

**General Guideline and
Expanded Explanations**
Response to consultation

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Foreword



On behalf of the Sentencing Council I would like to thank all those who responded to the two consultations that have led to the publication of the General guideline and the expanded explanations in offence specific guidelines. I am also grateful to those judges and magistrates who took part in the research exercise undertaken to test and inform the development of the General guideline.

This was a somewhat different exercise to other consultations, in that the Council consulted in two stages and the responses to the first consultation informed the content of the second consultation. The result is that in finalising the definitive version of the General guideline and the expanded explanations the Council has had the benefit of a wide range of views from consultees and has made a number of changes to the draft versions. The detail of those changes is set out within this document. The expanded explanations consultation also sought views on some wider issues relating to the presentation and content of existing guidelines and the responses to these aspects of the consultation were also very valuable.

For example, several respondents raised the importance of ensuring that offenders understand the language used in court. In response to this and other issues, the Council decided to include a link to the Equal Treatment Bench Book (ETBB) at the top of all sentencing guidelines. The ETBB contains extensive information and practical advice which helps to ensure that there is fairness for all involved in court proceedings

The publication of the General guideline and expanded explanations marks an important change in the way sentencing guidelines are accessed and used in England and Wales. Since November 2018 sentencing guidelines have been published in digital format on the Sentencing Council website and now expanded explanations are embedded in all offence specific guidelines and in the General guideline. This provides additional information to assist sentencers and to improve transparency for all users of guidelines as well as for the public and any interested parties. It also means that existing printed versions of the guidelines, or their 'PDF' equivalent, will no longer be fully complete without the additional information found in the expanded explanations, which will only be available in digital form. Once the General guideline and expanded explanations are in force on 1 October 2019, old paper and PDF versions of the guidelines will therefore be obsolete.

Lord Justice Holroyde
Chairman, Sentencing Council

Introduction

Background

The Sentencing Council's predecessor body, the Sentencing Guidelines Council (SGC), published its *Overarching Principles: Seriousness* guideline in 2004.¹ It is in force until 1 October 2019, although parts of it were superseded earlier.

The SGC *Seriousness* guideline set out the statutory provisions governing the five purposes of sentencing and the assessment of culpability and harm as set out in the Criminal Justice Act 2003. It gave guidance on the assessment of harm and culpability and listed factors that indicate an increase or decrease in harm or culpability.

It also gave guidance on reductions for a guilty plea (superseded by the *Reduction in Sentence for a Guilty Plea Definitive Guideline*), the custody and community sentence thresholds (superseded by the *Imposition of Community and Custodial Sentences Definitive Guideline*) and prevalence.

Until its withdrawal on 1 October 2019 the SGC *Seriousness* guideline is still relevant in two ways:

1. Providing information when sentencing offences for which there is no offence specific guideline; and
2. Providing context for factors used in sentencing whether or not a guideline is available.

The Council took the decision to replace the SGC *Seriousness* guideline and to use this as an opportunity to address some of the issues raised in Professor Bottoms' review of the work of the Council,^{2 3} in particular to provide more guidance on aggravating and mitigating factors to help sentencers' understanding of the guidelines and to increase transparency.

Consultations

In order to make the project manageable the replacement of the *Seriousness* guideline was undertaken in two stages:

1. From June to September 2018 the Council consulted on a *General* guideline for use where there is no offence specific guideline. That guideline included expanded explanations for factors that are commonly found in guidelines.
2. From February to May 2019 the Council consulted on providing expanded explanations in all existing Sentencing Council offence specific guidelines.

¹ https://www.sentencingcouncil.org.uk/wp-content/uploads/web_seriousness_guideline.pdf

² <https://www.sentencingcouncil.org.uk/wp-content/uploads/SCReport.FINAL-Version-for-Publication-April-2018.pdf>

³ <https://www.sentencingcouncil.org.uk/wp-content/uploads/Response-to-Sentencing-Council-review-FINAL-April-2018.pdf>

Summary of analysis and research

In 2018, 1,172,456 offenders were sentenced in adult criminal courts in England and Wales, and of those, 68,356 were sentenced at the Crown Court. Approximately 85 per cent⁴ of offenders sentenced at all courts were sentenced for a principal offence that was covered by an offence specific sentencing guideline that has either already been published, is in force, or is currently in development. The expanded explanations in offence specific sentencing guidelines will apply to these offenders. The *General* guideline covers the remaining 15 per cent of offenders, where the offender is being sentenced for an offence for which there is no offence specific guideline.

During the consultation stage of guideline development, qualitative research was carried out to help gauge how the *General* guideline might work in practice.

Research interviews were conducted with 22 magistrates and District Judges (Magistrates' Court). Of those about half found the guideline helpful. Those who did not consider it helpful found the guideline difficult to navigate, the text dense, and wanted more direction on sentence levels. In research, there was a clear appetite for a harm table similar to the table for culpability, and this was added to the guideline as a consequence.

It may be that some of the difficulties experienced by users were due to the unfamiliarity of the format, the concentration of the information and the fact that in any given case much of the information would be irrelevant.

The Council noted these findings and technical issues relating to the accessibility and presentation of the guideline were addressed. The Council is confident that the problem of unfamiliarity will naturally resolve itself as users become accustomed to the format across all guidelines. The Council has produced a short video to assist users become familiar with the *General* guideline and how to access the expanded explanations within guidelines.

The reported problem of the density and irrelevance of parts of the information in any given case was more difficult to address. Suggestions made in response to the consultations all involved adding rather than subtracting information. However, the Council has endeavoured to ensure that the information in the *General* guideline and expanded explanations is as clear and concise as possible. The Council has worked with the Judicial College to produce training scenarios to illustrate how the *General* guideline could be used in practice. Other points raised in research interviews are addressed in the consideration of individual factors below.

