

# Findings from user feedback survey

## Theft from a shop or stall data collection

### Contents

<b>Background</b>	<b>2</b>
<b>The survey</b>	<b>2</b>
<b>User feedback findings</b>	<b>3</b>
User overview	3
Format and documentation	3
Ethnicity	3
Court ID	4
Miscellaneous	4
<b>Conclusion and next steps</b>	<b>5</b>

## Background

In December 2020 the Council published, for the first time, data from its bespoke data collection exercises covering sentencing in the magistrates' courts. This initial publication covered the data collected to support the development and evaluation of the Theft from a shop or stall offences guideline, collected in two waves pre and post guideline implementation in 2015 and 2016. Further information regarding the sentencing data that were collected can be found on the theft data publication page of the website, here: <https://www.sentencingcouncil.org.uk/research-and-resources/data-collections/magistrates-courts-data-collections/theft-from-a-shop-or-stall/>.

The publication of the theft data was the first in a series covering the offence specific bespoke data collections which the Council has moved to undertaking since the end of the Crown Court Sentencing Survey (CCSS).<sup>1</sup> As such, it conducted a user feedback exercise alongside the publication, to gather the views of users on the format of the data in order to understand how publication of these bespoke data collections going forward can best suit user needs, while still complying with relevant legislation and protecting the identities of the individuals within the data.

The Council has responsibilities to follow the applicable data protection legislation<sup>2</sup> in its publications. This includes ensuring that individuals cannot be identified from any published data, particularly where sensitive information has been collected. In releasing the detailed sentencing data collected in magistrates' courts covering the offence of theft from a shop or stall, the Council undertook a risk assessment and put in place a number of disclosure control methods. These methods were implemented to manage the risks associated with publishing further detailed data regarding certain factors where we knew, from previous user engagement, that there was the demand.

For example, users of the CCSS previously expressed a need for data on specific sentence lengths (sentence lengths are banded within the published CCSS data). In the past, the Council has not been able to include this information within the datasets because it was considered that these may make it possible to identify an individual. However, on balance it was considered possible to release this level of detail for the theft from a shop or stall offence data, owing to the other measures that were put in place, including the suppression of volumes fewer than five for individual factors, and removal of the court location and sentencing date. For more details, please see the disclosure statement which was published alongside the theft from a shop or stall data.<sup>3</sup>

## The survey

Users were invited to give their views on the format and contents of the theft from a shop or stall data, so that the Council may better understand how it can meet users'

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<sup>1</sup> For more information about the CCSS, see <https://www.sentencingcouncil.org.uk/research-and-resources/data-collections/crowncourt-sentencing-survey/>

<sup>2</sup> This includes the Data Protection Act 2018 (which enacted the EU General Data Protection Regulation) and the Environmental Information Regulations 2004.

<sup>3</sup> <https://www.sentencingcouncil.org.uk/wp-content/uploads/Disclosure-Statement-Theft-from-a-shop-or-stall-data.pdf>

needs for future datasets of this type. In particular, the Council was interested in understanding how users would prioritise the publication of some pieces of information over others, especially considering the need to assess the risks around data protection and the requirement to ensure that individuals cannot be identified.

The survey asked users: which variables were found to be the most and least useful; opinions on the binary classification format of certain factors (i.e., using 1 and 0 rather than the factor name); to what extent the supporting documents such as the metadata and disclosure statement were found to be useful; and whether there was any other detail from the data regarding the sentencing process that users would want to see detail on. Users were also able to volunteer what the purpose would be of them using the theft from a shop or stall data, to indicate what “audience” best described them as a user and to provide contact details if they were happy to discuss their response in more detail or be updated regarding future data publications.

## User feedback findings

The survey was hosted online on a survey platform for three months between December 2020 and March 2021. During this time, the Council advertised the survey several times via its Twitter platform, via a blog and news item on its website and via several emails to groups that had previously shown interest in the Council’s data. In total, four responses were received. Some of the main themes arising from the responses have been set out below.

### User overview

Of the respondents, three self-categorised themselves as academics and one respondent indicated that they were a PhD candidate or student.

### Format and documentation

Respondents reported finding all the variables in the datasets useful and there were no variables that were reported as less useful. The binary format of the aggravating and mitigating factors using 1 and 0 rather than the factor name was well received and preferred over the previous format of the CCSS published data. The supporting documents were also received positively, with users finding the metadata document in particular very useful for understanding the data.

### Ethnicity

The desire to know the ethnicity of the offenders in the published theft from a shop or stall data was mentioned in three of the responses. Users emphasised that this variable was extremely important to examine the presence of potential disparities in sentencing. The Council is in agreement about the importance of this variable and the need to undertake more analysis in this area; exploring any potential disparities in sentencing outcomes relating to ethnicity is a high priority in its work and one of its five objectives in its 2021-2026 strategic objectives has been dedicated to relevant issues of equality and diversity. However, offender ethnicity was not something that was collected on the data collection forms, in part due to the desire to keep the forms as straightforward as possible.

