effectiveness of sentencing options on reoffending*, written by a team of academics led by Dr Jay Gormley of the University of Strathclyde. The review considers in particular evidence relating to reoffending, reflecting the Council's statutory duty to have regard to the effectiveness of sentences in preventing reoffending. It also considers evidence on related areas such as the impact of sentencing on long-term desistance from offending, on deterrence, and on the cost-effectiveness of different sentences.



OSC official reviewing a guideline on the Sentencing Council website

Measuring effectiveness

The Sentencing Council is required by the Coroners and Justice Act 2009 to have regard when preparing guidelines to the cost of different sentences and their relative effectiveness in preventing reoffending, and to promote awareness of related issues.

On 30 September 2022 we published a literature review, **The effectiveness of sentencing options on reoffending**. This review, commissioned from a team led by Dr Jay Gormley of the University of Glasgow, brings together evidence on the effectiveness of different sentencing options on reoffending gleaned from a body of literature spanning 20 years.

What do we mean by effectiveness?

In passing a sentence for an adult offender, the court must have regard to the purposes of sentencing set out in the Sentencing Act 2020: punishing offenders; reducing crime (including by deterrence); reforming and rehabilitating offenders; protecting the public; and making reparations. The criteria for what makes a sentence effective can vary markedly, not least because the meaning of key terms such as reoffending, deterrence and rehabilitation is not universally agreed. In addition, researchers looking at the effectiveness of sentencing use a range of methodologies, which makes drawing comparisons between different studies challenging.

Key findings from the research

Sentencing objectives

The literature suggests several broad objectives that an effective sentence may achieve or facilitate, in particular the related goals of reducing reoffending and promoting desistance and reintegration. Reducing reoffending is an important objective for sentencing but, if there is no allied desistance or reintegration, the reduction in offending is less likely to persist. Desistance and reintegration are also important aims for sentencing and can entail significant and lasting changes on the part of the offender, but they are ambitious objectives and require strategies that extend beyond sentencing alone.

Sentencing may also aim to achieve deterrence, dissuading both the general public from offending and the individual offender from reoffending. However, the review notes that the evidence suggests using more severe sentences (particularly immediate custody) does not have significant deterrent effects in either case and factors such as the perceived likelihood of punishment may be more important.

Which sentences are effective?

When considering what sentence will be most effective at achieving positive outcomes in relation to the purposes of sentencing, the review suggests there are many relevant factors, including the offender's characteristics, the nature of the offence and the specific interventions available.

Some offences are linked to higher rates of reoffending, and a few individuals stubbornly engage in low harm, high volume offences such as repeat shoplifting. These instances may require special consideration as to how sentencing can achieve desistance and reduced reoffending.

Short custodial sentences under 12 months may be less effective than other disposals at reducing reoffending. There is a reasonable body of evidence to suggest they can exacerbate negative outcomes such as reoffending.

The current evidence does not suggest that increasing the length of immediate prison sentences is effective in reducing reoffending. Some research suggests that what happens during a custodial sentence (for example, rehabilitative interventions) may matter more than sentence length.

Community sentences and suspended sentences appear to have an advantage in avoiding some of the criminogenic effects of imprisonment (for example, damage to employment and social ties).

Equality, diversity and disparity in sentencing

Some evidence suggests that the effectiveness of sentencing may vary depending on offenders' sex or ethnicity. The review found results for ethnicity to be mixed. However, there is evidence that the effects of imprisonment for women are different than for men and that there are differences in how best to address offending.

What does this mean for the Council?

The lack of consensus as to the meaning of effectiveness in sentencing, how it is to be achieved and how it should be measured presents the Council with many challenges. The valuable evidence this review provides on the effectiveness of sentencing disposals, particularly in the reduction of reoffending, will supplement Council members' significant expertise and experience in sentencing matters and help to underpin the decisions we make when developing and revising guidelines. The Council is already considering the evidence in relation to our current review of the overarching guideline, Imposition of community and custodial sentences.

Strategic objective 5:

Working to strengthen confidence in sentencing by improving public knowledge and understanding of sentencing

The Sentencing Council has a statutory duty to have regard to the need to promote public confidence in the criminal justice system when developing sentencing guidelines and monitoring their impact. The Council has interpreted this duty more widely and we have set ourselves a specific objective to take direct steps to improve public confidence in sentencing.

Understanding public attitudes

To meet our statutory duty and our strategic objective to improve public confidence, the Council must have a clear and detailed picture of current levels of understanding of sentencing among the public. In December 2022, we published a report of research that explored the public's knowledge of, and attitudes towards, the criminal justice system and sentencing, and identified key audiences for the Council to reach. The report, **Public knowledge of and confidence in sentencing and the criminal justice system: 2022**, was commissioned from independent researchers Savanta and is available on our website.

The research largely duplicated a study conducted for us in 2019. It was conducted via an online survey of over 2,000 adults representative of the population of England and Wales and, to give us a clear picture of where there have been changes, we also re-ran some of the questions from the 2019 survey. The Council's communication activities are informed by the findings of the both these pieces of public

confidence research. See pages 52-3 for more on this research.

Making sentencing more accessible and easy to understand

Sentencing Council website

For many people, our website [sentencingcouncil.org.uk](https://www.sentencingcouncil.org.uk) is their first encounter with the Sentencing Council. The primary role of our website is to provide access to sentencing guidelines for criminal justice professionals, but other areas of the site are designed to promote a greater understanding of sentencing among our public and other non-specialist audiences.

The site explains how sentencing works in plain, easy-to-understand language. It gives broad information on some often-sentenced offences and debunks common sentencing myths. The public-facing pages provide clear, helpful context to the sentencing guidelines, which aims to improve the transparency of sentencing and make it more accessible to the public.

We have also been making good use of the new blog pages on our website to improve public understanding of how the sentencing decision-making process works and the array of factors that are taken into account. We use these pages to publish articles explaining various aspects of sentencing, which we promote via our Twitter account. The blogs we have published this year include articles explaining how the guidelines recognise

the impact of crime on victims and how the totality principle works.

The website has continued to be a source of information for sentencers and others in the criminal justice system, as well as for victims, witnesses and journalists, and this year has seen an increase in the number of visits. In 2022/23 the site was visited 2,653,982 times and individual pages were viewed 12,949,341 times. This compares with 2021/22, which saw 1,958,664 visits and 11,356,190 pageviews.

Using the media

The Council publicises its work via general and specialist media. Our aim is to make sure that sentencers and criminal justice practitioners are aware of what work the Council is undertaking and are kept informed about the publication of new guidelines and when they come into effect.