⁴ This is an approximate figure based on the data available, rounded to the nearest five percent. This includes all Sentencing Council offence specific guidelines, plus guidance issued by the Sentencing Council (e.g. for sentencing drug driving offences), murder (for which sentencing is set out in statute) and magistrates' court fine and discharge guidance produced by the Sentencing Guidelines Council but which has been adopted by the Sentencing Council (which can be seen here: <https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/offences-appropriate-for-imposition-of-fine-or-discharge/>). Other offences covered by Sentencing Guidelines Council guidelines that have not yet been replaced by SC guidelines have not been included, but these are low volume relative to those that have been covered and so are unlikely to affect the proportion.

Summary of responses

There were 28 responses to the *General* guideline consultation and 37 responses to the expanded explanations consultation. Many of the responses were from groups or organisations, though some were from individuals.

Breakdown of respondents

Type of respondent	Number of responses – <i>General</i> guideline	Number of responses – expanded explanations
Academic		5
Charity	5	6
Government/ Select committee	2	2
Judiciary	2	4
Legal professional	4	5
Magistrate	4	8
Member of the public	4	3
Police/ Police and Crime Commissioner	1	1
Prosecutor	3	2
Public Sector	1	
Trade organisation	2	
Victims' representative		1

Overview

The *General* guideline consultation responses were broadly supportive of the guideline but there were suggestions for changes and some concerns expressed about the extent to which it would assist sentencers.

The expanded explanations were also widely welcomed but with suggestions for improvements and some dissenting voices questioning the concept of embedding explanations within guidelines.

The issues and changes from both consultations are considered in detail below.

General guideline

Applicability

The Council consulted on the basis that the *General* guideline would be applicable to sentencing adults and organisations. Following consultation the Council looked again at the position and confirmed that the *General* guideline would not apply to under 18s. Sentencers are referred to the [Overarching Principles – Sentencing Children and Young People](#) which sets out the different considerations and statutory framework that apply when sentencing under 18s.

Step One

General guidance

Several respondents asked for greater clarification of how courts would identify analogous cases and take account of any differences in the statutory maximum between offences. The Council agreed with the suggestion from the South East London Magistrates' Bench that the parties should assist the court in this regard and has added a line to the guideline to that effect. The Council also adopted the Birmingham Law Society suggestion that the guideline should state that making adjustments to guidelines for analogous offences should not be merely an arithmetical exercise. Concerns were raised by some respondents (including the Insolvency Service and Residential Landlords Association) that analogous guidelines would be applied without due regard to the differences in the offences. The Council strengthened the injunction to make adjustments by requiring sentencers to apply any analogous guidelines carefully.

By making these small additions to the guideline the Council aims to ensure that courts gain assistance from relevant analogous guidelines but do not place too much reliance on them.

The Howard League and other respondents requested more information on the purposes of sentencing and suggested that the guideline should provide information on the effectiveness of different types of sentence. The Justice Committee supported this view. The Council considered these suggestions carefully but felt that, as the primary purpose of guidelines is to provide practical assistance to sentencers, it was not possible to provide anything further that would give useful practical guidance of general application.

Harm and culpability

There were a number of suggestions from respondents as to how the guidance could be improved. Transition to Adulthood (T2A) and the Howard League suggested that age/lack of maturity linked to the commission of the offence should be included at step one and a link made between reckless behaviour and immaturity. The Magistrates' Association (MA) noted that some of the aggravating and mitigating factors that follow at step two would more usually be considered at step one. WWF suggested that factors relating to role, planning, organisation etc should be considered in relation to culpability.

The Council noted that the expanded explanation already states that 'Culpability is assessed with reference to the offender's role, level of intention and/or premeditation and

the extent and sophistication of planning'. The Council considered that while it is clearly the case that many of the factors (and their expanded explanations) in step two in the *General* guideline are likely to be relevant at some time in individual cases at step one, the unspecific nature of the guideline means that it is impossible to identify which should be explicitly referenced at step one. Additional text has been added to clarify that courts should take into account the offender's circumstances in the assessment of culpability.

The Crown Prosecution Service (CPS) suggested that harm should be defined in accordance with the statutory language: 'any harm which the offence caused, was intended to cause or might foreseeably have caused'. The Council agreed with this and has changed the wording of the harm explanation accordingly.

Other respondents made suggestions for adding other examples to the harm explanation such as loss of a home or cruelty suffered by animals. The Council considered that the wording of the explanation was sufficiently wide to cover these examples. Several respondents suggested making reference to other impact statements to ensure that harm is properly assessed for those offences where there is not an identifiable individual victim. The Council agreed with this suggestion and added references to other impact statements.

The Birmingham Law Society noted that there was no instruction to balance considerations of harm as there was with culpability. The Department of Health and Social Care suggested that examples of the range of levels harm should be provided (as has been done with culpability). This was also a strong finding from the research with sentencers. The Council agreed with these suggestions and has added an instruction to balance the harm characteristics and a table to illustrate the range of harm that may apply.

Step two

Information on fixed penalty notices

This information was welcomed as useful by respondents to the consultation. The Chief Magistrate and the Justices' Clerks' Society (JCS) suggested the inclusion of a statement that sometimes a fine resulting from a sentencing process may be lower than the fixed penalty. The Council agreed and has made that addition.

Information on fines, community orders and custodial sentences

The information included in the 'drop down' boxes on fines, community orders and custodial sentences was not the subject of a consultation question as part of the *General* guideline consultation as it was standard information already provided in all guidelines (where relevant). However, there were suggestions from respondents that the information should be extended to include all the relevant information from the *Imposition of Community and Custodial Sentences Definitive Guideline*. The Council agreed with this suggestion and the later consultation on the expanded explanations included the fuller information. See further page 12 below.