Sentencers were instead asked to fill out the case reference number, which could in theory allow the survey data to be manually linked to the relevant sentencing record in the Court Proceedings Database (CPD).<sup>4</sup> A similar data linking exercise was undertaken with the CCSS data on drug offences<sup>5</sup> to support the Council's guideline development of revisions to its drug offences guideline and followed on from Ministry of Justice analysis<sup>6</sup> that was drawn on as part of the Lammy Review of Black, Asian and Minority Ethnic representation in the Criminal Justice System,<sup>7</sup> which suggested disparities in sentencing for drug offences for offenders of different ethnicities. Considering resource constraints within the team, the resource-intensive nature of this analysis and given that the theft guidelines are not currently being revised, this manual data linking has not yet been undertaken with the theft data but remains a possibility in the future if resources allow and the need is there.

## Court ID

When deciding what level of detail to publish for the variables in the raw dataset, the benefits and risks were balanced with the requirement to prevent identification of individuals or the publication of additional knowledge of previously unknown characteristics for the offenders. In order to permit certain detailed sentencing data such as the sentence length of custodial and suspended sentences to be published, this meant that the court location variable needed to be suppressed.

We received feedback explaining that including a court ID, even an anonymised one, would allow users to conduct certain types of analysis that would not be possible otherwise and to examine the presence of disparities in sentencing across different areas. This suggestion was presented to the Analysis and Research Subgroup of the Council, in the context of wider work regarding the Council's statutory obligation to consider publishing information regarding local justice areas and Crown Court locations. Following the Council's update on this,<sup>8</sup> in relation to progress against its strategic objectives, any consideration of publishing data including court location, anonymised or otherwise will be revisited in late 2023.

## Miscellaneous

One respondent requested the pre-sentence decisions that were made, especially those regarding bail. They also requested data regarding the other offences and sentences in multiple-offence cases. Neither of these pieces of information were collected as part of the theft from a shop or stall data collection, or any of the other more recent data collections that have now been conducted, since the Council's data collections only focus on the point of sentencing and the process of using the

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<sup>4</sup> This dataset is maintained by the Ministry of Justice and contains detailed sentencing data which is used to produce the quarterly Criminal Justice Statistics publication:

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

<sup>5</sup> <https://www.sentencingcouncil.org.uk/publications/item/investigating-the-association-between-an-offenders-sex-and-ethnicity-and-the-sentence-imposed-at-the-crown-court-for-drug-offences/>

<sup>6</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/568896/associations-between-ethnic-background-being-sentenced-to-prison-in-the-crown-court-in-england-and-wales-2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/568896/associations-between-ethnic-background-being-sentenced-to-prison-in-the-crown-court-in-england-and-wales-2015.pdf)

<sup>7</sup> The Lammy Review, chaired by David Lammy MP, is an independent review of the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System (CJS). More information can be found here: <https://www.gov.uk/government/organisations/lammy-review>.

<sup>8</sup> <https://www.sentencingcouncil.org.uk/wp-content/uploads/Local-area-duty-note-final.pdf>

sentencing guidelines, as opposed to anything that occurs pre-sentencing. The CCSS did collect information on multiple offences (sentencers were asked to indicate whether they were sentencing a single offence or multiple offences), and data on this were published in the CCSS datasets covering offenders sentenced in January to March 2015. However, without further details of the type and nature of any other offences sentenced, the sentences imposed and the way (if at all) the sentences were adjusted to account for the other offences, data on whether or not a sentencer was sentencing multiple offences can be very misleading. This is a complex area and on reflection, the Council does not think a simple indicator like this is a useful or meaningful tool for analysing sentencing practice for multiple offences. Nevertheless, the Council will continue to consider, for each new data collection, what types of information would be most useful and relevant, and collect additional data as appropriate. The Totality guideline, which provides guidance on how to sentence multiple offences, is also currently being revised. This work may help to provide further insight into sentencing on the topic of multiple offences.

## Conclusion and next steps

The Council is very appreciative of all those who took time to respond to this user feedback exercise. It is reassured that the data it publishes are of use to users and contain the most important variables needed to further analysis in this area.

The Council recognises the continued importance of considering the evidence of potential disparities in sentencing outcomes for different ethnicities and so has taken the decision to return to asking sentencers to provide the case reference number for the upcoming data collection, which will take place in Autumn 2022.<sup>9</sup> This will give the Council the option to link to CPD sentencing data containing the offender's self-identified ethnicity in the future, for the offences covered by this data collection and, where possible, permit further work in this important area.

Additionally, in this data collection the Council will consider if it is appropriate to include any questions regarding multiple offences, to support the ongoing revisions to the Totality guideline, which may be of interest to users.

Lastly, the Council will revisit the decision regarding publishing court ID information in the context of wider work relating to its statutory obligation on local area data as part of the Sentencing Council's strategic objectives for 2021-2026.

We'd like to thank everyone who provided responses. We continue to encourage users to get in touch via the following email address with any further thoughts or concerns, should they have them: [research@sentencingcouncil.gov.uk](mailto:research@sentencingcouncil.gov.uk)

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<sup>9</sup> From November 2017 onwards, this information was no longer requested on data collection forms, to reduce burden on sentencers and court staff.