We also make sure that 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.

Achieving media coverage for the publication of new guidelines or consultations also provides us with opportunities to inform the wider public about how sentencing works and the role played by the Council and the guidelines in enabling the courts to take a consistent, fair and transparent approach to sentencing.

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, online and broadcast channels and relevant specialist titles.

The work of the Council remained of significant interest to the media. Over the course of the year, there were 293 mentions of the Council in print media and 163 broadcast mentions.

We achieved coverage across a wide range of print and online outlets, including The Times, the Telegraph, Daily Mail, Mirror, Sun, Independent and leading regional titles such as the Newcastle Chronicle and The Northern Echo. Trade media coverage appeared in Law Society Gazette, Solicitors Journal, New Law Journal, Police Professional, Police Oracle and subject-specific publications. The coverage we achieved throughout the year for individual guideline and consultation launches is set out in chapter 1 of this report.

Council members undertook a number of interviews during the year, including for the BBC website, Times Radio, Sky Radio and Sky News. The Chairman gave an interview to legal commentator Joshua Rozenberg for an episode of Law in Action broadcast on BBC Radio 4 on 1 November 2022. The interview asked for our response to a claim from campaigning organisation Fair Trials that young adult defendants are being unfairly pressured into pleading guilty. Her Honour Judge Rosa Dean spoke about the Council and sentencing guidelines in an interview with Sally Penni MBE for the Law and Guidance podcast broadcast on 3 October 2022.

Our press office 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 with and through partners

To assist us in improving understanding of sentencing, particularly among victims and witnesses, the Council continues to nurture our relationships with partner organisations who have direct contact with the public.

We focus on our communication with the Police Service, aiming to reach the officers who most often engage with the public. This year we brought up to date the information leaflets we provide for Police family liaison officers dealing with families bereaved by murder, manslaughter and death by driving offences. We also contributed content to the pack that officers provide to families, which includes information about how the criminal justice system works and what they can expect from the Police, the coroner and the courts.

Throughout the year, the Witness Service continued to use our information about sentencing to support and reassure victims and witnesses. There is content on our website written specifically for victims and witnesses that explains the different types of sentences there are and what judges and magistrates take into account when making sentencing decisions.

We have also been working in partnership with the Judicial Office, the independent body that supports the judiciary across the courts of England and Wales, to develop a new version of the online sentencing tool You be the Judge. This tool uses dramatised stories to show the public how sentencing decisions are made in magistrates' courts, youth courts and the Crown Court. It is designed to engage audiences of all ages, in particular school-age children and young adults.

Promoting public confidence

On 12 December 2022 the Council published a research report, **Public knowledge of and confidence in the criminal justice system and sentencing: 2022**. The report details work we commissioned from independent researchers Savanta to explore the public's knowledge of, and attitudes towards, the criminal justice system (CJS), sentencing and sentencing guidelines, and learn more about what drives public confidence.

The research was conducted via an online survey of over 2,000 adults representative of the population of England and Wales and largely duplicated **research conducted for us in 2018**.

Is the criminal justice system fair and effective?

The 2022 research suggests that public confidence in the effectiveness and fairness of the CJS remains at similar levels to 2018, but respondents said they were only slightly more likely to be confident than not confident.

- Effectiveness – 52 per cent said that they were confident the CJS is effective but 45 per cent said they were not confident
- Fairness – 53 per cent said that they were confident the CJS is fair but 44 per cent said they were not confident

What drives public confidence?

Contact with the system

The research shows a clear link between exposure to the CJS and the public's understanding of sentencing and the CJS as well as their confidence in the fairness and effectiveness of both. Higher confidence appears to come not just from contact with the system but contact that brings with it an improved understanding of how it works.

Respondents who have had any personal involvement in a criminal court case were more likely than others to have confidence in the fairness of the CJS. People who had been involved in a case as a witness (66 per cent) or juror (60 per cent) were most likely to have confidence that the CJS is fair, compared with 48 per cent of victims and 47 per cent of defendants. Experience of contact with agencies within the CJS, for example Police, Probation and Witness Services, also appears to improve people's confidence at least 'a little'. For example, of respondents who had had contact with CJS agencies, 66 per cent of those between 18 and 54 years old and 53 per cent of those aged 55+ said that their experience had improved their confidence in the fairness of the CJS at least 'a little', and 67 per cent of those aged 18-34, 65 per cent of those aged 35-54 and

57 per cent of those 55 and over said that it had improved their confidence in its effectiveness at least 'a little'.

Respondents who reported they have had been a victim of crime were among the least likely to have confidence in the CJS. However, of those victims who had had personal involvement in a criminal court case, over half said that experience had improved their confidence in the effectiveness (59 per cent) and fairness (55 per cent) of the system.

Knowing about sentencing guidelines

The majority (67 per cent) of respondents who were aware of the sentencing guidelines told the researchers that knowing judges and magistrates follow guidelines has a positive impact on their confidence in the fairness of sentencing.

However, 35 per cent of respondents were not aware of sentencing guidelines. Younger adults were less likely than adults over 55 to know about guidelines, women (59 per cent) were significantly less likely to know about guidelines than men (72 per cent) and respondents from black (55 per cent), Asian (57 per cent) and mixed ethnicity (60 per cent) groups were less likely than white respondents (67 per cent) to be aware of guidelines.

Understanding sentencing considerations

Knowing about the details of cases and the specific factors that judges and magistrates must consider appears to have an impact on people's confidence in sentencing. When asked whether sentencing was too lenient, about right or too tough, 64 per cent of respondents said sentences overall are too lenient but, when presented with a case study, some people's views changed. For example, 70 per cent said they thought sentences for assault were too lenient but, when given an assault case study, this fell to 61 per cent.

What does this mean for the Council?

As well as identifying specific audiences among whom confidence in the CJS and sentencing is lowest, the research tells us that, to influence confidence levels among the public generally we should:

- inform people that judges and magistrates follow sentencing guidelines
- improve people's understanding of how sentencing works and what judges and magistrates think about when making sentencing decisions, and
- identify more ways to reach people through the contact they are already having with the CJS

The work we are doing in this regard is outlined in chapter 5.

Reaching young people

The public confidence research we published in 2019 and 2022 told 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 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 help us educate young people, the Council aims to contribute to teaching activities that are run by our partners in the criminal justice system and other organisations who have far greater reach into schools than the Council could achieve alone.