Aggravating and mitigating factors

There were many useful suggestions by respondents to the *General* guideline consultation for changes to aggravating and mitigating factors which were adopted for the consultation on the expanded explanations and details are given in that section below. One such change (supported by the Justice Committee) was to include wording relating to double counting in every expanded explanation.

Expanded explanations

The proposed expanded explanations at step two of all offence guidelines which were consulted on in early 2019, included many of the suggestions for changes that had been made by respondents to the *General* guideline. The final version of these expanded explanations therefore has had the benefit of being scrutinised twice by respondents.

Overall considerations

The following pages set out in some detail the points raised in consultation responses and the Council's reaction to those points. It should be noted that respondents often made comments about the presence of the factors themselves in offence specific guidelines rather than the content of the explanations. The Council was not consulting on whether factors in individual guidelines should be added, removed or re-phrased – the consultation on the expanded explanations was only concerned with the provision and content of the additional information.

Embedding expanded explanations

As well as seeking views on the detail of each expanded explanation, the Council consulted on the concept of providing expanded explanations in existing guidelines. The majority of respondents welcomed the concept of expanded explanations. As can be seen from this sample of comments some respondents expressed concern that embedding expanded explanations was unhelpful and would slow down the process of sentencing while most felt that having all the information readily available would be useful:

I am very much in favour of the development of expanded explanations, along the lines that the Council describes in this consultation document. The concept of providing this additional information strikes me as right in principle, insofar as it contributes to consistency of approach and to transparency, as well as taking advantage of the online format of the guidelines to improve ease of access. *Professor Andrew Ashworth*

I am supportive of the objectives of this consultation to improve consistency and clarity of sentencing decisions and to improve transparency for victims. *Victims' Commissioner*

We support the proposal to embed additional information into offence specific sentencing guidelines, and agree that this will make it easier for sentencers and practitioners alike to access the relevant information. *Law Society*

As to the concept, we are supportive of the overall aim of this project, which is to "*provide easy access to relevant information without interfering with the ability of the court to sentence appropriately on the facts of the case before it.*" While the existing sentencing guidelines already provide a considerable degree of clarity, any increase in the ability of court users and the general public to understand the basis upon which those convicted are sentenced is to be welcomed. *Bar Council*

Keep this excellent additional material as training and out-of-court guidance, and do not add yet more verbiage to the guidelines used in open court on the bench. Pressure of case

turnover will mean that it does not get read in any case, during the course of a hearing.
Magistrate

Inevitably our responses reflect our position as professional sentencers in the Crown Court. We appreciate the proposed expanded explanations are for wider professional and public consumption. There may be tension between those perspectives which is not necessarily easy to reconcile. Nonetheless we take the view that guidelines hitherto have largely succeeded in achieving that. We respectfully question whether these proposed guidelines, with some exceptions, will do the same. *Council of HM Circuit Judges*

The CLSA would be grateful if the Council would consider the need for certainty and clarity as opposed to constantly changing and reviewing best practise. Perhaps more training for the Judiciary as to what is expected of them when sentencing is considered, as opposed to tinkering around the edges, may be more appropriate. *CLSA*

The Council recognised the legitimate concerns of those who questioned the merit of adding to the extensive material that sentencers must follow in sentencing. The Council noted that the expanded explanations represented best practice and drew together information that sentencers should already be considering and so as such should save time rather than cause delay.

The General guideline as an overarching guideline

The expanded explanations consultation sought views on whether the *General* guideline should be available as an overarching guideline that court can refer to when sentencing any offence. The consultation document set out some of the advantages and disadvantages of doing so:

The advantages of the explanations having wider application could include:

- Greater consistency in how factors are taken into account
- Greater transparency of how factors are taken into account
- A single point of reference for a wide range of issues, replacing and updating the *Seriousness* guideline.

The disadvantages could include:

- Possibility of irrelevant issues being brought into the sentencing process
- The particular considerations of individual offences being obscured by the application of non-specific guidance
- An increasing complication of the sentencing process.

There was a mixed response to this question but with the majority in favour of treating the *General* guideline as an overarching guideline as illustrated by these responses:

This requires a balancing exercise and on balance this seems to be a sensible proposal ensuring that sentencers are lent the maximum possible assistance and guidance from the guidelines. The concern about over-complication is not a trivial concern and guidance to sentencers should be as simple as possible, as clear as possible and, as much as possible, in one place.

Provided that sentencers are able to link through to the General guidelines as an overarching guideline then the virtues of designating the guideline as overarching will not be obscured. *CBA*

No objection to creating an overarching guideline to which sentencers can refer at their discretion. However in reality, whilst often working under time pressure, sentencers will tend to consider the factors listed in the offence specific guideline only. *West Sussex Bench*

We agree that all Annex A factors should be included within the General guideline. Inclusion of all factors under each offence specific guideline may be impractical and risk omission to a specific guideline, where individual circumstances of case concern this factor. The Step 2 factors are a non-exhaustive list. We would observe that sentencers should not need to refer to the factors within the General guideline and should be reminded of this to ensure that there is no increase in the complexity of the sentencing process. *JCS*

We believe that it would be best as an overarching guideline, for those offences with an offence-specific guideline. This is because this will improve consistency and ensure that the information is readily available for sentencers, who can be relied upon to only take account of relevant factors. As all guidelines will be accessed digitally via iPads, this will make it easier to move between different guidelines or pages. *MA*

The General guideline *should* be treated as an overarching guideline. One possible cause of inconsistency in sentencing, despite the existence of offence-specific guidelines, is that factors that are relevant to sentencing are interpreted differently by different courts. Two courts may be applying the same guideline and applying the same factors but, if they are interpreting those factors differently, they are likely to reach different sentences. *Law Society*