In 2022/23 we continued our work with Young Citizens, an education charity that works in primary and secondary schools to help educate, inspire and motivate young people. We contribute content for the charity's key stage 1 and 2 (primary) teaching resource, 'What happens when laws are broken?'. The resource supports both citizenship and PHSE (personal, health, social and economic) education and has the potential to reach more than 48,000 children.

Our website features a page of resources for teachers. This year we began the process of revising the teaching pack the Council has developed for schools to deliver as part of the citizenship curriculum for key stage 3 and 4 pupils. These resources help young people develop an understanding of how criminal sentencing works and give them the opportunity to try sentencing for themselves using scenarios. As well as being published on our website, the pack is available through Young Citizens and the Association for Citizenship Teaching. The page also includes links to the teaching materials provided by Young Citizens to which we have contributed.

In 2022/23, 1,414 visits were made to the Council's teaching resources webpage (compared with 1,319 in 2021/22).

Retaining the confidence of guideline users

It is vital that the criminal justice professionals who use sentencing guidelines have confidence in them and the body that produces them, not just to make sure that guidelines are implemented effectively but also because the Council needs those legal professionals to advocate for us with the public. For some members of the public, their first experience of sentencing guidelines will be through a defence lawyer or the Probation Service.

To retain the confidence of sentencers and other guideline users, the Council not only runs consultations while developing and revising guidelines but also carries out user testing with sentencers and, once a guideline has come into force, examines it to establish whether sentencers face any issues in its implementation.

To understand whether professional users are experiencing any issues in using the digital guidelines published on our website, this year we commissioned the Behavioural Insights Team to explore how sentencers access, navigate and use the guidelines and whether, and if so how, their experience could be improved. This research was informed by a survey conducted by the Office of the Sentencing Council (OSC) that focused on sentencers' views on several areas of the website including the use of tools such as the calculators we provide to assist magistrates in working out fines and drink-driving related disqualification periods, as well as the offence specific and overarching guidelines. We expect to publish the reports from these two strands of research later in 2023.

Developing relationships with stakeholders and supporters

To further our work to engage stakeholders and build relationships across the criminal justice system, Council members and officials from the OSC often give talks and presentations covering all aspects of sentencing and developing guidelines. Our ability to do this has inevitably been significantly curtailed in recent years by the Covid-19 pandemic but we were pleased this year to see organisations are again beginning to invite the Council to contribute to live events.

Lord Justice Holroyde, in his then role as Chairman, gave a presentation on the work of the Council to students at Edge Hill University, Lancashire, on 25 April 2022. Later in the year, he also presented on the work of the Council to members of the judiciary attending the Judicial College sentencing and confiscation seminar.

On 15 October 2022 Jo King JP, magistrate member of the Council, and officials from the OSC, gave an online talk to the Magistrates' Association annual conference about the Council's work and the role of magistrates in the development of guidelines.

The Chairman, Her Honour Judge Rosa Dean and Jo King JP, accompanied by officials from the OSC, attended the Four Corners conference in Edinburgh on 25 November 2022. Hosted by our colleagues at the Scottish Sentencing Council, the conference brought together members and officials from the four sentencing councils of the UK and Ireland to discuss common issues and share our experiences of developing sentencing guidelines.

On 13 December 2022 the Chairman and the Head of the OSC, Steve Wade, attended the Justice Committee to give evidence to the Committee's inquiry into public opinion and understanding of sentencing. Building on the written submission we made to the inquiry in September 2022, their evidence covered the Council's perspective on current issues facing sentencing, the barriers to improving public awareness of how sentencing works and why improving public knowledge leads to greater confidence.

On 3 March 2023 officials from the OSC attended a symposium looking at trust in the criminal justice system. The event was hosted by the Criminal Justice Alliance and attended by around 100 practitioners and academics. Officials took part in a panel discussion and gave a presentation on what the Council has done to measure confidence and how our research findings will influence the Council's work to strengthen public confidence.

During the year, officials from the OSC also gave presentations to raise awareness of the Council and the role of the sentencing guidelines among our colleagues in the criminal justice system. Our audiences included staff in the Judicial Office and members of the MoJ Group Communications Board, who include representatives from the Legal Aid Agency, Youth Justice Board, Criminal Cases Review Commission and Criminal Injury Compensation Authority.

The Council often hosts and meets visitors from overseas seeking to learn more about the Sentencing Council and understand how the guidelines are developed and used. These events allow us in turn to learn about the criminal justice systems of other nations and discover whether and how sentencing guidelines are used in other jurisdictions.

On 12 May 2022 we were visited by delegates from the Attorney-General's Chambers of Singapore. During the visit, which was hosted by Council member Mrs Justice Maura McGowan, we talked with the delegates about our experience of developing sentencing guidelines. Their learning will inform Singapore's work to set up a sentencing advisory panel to promote greater consistency, transparency and public awareness in sentencing. Following this visit, Mrs Justice McGowan was invited to go to Singapore later in the year to talk to members of the Attorney-General's Chambers about their new panel.

On 28 November 2022 the Sentencing Commission of Korea hosted its first International Conference, Reasonable Sentencing: Current Trends and Future Challenges. Delegates from the Commission have visited the Council three times in the last decade. Acknowledging the value of these visits in the development of Korea's sentencing system, the Commission invited the Chairman to record a short welcome address to be played at the opening of the conference.

In recent years, the Council has strengthened our commitment to build bridges with the academic community. We have set ourselves a specific objective to seek opportunities to collaborate with academics and external organisations in order to broaden the range of analytical work we can contribute to and draw on. In January 2023, we staged an academic seminar, bringing together leading academics and commentators in the field of criminal sentencing. The seminar, Current issues in sentencing policy and research, was co-hosted by The City Law School, City, University of London, and the Sentencing Academy, and was designed to give delegates an opportunity to find out more about our work, discuss current issues in sentencing policy and practice and learn from experts about recent research in the area. There is a report of this event on pages 31-2.

Officials from our analysis and research team also attended an academic-led event on 23 March 2023 hosted by the Empirical Research on Sentencing (ERoS) network. The event was a roundtable research symposium exploring the topic of unwarranted disparities in sentencing and attended by academics in the field of sentencing, including researchers from other European jurisdictions and officials from MoJ and the Scottish Sentencing Council. The research discussed covered measurement and potential causes of disparities as well as solutions, and included work exploring mitigation in sentencing and proportionality in sentencing carried out using the Council's magistrates' courts sentencing data on theft from a shop or stall and data from the Crown Court Sentencing Survey.

Sentencing and non-sentencing factors reports

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, government legislation and changing attitudes towards different offences.

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

Between 1 April 2022 and 31 March 2023, the Council published definitive guidelines for sentencing:

- sexual offences
- burglary offences
- terrorism offences
- sale of knives etc by retailers to persons under 18, and
- child cruelty offences

We also published amendments following the second annual consultation on miscellaneous amendments to sentencing guidelines.

Sexual offences

The resource impacts below relate to new and amended guidelines, covering a range of offences under the Sexual Offences Act 2003 (SOA).

For sexual communication with a child (section 15A), there was previously no guideline in place, so the aim of this guideline is to improve consistency of sentencing. However, it is estimated that there may be a small increase in sentencing severity, with some offenders

who would previously have received a community order now receiving a short immediate custodial sentence; in practice it is likely that most of these sentences would be suspended so there would be minimal impact on prison resources.

For arranging or facilitating the commission of a child sexual offence (section 14), there may be a small increase overall in sentence levels for cases in which no actual child is present. It is estimated that there may be a small increase in the average custodial sentence length (ACSL) for these cases with the potential requirement for approximately 40 additional prison places per year.

For causing or inciting a child to engage in sexual activity (section 10), there may be an increase in sentencing severity for cases where no child exists (which are charged as attempts) or where the child does exist and the offence was incited but did not occur. It is estimated that for these cases, the ACSL may increase, with the potential requirement for around 190 additional prison places per year.

For causing or inciting a child under 13 to engage in sexual activity (section 8) it is anticipated that there will be little change in sentencing practice and, as such, there will be little impact on prison resources.

For other causing or inciting sexual offences under sections 17, 31, 39, 42 and 52 of the SOA 2003, there may be a small increase in sentencing severity for cases where no real victim exists or where a victim does exist and the offence was incited but did not occur. As volumes are low, it is difficult to ascertain the impact for these offences, but we anticipate that

any changes would have very little impact on prison and probation resources.

The revised guidelines for arranging or facilitating and causing or inciting offences (sections 8, 10, 14, 17, 31, 39, 48 and 52 of the SOA) have been updated following guidance from the Court of Appeal and, as such, the estimated changes in sentencing practice presented above are attributable to the case law, which is now incorporated within the guideline, rather than it being a separate intention of the Council to influence sentencing practice.

Burglary offences

The resource impacts below relate to the revised guidelines for domestic, non-domestic and aggravated burglary. These are revised versions of the existing burglary guidelines which came into force in 2012. The changes in the updated guidelines include a revised format to reflect the Council's current approach to guideline structure, with three levels of culpability and harm, and the stepped approach to sentencing.

There have been several changes to the placement of factors in the revised burglary guidelines. These include the factor related to group offending within the non-domestic and domestic burglary guidelines. Additionally, some new wording related to alcohol dependency/misuse has been added to the domestic and non-domestic burglary guidelines, with the intention that this might encourage more community orders to be given at the lower end of offence severity. Analysis carried out during the development of the guideline and during the consultation stage, involving

sentencing remarks and interviews with sentencers, showed evidence that very little change is expected in sentencing for these offences and therefore minimal resource impact is expected.

The factor related to a weapon carried when entering the premises in the aggravated burglary guideline has been moved from step one to step two of the guideline, and the step one harm factor reworded to avoid any possible double counting of this factor. Analysis suggests that there may be a slight decrease in sentence severity due to this change. However, the sample size analysed was small and therefore while any resource impact is not expected to be substantial, the findings in relation to this should be interpreted as indicative of the expected impacts only.

Overall, for all three offences (non-domestic, domestic and aggravated burglary), analysis suggests that sentences should remain similar under the revised guidelines to sentencing levels under the previous guidelines, and there is no conclusive evidence to suggest that the guidelines will have a notable impact on prison or probation resources.

Terrorism offences

The Counter-Terrorism and Border Security Act 2019 and the Counter-Terrorism and Sentencing Act 2021 made changes to several terrorism offences. The resource assessment relates to the changes that the Council has made to the associated sentencing guidelines.

Overall, the guidelines are anticipated to increase sentences in some cases. For most of the offences, these increases are mainly expected to affect offenders categorised at the highest levels of harm and culpability, where the sentence levels have been driven by the changes to legislation introduced in the 2019 and 2021 Acts. In addition, there may be increases to sentences for those cases sentenced using the Preparation of terrorist acts and Explosive substances guidelines where there was involvement of law enforcement authorities or intelligence organisations.

There was little evidence on which to base any estimates of the impact of these guidelines because of the infrequent nature of these offences so no attempt was made to quantify the prison impacts. However, given that very few offenders overall are sentenced for these terrorism offences, we expect that any anticipated longer sentences imposed as a result of the guidelines will have only a minimal impact on prison and probation services.

“Terrorism offences are thankfully rare but they are serious and can cover a wide range of factual circumstances, making them difficult and sensitive offences to sentence. For this reason, the Council has ensured that the guidelines are kept up to date and include additional guidance for sentencers.”

Mrs Justice Maura McGowan, Council member, on publication of the definitive sentencing guidelines for terrorism offences, 27 July 2022

Sale of knives etc by retailers to persons under 18

Overall, we expect the new guidelines for sentencing individuals and organisations for this offence will encourage consistency of approach to sentencing. For individuals we expect there will be no change in average sentencing severity for most cases. For larger organisations the new guideline is likely to increase fine levels. There has been little evidence on which to base any estimate of the magnitude of the impact of these guidelines because fine band data for individuals and data on organisation size were not available. Nevertheless, across both the individual and organisation guidelines we expect there will be no notable impact on prison and probation resources; organisations cannot receive custodial or community sentences and the majority of individuals receive a fine.

Child cruelty offences

The sentencing guidelines for several child cruelty offences were amended following increases to their statutory maximum sentences under the PCSC Act 2022.

Overall, the guidelines are intended to reflect the increase in statutory maxima through the addition of a further culpability level, above the existing high culpability level in both guidelines. As such, the impact is intended to be isolated to those offenders already at the highest culpability of offending behaviour.

For the offence of causing or allowing a child to die or suffer serious physical harm, given that almost all offenders already receive immediate custody, we do not anticipate that the guideline will change the proportion of offenders who receive immediate custodial sentences. It is likely that there may be a very small number of offenders at the highest level of culpability across both offences who will receive longer custodial sentences

under the guideline. However, these increases in sentence levels are driven by the recent legislative changes, which have been reflected in the guidelines.