We agree that this document should be treated as an overarching guideline. *Justice Committee*

We take the view the disadvantages outweigh the benefits. In particular, the sentencing process, already complicated, will become more so. *Council of HM Circuit Judges*

The CLSA always endorses the need to review the way in which the sentencing exercise is carried out. However, there is a need for certainty and clarity, and guidelines are just that, "Guidelines". The risk of making sentencing a less scientific, and based on the risk of irrelevant issues being brought into play concerns practitioners at every level. Sentencing should carry certainty at every level, overcomplicating the process makes certainty less likely. Too many subjective factors are at play. Personal mitigation can address the need for the Court to consider the appropriate sentence for the defendant, however, if too many factors come into play, the likelihood of uncertainty and abuse of the appeal process is all but inevitable. *CLSA*

The Council considered that as the SGC *Seriousness* guideline (which is an overarching guideline) was to be withdrawn, the relevant information that it contained would need to be provided elsewhere. The *General* guideline updates and replaces the *Seriousness* guideline in a format that is easier to access. The Council decided that the *General* guideline should be made available as an overarching guideline and that the following wording should be used to indicate the purposes of the guideline:

- For sentencing offences for which there is no offence specific sentencing guideline, and
- For use in conjunction with offence specific sentencing guidelines

Fines, community orders and custodial sentences

The consultation asked for views on the proposals to include additional material on community and custodial sentences in the drop down boxes in each guideline. This information is all taken from the *Imposition of Community and Custodial Sentences Definitive Guideline*. Respondents agreed that it was useful to include this information. The only change that the Council was proposing to make was to add a link to any future official guidance on when ordering a pre-sentence report (PSR) would (or would not) be necessary. Respondents agreed that such information would be useful and that a link should be added. At present, no such additional guidance has been produced; were such guidance to become available, the link will be added.

Several respondents made suggestions for changes to the information taken from the *Imposition* guideline. Consideration of any such changes was outside the scope of this consultation.

Fines

Respondents to the *General* guideline suggested that more information on the imposition of fines should be included in the relevant aggravating factors (such as 'Commission of the offence for financial gain' or 'High level of profit from the offence'). The Council agreed that more information would be of assistance to sentencers but felt that the more useful place to provide it would be in the fines drop down box.

This approach was consulted on as part of the expanded explanations and was supported by respondents, who also made suggestions for changes. Release (a charity with expertise on drugs and drugs law) pointed out that the guidance did not explicitly include a requirement to have regard to the seriousness of the offence and the circumstances of the offender. The Council agreed that this was an omission and has added the following to ensure that the basic principles of setting a fine are not overlooked:

The court should determine the appropriate level of fine in accordance with this guideline and section 164 of the Criminal Justice Act 2003, which requires that the fine must reflect the seriousness of the offence and that the court must take into account the financial circumstances of the offender.

Release were also concerned about the possibility of double recovery and the Council agreed to add a reminder to avoid double recovery in considering economic benefit.

The Criminal Law Solicitors' Association (CLSA) were concerned that the guidance could have a disproportionate impact on organisations and their ability to continue functioning without the loss of employment. The Council agreed to add the following:

The court should ensure that the effect of the fine (particularly if it will result in closure of the business) is proportionate to the gravity of the offence.

Statutory aggravating factors

Previous convictions

Most respondents agreed with the expanded explanation for previous convictions and any criticism related to whether it was necessary to tell sentencers what they already know. There were a number of suggestions for additions to the expanded explanation. These included being more specific about what is meant by 'particularly old' or 'significant gap'.

The Council considered these suggestions but, on balance, felt that the dangers of being too prescriptive outweighed the benefits of greater certainty.

There was a request to cross-reference the previous convictions guidance to certain mitigating factors (such as age and/or lack of maturity and mental disorder or learning disability) and to include more detail on offenders with drug addiction or mental health conditions. The Council felt that to do so would overcomplicate the explanation particularly as there are mitigating factors that relate to these issues. As previous convictions apply to every guideline, adding references to mitigating factors would not be targeted to the case before the court and would make the already extensive explanation longer and consequently less likely to be read.

Some respondents noted that the proposed guidance did not go as far as the guidance contained in some offence guidelines about suitable alternatives to custody for offenders with underlying problems relating to drug or alcohol misuse. The Council concluded that as the expanded explanations would be in addition to, not in place of, existing guidance this was not an issue.

There was also a suggestion from the Prison Reform Trust (PRT) that the explanation should link to the Ministry of Justice research on the effectiveness of community orders and short sentences. The Council considered that a link to a research report would not be appropriate in practical guidance for use in court.

Other statutory aggravating factors

The expanded explanations for the other statutory aggravating factors were broadly supported by respondents and no changes have been made to the wording in the version consulted on in the expanded explanations consultation.

Other aggravating factors

Commission of the offence whilst under the influence of drink or drugs

Dr Carly Lightowlers made detailed observations on this factor and made a number of requests for clarification of the explanation. The PRT and Release were concerned that the explanation failed to take into account the difficulties that offenders may have in accessing services to address mental health issues and related substance misuse.

Most practitioners who commented on this factor, found the explanation useful and the Council was concerned not to overcomplicate the explanation and make it of less practical use.

However, the Council agreed that some of the suggestions by respondents should be incorporated in to the explanation. To make it clear that no distinction is made between legal or illegal intoxicants the following point has been added:

This applies regardless of whether the offender is under the influence of legal or illegal substance(s).

To address the issue that offenders may not have had access to assistance to address addiction the words 'which has been offered or made available' have been added to make it clear that it is only assistance that has actually, as opposed to theoretically, been made available that should be considered:

In the case of a person addicted to drugs or alcohol the intoxication may be considered not to be voluntary, but the court should have regard to the extent to which the offender has sought help or engaged with any assistance which has been offered or made available in dealing with the addiction.

Offence was committed as part of a group

The explanation for this factor was amended after the *General* guideline consultation to take account of the role of the offender. In the later consultation the PRT and Release both suggested that explicit reference should be made to the possibility of exploitation of group members. The Council agreed that this could be a relevant consideration and has added the following to the explanation for this factor:

Courts should be alert to factors that suggest that an offender may have been the subject of coercion, intimidation or exploitation (including as a result of domestic abuse, trafficking or modern slavery) which the offender may find difficult to articulate, and where appropriate ask for this to be addressed in a PSR.

Offence involved use or threat of use of a weapon

At the suggestion of the CLSA this explanation was amended after the *General* guideline consultation to refer to whether the offender brought the weapon to the scene. Most respondents to the later consultation, who commented on this factor agreed with the explanation, but the MA commented: 'we do not feel the explanation will be that helpful in relation to this factor which is often a difficult one for sentencers to negotiate'. The Council considered whether the explanation could be improved, while still retaining its general application.

The Council considered and rejected the idea that further examples should be given as to what form a weapon could take, preferring to draw attention to the relevant considerations which will impact on the sentence. For that reason the Council decided to remove the reference to a 'shod foot' which was given undue prominence by being the only example given in the explanation.

Several respondents (including T2A, CPS and the Council of HM Circuit Judges) welcomed the cross-reference to the mitigating factor of age and lack of maturity in some aggravating factors but questioned why it was not mentioned in others. The Council agreed that it was equally relevant to several other factors including this one and has added it where it is likely to be relevant.

Planning of an offence

In response to the *General* guideline consultation, reference was added to planning being inferred from the scale and sophistication of the offending. In the later consultation the West London Bench suggested that reference could also be made to the role of the offender. The Council agreed and has added wording to this effect. The Insolvency Service asked that reference be made to planning being inferred from the length of time over which the offending was committed. The JCS suggested that planning could be inferred from the commission of more than one offence in a short period. The Council considered these suggestions but decided that the reference to 'scale and sophistication' was sufficiently broad to cover these situations.

Commission of the offence for financial gain

High level of profit from the offence

'Failing to disclose relevant matters to an authority or regulator' was added to the examples in the explanation for 'commission of the offence for financial gain' following suggestions from Link in response to the *General* guideline consultation.

Several respondents to the expanded explanations consultation noted the similarity between these two factors and queried why both were included. It should be noted that 'high level of profit from the offence' does not appear in any offence specific guidelines and was included in the later consultation only because it is in the *General* guideline. The Insolvency Service which prosecutes offences many of which are not currently covered by offence specific guidelines was supportive of the explanations for both factors but asked for guidance as to what would be considered a high level of profit. They suggested this could be related to a percentage of legitimate income/ profit where offending is in a commercial context. The Council considered that it would not be possible to provide a useful definition that would be applicable to all cases.

As noted above (page 12) the information on financial penalties that was included in these explanations as part of the *General* guideline consultation has been moved to the fines drop down box.

Abuse of trust or dominant position

The explanation for this factor was widely welcomed by respondents. The Council noted that the version consulted on did not readily apply where the abuse of trust does not relate to the relationship between the offender and the victim. The Council therefore decided to add the following point to the explanation:

Additionally an offence may be made more serious where an offender has abused their position to facilitate and/or conceal offending.

The Council also decided to add 'employer and employee' to the non-exhaustive list of examples and to reorder the points in the explanation for clarity.

Gratuitous degradation of victim / maximising distress to victim

Several respondents made suggestions for additional examples of behaviour that would come within this factor. The Council felt that the difficulty with these suggestions was that they were unlikely to be of general application and/or they were covered by specific step one factors in the relevant guidelines. A slight change of wording was made in relation to where such behaviour results in separate charges.

The Council agreed with those respondents who suggested that a cross-reference to the age and/or lack of maturity mitigating factor would be a relevant addition to this explanation.

Vulnerable victim

The Council considered a suggestion that the explanation should set out circumstances where a victim would not be considered vulnerable. The Council considered that the explanation as worded serves to guard against applying vulnerability too widely or giving inappropriate weight to it, and therefore no changes were made.

Victim was providing a public service or performing a public duty at the time of the offence

The CPS and MoJ suggested that the explanation should explicitly reference those participating in the democratic process by adding “or was engaging in the democratic process, or was targeted because of that engagement” to the current wording. The West London Bench asked for examples of public facing roles and suggested ‘jobs such as: Public Transport Driver or Conductor (or similar, like Ticket Inspector); Traffic Warden; Taxi Driver; Postman; Bank Clerk / Teller; DWP Administrative Assistant / Clerk; Refuse Disposal Operative; Meter Reader; Airline Employees such as Check-In staff or Cabin Crew’. The JCS suggested ‘that the guideline should highlight that the public facing service is key rather than whether the victim is privately or publicly employed e.g. a security guard.’ Similarly the PRT called for greater clarification as to whether the factor applies to victims in public facing roles more generally (which would include shop staff) or only to those in public sector roles to ensure consistency.

To address these suggestions the Council decided to change the reference to ‘working for the public good’ to ‘working in the public interest’ which would broaden the application of this factor. The Council considered that the provision of extensive examples would be unhelpful, but that it would be useful to clarify that the victim does not need to be a public employee for this factor to apply and decided to add the following:

This applies whether the victim is a public or private employee or acting in a voluntary capacity.