For the offence of cruelty to a child, analysis suggested that under the revised guideline, there may be a very small impact on prison and probation resources because a subset of those currently categorised within the high culpability level may receive longer sentences under the guideline if sentencers find the new very high culpability category is more appropriate. However, given that so few offenders are committing offences of cruelty to a child at the highest level of culpability currently, we anticipate that the impact of this guideline on prison and probation resources is likely to be minimal, although any increases will be driven by the recent legislative changes which are now reflected in the guideline.

Miscellaneous amendments to sentencing guidelines

This year's miscellaneous amendments to sentencing guidelines include changes related to disqualification from driving, criminal damage, minimum sentences and required life sentences for manslaughter of an emergency worker. The Council anticipates that any impact on prison and probation resources from the majority of the changes will be minor. Where changes may be more substantial, these impacts would be attributable to the legislative changes and not to the guidelines. In view of the nature of the amendments, we did not produce a separate resource assessment, instead including a brief discussion of the potential impact in each section of the consultation response document.

- Disqualification from driving: the changes will not affect sentence levels. The only impact they may have is on the imposition of disqualification from driving.
- Criminal damage: the changes are not designed or expected to affect sentence levels.
- Minimum sentences: the changes to the minimum term steps in guidelines were necessitated by changes to legislation and any effect on sentence levels would therefore be attributable to the legislation.
- Required life sentence for manslaughter of an emergency worker: the changes were necessitated by changes to legislation and any effect on sentence levels would therefore be attributable to the legislation. This provision will apply only very rarely so little impact is anticipated.

Non-sentencing factors report

The Council is required under the Coroners and Justice Act 2009 to prepare a report identifying 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.

In this report, we define non-sentencing factors and explain 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 pages 58-62). However, non-sentencing factors also exert an important influence on requirements for correctional resources.

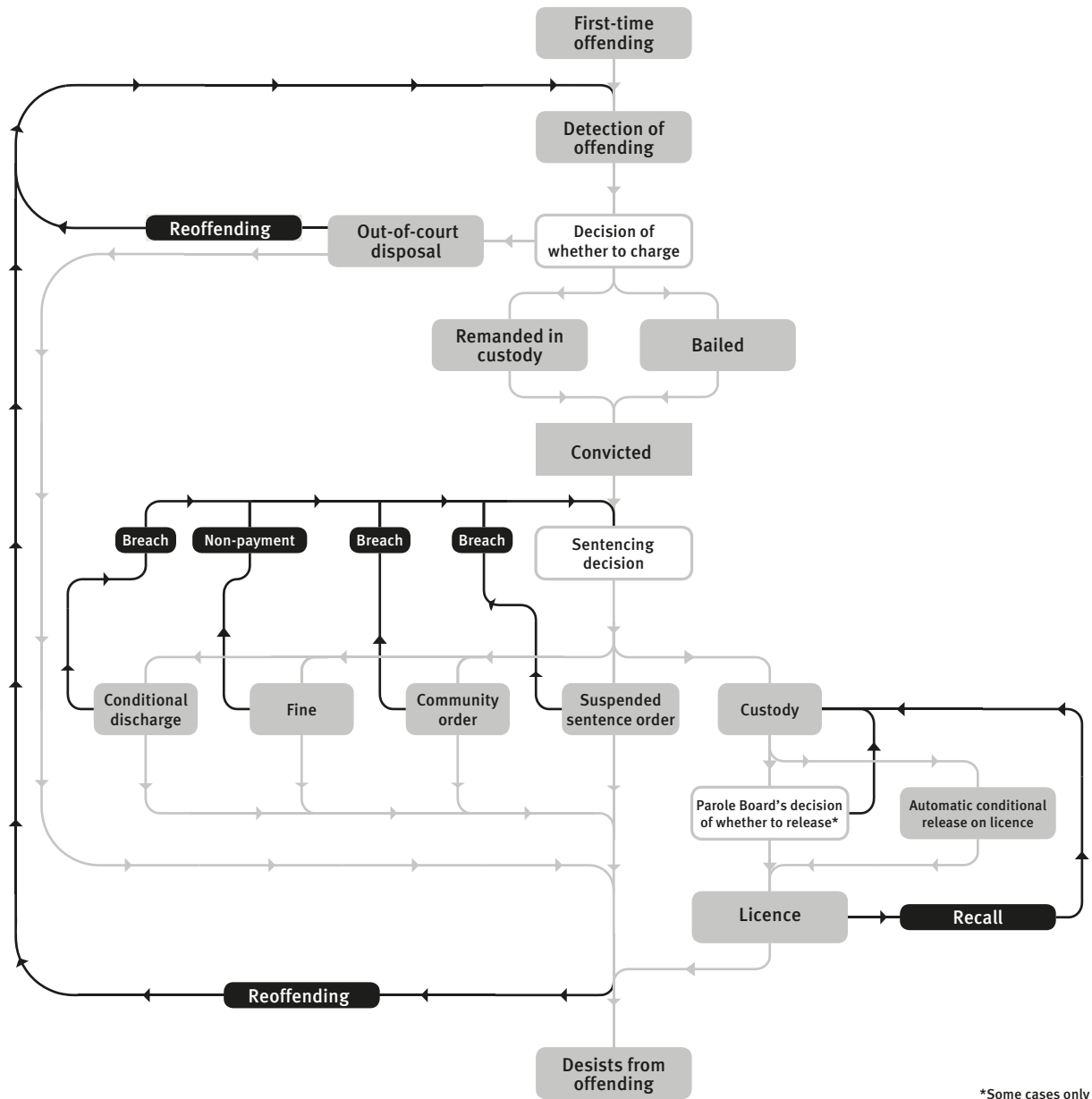
Non-sentencing factors are factors that do not relate to the sentencing practice of the courts but which may affect the resources required to give effect to sentences. For example, the volume of offenders coming before the courts is a non-sentencing factor: greater sentencing volumes lead to greater 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. For instance, the PCSC Act 2022 introduced provisions meaning those serving determinate custodial sentences for the most serious offences would serve two-thirds of their sentence in prison before being released automatically. The Act also gave the Secretary of State the power to refer high-risk offenders serving a determinate custodial sentence to the Parole Board to consider whether they can be released.

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 1 (page 64) 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 1: Flow of offenders through the criminal justice system



Volume of sentences and composition of offences coming before the courts

MoJ publishes Criminal justice system statistics quarterly on GOV.UK, which reports on the volume of sentences and the offence types for which offenders are sentenced.