Other(s) put at risk of harm by the offending

Offence committed in the presence of other(s) (especially children)

The explanations for these factors were widely supported. There were some requests for examples, but the Council felt that this would be problematic as the relevance of examples would depend on the type of offence. A change made was to the wording in relation to where risk of harm results in separate charges and a cross-reference to the age and/or lack of maturity mitigating factor was added to both explanations.

Actions after the event including but not limited to attempts to cover up/ conceal evidence

Blame wrongly placed on other(s)

Failure to respond to warnings or concerns expressed by others about the offender’s behaviour

Again these explanations were generally welcomed. Some respondents suggested that examples would be helpful as part of the explanations. The Council considered that examples would not be helpful as the circumstances that could apply were too varied.

In relation to the explanation for ‘Actions after the event’, the Council extensively revised the wording following suggestions from WWF and the Birmingham Law Society in response to the *General* consultation. In the later consultation, Release suggested that ‘it should be expressly stated that unsophisticated, isolated incidents may not aggravate the offence’. The Council felt that the explanation as currently worded gave courts sufficient guidance without compromising discretion.

The JCS suggested adding to the explanation for 'Blame wrongly placed on others' that 'this should include attempts to place blame on others, where others have not suffered'. The Council did not consider that it would be appropriate to broaden the scope of this factor.

A cross-reference to the age and/or lack of maturity mitigating factor was added to 'Failure to respond to warnings' and 'Blame wrongly placed on others'.

Offence committed on licence or post sentence supervision or while subject to court order(s)

Following the *General* guideline consultation, the Council agreed with the CPS that the explanation should state that the extent to which an offender had complied with a licence or order would be relevant. Responding to the later consultation, the JCS and West London Bench suggested that the explanation for this factor should explicitly refer to the time that has elapsed since the commencement of the order or licence. The Council agreed and has added wording to cover this point.

The PRT had significant misgivings about including post-sentence supervision (PSS) in this factor and its explanation quoting evidence that PSS was ineffective at reducing reoffending. The Council considered that concerns about the operation of PSS were not within the scope of the consultation.

A cross-reference to the age and/or lack of maturity mitigating factor was added to this factor.

Offence committed in custody

The PRT and Howard League raised concerns that 'this aggravating factor and the accompanying explanation do not take sufficient account of the mitigating circumstances which may contribute to offending in custody' and it 'fails to take into consideration the dire state of prisons today and how that may adversely impact on people's behaviour'.

The Council considered that nothing in the explanation would prevent relevant mitigating factors (which will vary depending on the details of the offence and offender) being taken into account.

Offences taken into consideration

Offence committed in a domestic context

Offence committed in a terrorist context

Location and/or timing of offence

Established evidence of community/ wider impact

There were very few comments on these factors aside from agreeing that the explanations were useful. In particular the guidance on prevalence was welcomed.

The Council has not made any changes to these five explanations following the expanded explanations consultation.

Mitigating factors

No previous convictions or no relevant/recent convictions

Good character and/or exemplary conduct

Respondents were generally supportive of these explanations, though there were some suggestions for changes. The CPS queried the relevance of the factors 'when considering offences such as fraud by abuse of trust, or misconduct in public office, or corruption or improper exercise of police powers and privileges contrary to section 26 Criminal Justice and Courts Act 2015, where the offender could only have been in the position to commit the offence by virtue of a lack of previous convictions/good character'.

The Council noted that the rationale in the explanation for giving a reduction for no previous convictions is that i) first time offenders represent a lower risk of re-offending and ii) they are normally considered less blameworthy than repeat offenders. Both of these could still apply in the cases mentioned by the CPS. The explanation for good character does include the caveat: 'where an offender has used their good character or status to facilitate or conceal the offending it could be treated as an aggravating factor'. The aggravating factor relating to abuse of a position of trust would also apply in such cases. The Council was therefore satisfied that the explanations did take account of the issues raised by the CPS.

Remorse

There were several comments regarding the explanation for this factor. Some queried whether the statement 'lack of remorse should never be treated as an aggravating factor' was of general application while others welcomed it and one suggested that it equally applied to all other mitigating factors. There was concern from the PRT and Release that some offenders would find it difficult to articulate remorse or even in some cases to understand what the term meant and might therefore be disadvantaged. The West London Bench sought guidance on determining whether remorse was genuine, one respondent (the CLSA) suggested that the only indicator of remorse was a guilty plea.

The Council considered that any attempt to define or give further guidance on remorse was likely to be counterproductive. The assessment of remorse and the weight to be given to it are inevitably highly subjective. The Council affirmed its position that lack of remorse was not an aggravating factor and that remorse should be considered separately (and before) any reduction for a guilty plea. The Council considered that concerns about some offenders having difficulty in articulating remorse was allayed to some extent by the statement that lack of remorse does not aggravate.

The Council noted the comments about the importance of ensuring that offenders understand the language used in court and the difficulties that may be faced by some offenders (particularly if unrepresented). In response to this and other issues considered elsewhere in this document, the Council decided to include a link to the Equal Treatment Bench Book (ETBB) at the top of all sentencing guidelines. The ETBB contains extensive information and practical advice which helps to ensure that there is fairness for all involved in court proceedings.

Self-reporting**Cooperation with the investigation/ early admissions**

The explanations for these factors were widely supported and felt to constitute current best practice.

Little or no planning**The offender was in a lesser or subordinate role if acting with others / performed limited role under direction****Involved through coercion, intimidation or exploitation****Limited awareness or understanding of the offence**

Most respondents were content with the explanations for these factors. There were a few comments or suggestions relating to 'Involved through coercion, intimidated or exploitation' with the PRT suggesting 'this would benefit from a link to the relevant sections of the Equal Treatment Bench Book on domestic abuse and coercion, and trafficking and modern slavery'. The Council was unable to identify a specific section of the ETBB usefully to link to from this factor but, as outlined above, decided to include a link to the ETBB in every guideline.