For the most detailed information on sentencing outcomes, follow the link on GOV.UK for 'Criminal justice system statistics quarterly: December 2022' 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. The tables concerning licence recalls, Table 5.1 to Table 5.12, can be found via the link on GOV.UK for 'Offender management statistics quarterly: October to December 2022'. For example, Table 5.1 contains a summary of the number of licence recalls since April 1999.

Post-sentence supervision

The Offender Rehabilitation Act 2014 expanded licence 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 on their release for 12 months. MoJ publishes statistics on the number of offenders under post-sentence supervision in Offender management statistics quarterly. Follow the link for 'Probation: October to December 2022' and see Table 4.6.

The rate at which court orders are breached

If an offender breaches a court order, additional requirements may be made to their order or they may face resentencing that could involve custody. Breaches can therefore have significant resource implications. Statistics on breaches can also be found in Offender management statistics quarterly. Follow the link for 'Probation: October to December 2022' and see Table 4.9 for a breakdown of terminations of court orders by reason.

Patterns of reoffending

MoJ publishes reoffending statistics in Proven reoffending statistics.

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 (with any change to the point at which those provisions apply being in itself a factor that has an effect on the prison population). 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, which are published on GOV.UK.

Remand

Decisions to hold suspected offenders on remand in custody 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. The prison population tables can be found via the link for 'Offender management statistics quarterly: October to December 2022'. For example, Table 1.1 contains data on how the remand population has changed each month over the past year.

“The sentencing guidelines published today bring greater clarity to the courts on how to deal with cases of arranging or facilitating child sexual offences, even in cases where no actual child exists, or no sexual activity took place.

“Judges and magistrates will impose sentences that reflect the intended harm to the child, even where that activity does not ultimately take place, to protect children from people planning to cause them sexual harm.”

Her Honour Judge Rosa Dean, Council member, on publication of the definitive sentencing guidelines for sexual offences, 17 March 2022

Budget

Financial report

The cost of the Sentencing Council

The Sentencing Council's resources are made available through MoJ, and the Council is not required to produce its own audited accounts. However, the Council's expenditure is an integral part of MoJ'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.

	2022/23 (actual) £000s*
Total funding allocation	1,789
Staff costs	1,436
Non-staff costs	224
Total expenditure	1,660

* 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.

Appendix A: About the Sentencing Council

The primary function of the Sentencing Council, as defined in section 120 of the Coroners and Justice Act 2009, is to prepare sentencing guidelines, which the courts must follow unless it is contrary to the interests of justice to do so (section 59(1) Sentencing Code).

The Council also fulfils other statutory functions as set out in the 2009 Act:

- Publishing the resource implications in respect of draft guidelines
- Preparing a resource assessment to accompany new guidelines
- Monitoring the operation and effect of our sentencing guidelines and drawing conclusions
- Consulting when preparing guidelines
- Promoting awareness of sentencing and sentencing practice
- Publishing a sentencing factors report
- Publishing a non-sentencing factors report
- Publishing an annual report

Governance

The Council is an advisory non-departmental public body of MoJ. However, unlike most advisory non-departmental public bodies, our 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 2009 Act. Under section 119 of the Act, the Council must make 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 HM Treasury instructions and guidance, available on GOV.UK.

The budget is delegated to the Head of the OSC from the Chief Finance Officer of MoJ. The Head of the OSC is responsible for the management and proper use of the budget.

The Chief Operating Officer of MoJ is accountable for ensuring that there are effective arrangements for oversight of the Council in our 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: MoJ, Attorney General's Office, College of Policing, Council of His Majesty's Circuit Judges, Council of His Majesty's

District Judges (Magistrates' Courts), Criminal Procedure Rules Committee, Crown Prosecution Service, Home Office, Judicial Office, Justices' Legal Advisers and Court Officers Service, Magistrates' Leadership Executive, Magistrates' Association, National Police Chiefs' Council and many academics in related fields.

The Council engages with the public on sentencing, providing information and working to improve knowledge of, and confidence in, sentencing.

The Council meets 10 times a year to discuss current work and agree how that work should be progressed. The minutes of these meetings are published on our website.

Sub-groups

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 Elaine Freer.

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: Her Honour Judge Rosa Dean.

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. The sub-group comments on and recommends the business plan to Council for approval. 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.

Equality and diversity working group

We have established a working group to advise the Council on matters relating to equality and diversity and make sure that the full range of protected characteristics is considered in our work: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The group also considers ways in which the Council could engage more effectively with, and take account of the views and perspectives of, representatives of people with protected characteristics, and with offenders and victims.

The group is chaired by Mrs Justice Juliet May.

Ad hoc working groups and contributions

Where necessary, the Council sets up working groups to consider particular aspects of the development of a guideline or specific areas of business. We also sometimes invite contributions from people who are not members of the Council but who have particular expertise and experience, including lived experience, of relevance to the guidelines.

Public sector equality duty

The Council is committed to meeting its obligations under the public sector equality duty (PSED), which is published on GOV.UK.

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
- To foster good relations between those who share a protected characteristic and those who do not

Protected characteristics under the PSED are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In developing guidelines, the Council considers the PSED in the context of the individual offences. 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 placed links in all guidelines to the Equal Treatment Bench Book published by the Judicial College.

The Council also considers data in relation to offenders sentenced for individual offences, including on volumes of offenders sentenced grouped by gender, ethnicity and age, and we publish this data alongside 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 that the guideline has not considered. In all our communication, 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 Justice Committee, which is the House of Commons select committee that examines the expenditure, administration and policy of MoJ and associated public bodies.

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

The Office of the Sentencing Council

The Council is supported in its work by the OSC, in particular in:

- preparing draft guidelines for consultation and publication, subject to approval from the Council
- ensuring that the analytical obligations under the 2009 Act are met
- providing legal advice to ensure that we exercise the Council's functions in a legally sound manner
- delivering communication activity to support the Council's business and objectives, and
- providing efficient and accurate budget management, with an emphasis on value for money

At 31 March 2023 there were 20 members of staff, including the Head of the OSC (18.4 FTE).

In the 2022 Civil Service People Survey, the OSC recorded a staff engagement index of 83 per cent. This places the Office 23 percentage points ahead of MoJ as a whole and 15 percentage points ahead of other MoJ arm's-length bodies.

Asked whether they understood the Sentencing Council's objectives and how their work contributes to those objectives, 100 per cent of OSC staff agreed, placing the Office 11 percentage points ahead of other MoJ arm's-length bodies.