The explanation states that the 'factor may be of particular relevance where the offender has been the victim of domestic abuse, trafficking or modern slavery, but may also apply in other contexts'. Some respondents requested that these 'other contexts' be expanded upon. Other respondents asked for examples of the factors referred to in the statement: 'Courts should be alert to factors that suggest that an offender may have been the subject of coercion, intimidation or exploitation'. The Council considered there was a risk that the provision of examples might serve to limit the range of situations that a court would consider.

The MA made helpful suggestions relating to the explanation for 'Limited awareness or understanding of the offence' in response to the General guideline consultation. The Council added wording relating to a genuine failure to understand the seriousness of an offence. No further changes were made following the later consultation.

Little or no financial gain

Some respondents questioned whether this factor would occur in many situations and whether the expanded explanation was of practical use. Others found it helpful. The consultation document notes that the factor only occurs in two offence specific guidelines at step two. It may be applicable to offences not covered by offence specific guidelines (for example some regulatory offences) and therefore the Council considered it to be an important factor to include in the *General* guideline.

Delay since apprehension

There was a recognition from respondents that delay can constitute a considerable hardship for some offenders and the explanation was generally welcomed. Wording making it clear that delay would only provide mitigation if it had a detrimental effect on the offender was added following the *General* guideline consultation. The Council agreed with one respondent to the later consultation that the explanation would be clearer if slightly re-

worded. One respondent noted the reduced use of pre-charge police bail and queried whether the factor would apply to those who are questioned and then released under investigation. The Council was clear that the wording of the explanation which refers to 'delay in proceedings since apprehension' means that it could apply in such cases.

Activity originally legitimate

The Council added the final sentence of this explanation ('This factor will not apply where the offender has used a legitimate activity to mask a criminal activity') following the *General* guideline consultation to clarify the limited range of circumstances where this factor may apply. There were few comments in response to in the expanded explanations consultation and no further changes were made.

Age and/or lack of maturity

The explanation for this factor was largely welcomed by respondents to both consultations who recognised that understanding of developmental change in maturing adults had changed in recent years. Helpful suggestions were made for additions and clarifications to the explanation in response to each consultation which have led to improvements to the information provided.

The aim of the explanation is to provide guideline users with a concise but complete overview of the issues that a court should have regard to when sentencing offenders who are immature. Courts are reminded of the importance of obtaining a PSR in appropriate cases, where the issues raised in the explanation can be explored in relation to the individual offender before the court.

As noted in the aggravating factors section above, several aggravating factors are cross-referenced to this factor, to ensure that sentencers are taking a rounded view of sentencing young adults.

Sole or primary carer for dependent relatives

Following the *General* guideline consultation, a reference to pregnant offenders was added to this explanation. The second consultation provoked some very detailed responses relating to this factor. Several of these comprehensively addressed issues relating to the sentencing of women which went beyond the scope of this project. One response (from the authors of the Families and Imprisonment Study) also argued that 'both parents can have equally important parenting roles in families and that this should be taken into account when considering whether or not to impose a custodial sentence'.

In summary, respondents felt that the proposed wording did not go far enough to ensure that the human rights of children are taken into account by courts in sentencing carers. One issue that was raised by several respondents is that courts are not always aware of the existence of dependent children.

Dr Shona Minson argued that though it was positive that the Council was providing the explanation for this factor, it did not go far enough and that the information should be in a separate guideline or separate step in guidelines.

The Council considered all the responses relating to this factor carefully. It noted that the provision of a separate guideline (or separate step in guidelines) was outside the scope of this consultation but in any event considered that that a succinct but comprehensive

outline of the relevant issues in the expanded explanation could ensure that sentencers follow best practice.

The Council was persuaded that the issue of the human rights of children was not sufficiently covered in the wording consulted on and made several additions to the explanation to draw the court's attention to the necessity of considering the effect of a sentence on dependants and ensuring that it has the information it needs to do this. The Council also decided to add a link to the ETBB and a reference to the relevant section. Other changes were made to the wording to clarify that a PSR should be obtained when a community order or custodial sentence is being considered for any offender who has, or may have, caring responsibilities.

Physical disability or serious medical conditions requiring urgent, intensive or long-term treatment

The explanation for this factor was greatly expanded in the second consultation and this revised wording was welcomed by all those who expressed a view.

Mental disorder or learning disability

The explanation for this factor was generally welcomed although there were some suggestions for changes. In light of the forthcoming overarching guideline for this factor, the Council has not made any changes; responses received will be considered as part of the consultation on that overarching guideline.

Determination and /or demonstration of steps having been taken to address addiction or offending behaviour

The explanation for this factor was also generally welcomed. The JCS suggested that reference should be made to the 'need for an evidenced commitment to address offending or steps to address an addiction including co-operation with relevant agencies'. Conversely Release said 'it should be explicitly stated that there may not be evidence of "a commitment to address the underlying issue", because of the current environment, and that lack of such evidence must not be considered as an indication of lack of willingness or commitment.' The Council has not made any changes noting that the explanation refers to obtaining a PSR, which would assist the court to assess the situation for an individual offender.

Other changes to existing guidelines

As part of the expanded explanations consultation the Council also consulted on making changes to the digital guidelines to reflect legislative and other external changes and to improve clarity and consistency across guidelines.

Medium culpability: Fraud, Theft and Robbery guidelines

The Council consulted on changing the wording of the medium culpability (B) factor in theft, robbery and fraud offence guidelines which was defined by the absence of high or low culpability factors. All respondents who expressed a view supported the proposal to change the wording in these guidelines from:

- Other cases where characteristics for categories A or C are not present

to:

- Other cases that fall between categories A or C because:
 - Factors are present in A and C which balance each other out **and/or**
 - The offender's culpability falls between the factors as described in A and C

This change has been made to coincide with the publication of the *General* Guideline and expanded explanations on 24 July 2019 and is effective immediately.