Senior management team

The work of the OSC is overseen by a senior management team comprising the Head of the OSC 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 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

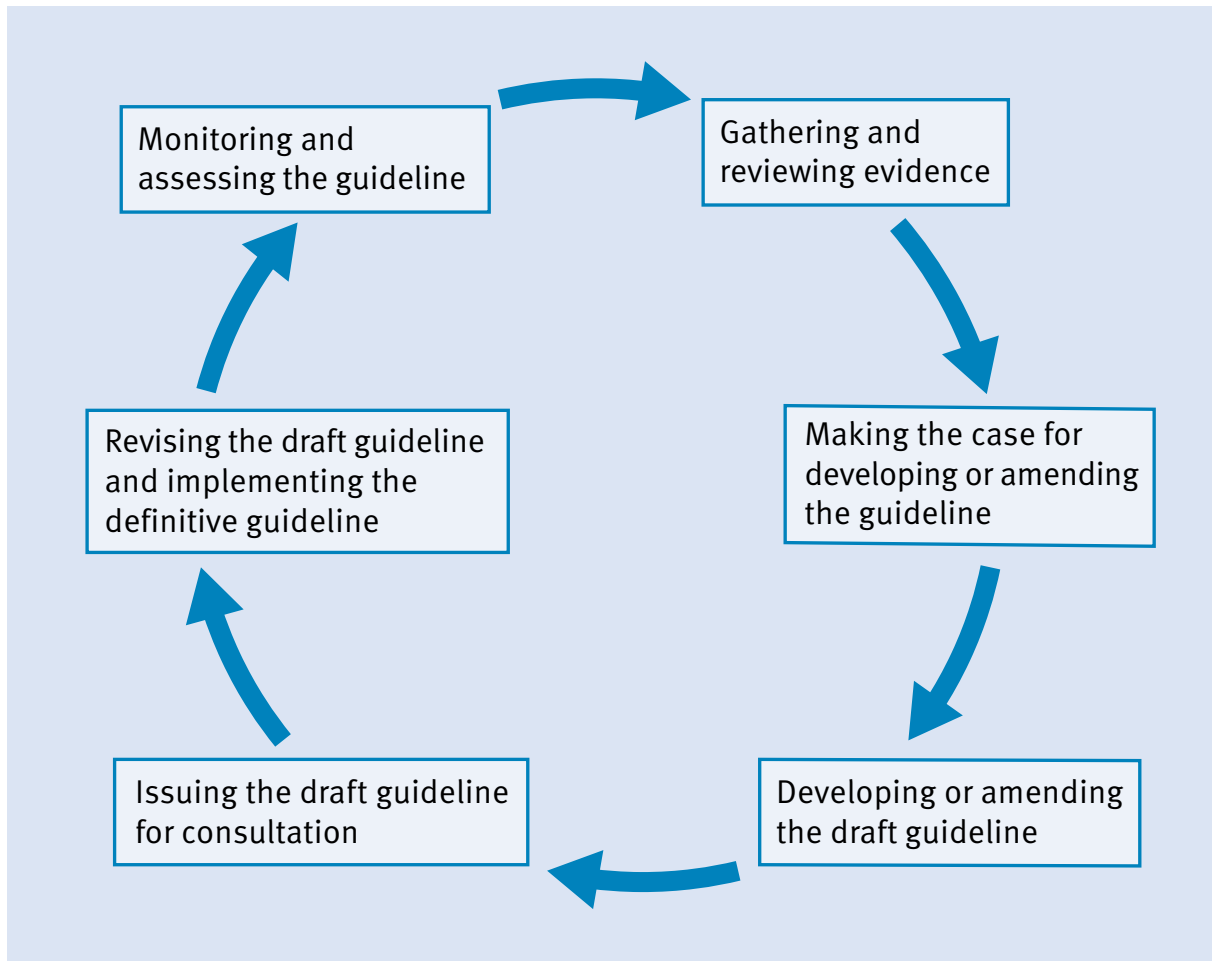
Guideline development

The Council approaches the delivery of our objectives by adopting a guideline delivery cycle that is based on the policy cycle set out by HM Treasury in the Green Book: Central Government Guidance on Appraisal and Evaluation (2022), published on GOV.UK, and allows a culture of continuous improvement to be embedded within the development process.

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, the process can be expedited. During this period, we will examine and discuss in fine detail all factors of the guidelines.

Figure 2 illustrates the guideline development cycle.

Figure 2



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 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 2023

Judicial members

Chairman: the Right Honourable Lord Justice William Davis, appointed as Chairman 1 August 2022

In order of appointment:

- The Right Honourable Lord Justice Tim Holroyde, 6 April 2015
- Her Honour Judge Rebecca Crane, 1 April 2017
- Her Honour Judge Rosa Dean, 6 April 2018

- The Honourable Mrs Justice Juliet May, 8 October 2020
- Jo King JP, 8 October 2020
- District Judge (Magistrates' Courts) Stephen Leake, 23 May 2022
- The Honourable Mr Justice Wall, 2 January 2023

Non-judicial members

In order of appointment:

- Beverley Thompson OBE, criminal justice system consultant and former Chief Executive Officer of Northampton Probation Service, 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
- Assistant Commissioner Nick Ephgrave, National Police Chief's Council (criminal justice portfolio), 26 May 2020

- Dr Elaine Freer, Fellow and College Teaching Officer in law, Robinson College, University of Cambridge, 1 July 2022
- Richard Wright KC, 1 August 2022

Register of members' interests

At 31 March 2023, two members of the Council had a personal or business interest to declare: a close family member of Jo King JP is a serving member of the Metropolitan Police; Dr Elaine Freer is a self-employed barrister and civilian volunteer at City of London Police mounted branch.



The Chairman and members at a meeting of the Sentencing Council, June 2023

Appendix C:

Sentencing guidelines production stages

*Activities conducted during the reporting year.

Guideline	Production stage	Timing
Animal cruelty	*Development	2021/22
	*Consultation	May to August 2022
	*Post-consultation	Published 15 May 2023 Came into effect 1 July 2023
	Evaluation and monitoring	
Arson and criminal damage	Development	Throughout 2016/17
	Consultation	March to June 2018
	Post-consultation	Published 3 July 2019 Came into effect 1 October 2019
	Evaluation and monitoring	

Guideline	Production stage	Timing
Assault and attempted murder	Development	Throughout 2018/19 and 2019/20
	Consultation	April to September 2020
	Post-consultation	Published 27 May 2021 Came into effect 1 July 2021
	Evaluation and monitoring	Data collection autumn 2022
Blackmail, kidnap, false imprisonment and threats to disclose private sexual images	*Development	Throughout 2022
	Consultation	
	Post-consultation	
	Evaluation and monitoring	
Bladed articles and offensive weapons	Development	Throughout 2015/16
	Consultation	October 2016 to January 2017
	Post-consultation	Published 1 March 2018 Came into effect 1 June 2018
	*Evaluation and monitoring	Data collection 2019. Evaluation in progress 2021/22 and 2022/23

Guideline	Production stage	Timing
Breach offences	Development	Throughout 2016/17
	Consultation	October 2016 to January 2017
	Post-consultation	Published 7 June 2018 Came into effect 1 October 2018
	*Evaluation and monitoring	Data collection 2019. Evaluation in progress 2021/22 and 2022/23
Burglary (revised)	Development	2020/2021
	Consultation	June to September 2021
	*Post-consultation	Published 19 May 2022 Came into effect 1 July 2022
	*Evaluation and monitoring	Data collection autumn 2022
Child cruelty	*Development	April to August 2022 Police, Crime, Sentencing and Courts (PCSC) Act came into force April 2022
	*Consultation	4 August 2022 to 27 October 2022
	*Post-consultation	Published 7 March 2023 Came into effect 1 April 2023
	Evaluation and monitoring	

Guideline	Production stage	Timing
Children and young people	Development	Throughout 2015/16
	Consultation	May to August 2016
	Post-consultation	Published 7 March 2017 Came into effect 1 June 2017
	Evaluation and monitoring	Published 17 November 2020
Dangerous dogs	Development	Throughout 2014/15
	Consultation	March to June 2015
	Post-consultation	Published 17 March 2016 Came into effect 1 July 2016
	Evaluation and monitoring	Published October 2020
Drug offences (revised)	Development	Assessment of original guidelines and interim guidance published June 2018
	Consultation	January to May 2020
	Post-consultation	Published 27 January 2021 Came into effect 1 April 2021
	Evaluation and monitoring	

Guideline	Production stage	Timing
Firearms	Development	Throughout 2018/19 and 2019/20
	Consultation	October 2019 to January 2020
	Post-consultation	Published 8 December 2020 Came into effect 1 January 2021
	Evaluation and monitoring	
Firearms importation	Development	2020/21
	Consultation	June to September 2021
	Post-consultation	Published 24 November 2021 Came into effect 1 January 2022
	Evaluation and monitoring	
General guidelines	Development	Throughout 2017/18 and 2018/19
	Consultation	June to September 2018
	Post-consultation	Published 24 July 2019 Came into effect 1 October 2019
	Evaluation and monitoring	

Guideline	Production stage	Timing
Health and safety offences, corporate manslaughter, and food safety and hygiene offences	Development	Throughout 2013/14
	Consultation	November 2014 to February 2015
	Post-consultation	Published 3 November 2015 Came into effect 1 February 2016
	Evaluation and monitoring	Guideline assessment published 4 April 2019
Immigration	*Development	From January 2023
	Consultation	
	Post-consultation	
	Evaluation and monitoring	
Imposition of community and custodial sentences (revision)*	*Development	From July 2022
	Consultation	
	Post-consultation	
	*Evaluation and monitoring	Evaluation of 2017 guideline published March 2023

Guideline	Production stage	Timing
Intimidatory offences	Development	Throughout 2016/17
	Consultation	March to June 2017
	Post-consultation	Published 5 July 2018 Came into effect 1 October 2018
	*Evaluation and monitoring	Data collection 2019. Evaluation in progress 2021/22 and 2022/23
Mental disorders, developmental disorders or neurological impairments	Development	Throughout 2018
	Consultation	April to July 2019
	Post-consultation	Published 21 July 2020 Came into effect 1 October 2020
	Evaluation and monitoring	
Modern slavery	Development	Throughout 2020/21
	Consultation	15 October 2020 to 15 January 2021
	Post-consultation	Published 12 August 2021 Came into effect 1 October 2021
	Evaluation and monitoring	

Guideline	Production stage	Timing
Motoring offences	*Development	2021-23 Police, Crime, Sentencing and Courts Act came into force April 2022
	*Consultation	7 July to 29 September 2022
	*Post-consultation	Published 15 June 2023 Came into effect 1 July 2023
	Evaluation and monitoring	
Perverting the course of justice and witness intimidation	*Development	2021/22
	*Consultation	March to June 2022
	*Post-consultation	To be published summer 2023
	Evaluation and monitoring	
Public order offences	Development	Throughout 2017/18
	Consultation	May to August 2018
	Post-consultation	Published 16 October 2019 Came into effect 1 January 2020
	Evaluation and monitoring	

Guideline	Production stage	Timing
Reduction in sentence for a guilty plea	Development	Throughout 2015/16
	Consultation	February to May 2016
	Post-consultation	Published 7 March 2017 Came into effect 1 June 2017
	Evaluation and monitoring	Published 17 November 2020
Sale of knives, etc to persons under 18	Development	2021/22
	*Consultation	1 June to 4 August 2022
	*Post-consultation	Published 15 February 2023 Came into effect 1 April 2023
	Evaluation and monitoring	
Sexual offences	Development	2020/21
	Consultation	May to August 2021
	*Post-consultation	Published 17 May 2022 Came into effect 31 May and 1 July 2022
	Evaluation and monitoring	

Guideline	Production stage	Timing
Terrorism	Development	From April 2019 Counter-Terrorism and Border Security Act 2019 came into force February 2019; Counter-Terrorism and Sentencing Act 2021 came into force April 2021
	Consultation	22 October 2019 to 3 December 2019 and 20 October 2021 to 11 January 2022
	*Post-consultation	Published 27 July 2022 Came into effect 1 October 2022
	Evaluation and monitoring	
Totality (revision)	Development	From September 2021
	*Consultation	5 October 2022 to 11 January 2023
	*Post-consultation	Published 31 May 2023 Came into effect 1 July 2023
	Evaluation and monitoring	
Unauthorised use of a trade mark	Development	2020
	Consultation	8 July 2020 to 30 September 2020
	Post-consultation	Published 5 August 2021 Came into effect 1 October 2021
	Evaluation and monitoring	

Guideline	Production stage	Timing
Vehicle taking (aggravated)	*Development	2021/22 and 2022/23
	Consultation	
	Post-consultation	
	Evaluation and monitoring	



Copies of this report may be downloaded from our website: www.sentencingcouncil.org.uk

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