Presentational changes

Maximum sentences

The way in which maximum sentences are expressed across Sentencing Council guidelines varies slightly. The Council consulted on proposals to standardise the wording. Most respondents were in favour of these proposals. The approach will be applied to existing guidelines and to any future guidelines

Fines:

Only where a fine is an option within a guideline will reference be made to the statutory maximum fine. Where the maximum fine is other than unlimited (e.g. level 3 fine) a link will be provided to a table giving the maximum amounts for each level.

Either way offences:

Guidelines for either way offences will only include the summary maximum if it is other than 6 months/unlimited fine.

These changes will be made over the course of a few months and will be completed by 1 October 2019.

Time spent on remand/ bail

This is typically step eight of offence specific guidelines. The wording will be standardised to across all guidelines to read:

Consideration for time spent on bail (tagged curfew)

The court must consider whether to give credit for time spent on bail in accordance with section 240A of the Criminal Justice Act 2003.

These changes will be made over the course of a few months and will be completed by 1 October 2019.

Dangerousness

Views were sought on proposals to update and standardise the wording relating to dangerous offenders and offenders who are subject to a life sentence for a second listed offence across all relevant guidelines. It was also proposed to provide a link to the Crown Court Compendium to assist sentencers where the application of these provisions may be more complicated (for example for historic offences).

Respondents agreed that the references should be updated and standardised and were in favour of providing a link to the Compendium.

These changes will be made over the course of a few months and will be completed by 1 October 2019.

Sentencing Guidelines Council (SGC) guidelines

Of the SGC guidelines which are still in force, most will be replaced with Sentencing Council guidelines by early 2020. The majority of the remaining SGC guidelines are for driving related offending which the Council intends to replace once no further changes to legislation are planned.

SGC guidelines refer to the *Seriousness* guideline, in particular the list of common aggravating and mitigating factors. To ensure that access to that information is still available to sentencers once the *Seriousness* guideline is withdrawn on 1 October 2019, the common aggravating and mitigating factors will be provided as a drop down list in the SGC guidelines.

Future changes

The Council has published a [policy](#) in its website for making corrections and other revisions to guidelines which includes informing users when changes are made.

Changes to statutory maximum sentence

Consultees also approved of the policy (already implemented in the case of Terrorism offences) of adding a note to a guideline when there has been a change to the statutory maximum sentence that has not been reflected in the guideline.

The only other current guideline where there has been a change in the maximum sentence is the SGC guideline *Causing death by driving: unlicensed, disqualified or uninsured drivers*. A note has been added to this guideline, published alongside the *General* guideline and expanded explanations on 24 July 2019 and is effective immediately.

Impact of the changes

Resource impact

The consultation on expanded explanations sought views on which, if any, of the expanded explanations or other proposed changes were likely to have an effect on sentencing practice.

In general respondents did not identify any significant impact on sentence levels, though several believed that there could be an increase in consistency. The changes to medium culpability (see page 27) were considered to be significant by many respondents, but there was no overall agreement on the nature of the impact:

The explanation of age and lack of maturity will be helpful and have an impact, in my view, as the Court of Appeal's judgment on the topic has not filtered through to all courts as yet. I suspect that the changes to Culpability B in robbery and theft will have a material impact, because of the prevalence of offences covered by those guidelines, and the scale of the sentences to be imposed for robbery. *Judge*

It is difficult to be specific about the effects of these explanations. In general, we have not seen anything in the explanations that comes as a big surprise, so from that point of view we would expect there to be minimal impact on the increase or decrease of individual sentences. We agree that the provision of the additional guidance should reinforce current best practice, by bringing together guidance that (after all) already exists, albeit in different documents. Providing easy access to the guidance materials for magistrates via the Sentencing Guidelines should, in our view, assist in improving consistency and transparency in sentencing between different benches of magistrates, and between different LJAs. *West London Bench*

I'm sure there will be some effect mostly on consistency of sentencing. The explanations may assist sentencers in coming to more speedy decisions by spending less time trying to interpret what is meant by certain factors. I don't foresee either an overall increase or decrease in average sentences as a result of these changes. *West Sussex Bench*

It would seem that Question 20, relating to medium culpability factors would be likely to have the most profound effect on sentencing. It may be that we see a move towards the middle of the sentencing range, rather than at the extremes as a result, perhaps with more of a shift away from the lowest category for the reasons described above. *Insolvency Service*

We believe that the detailed explanation to offence committed in custody will and should highlight the significance of offences committed within prison establishments. Magistrates may rarely see such offences. This guidance will provide sentencers with the justification to ensure that such offences are dealt with more severely than would otherwise be the case. This will assist in the proper maintenance of safety and control measures within prisons. *JCS*

We believe the proposed expanded factors will improve consistency, not just across different geographical areas but across similar level offences. The expansion should also improve the quality of sentencing by drawing attention to all aspects of the offence, and

make it easier to refer to material more quickly. However, we do not believe the proposals will have a major impact on sentencing. *MA*

One would hope that the major effect will be a higher level of consistency in sentencing. *Law Society*

The proposed extension in relation to the offender being under the influence of drugs or alcohol is likely to have an effect on sentencing practices, because of a lack of understanding of substance use and the stigma associated with this. It is not sufficient to say "it has not been possible to estimate how sentencing severity might be affected by any change, given the limited data about how this factor is currently being applied". The changes we have proposed at A1 [commission of the offence whilst under the influence of alcohol or drugs] and M17 [determination and/or demonstration of steps having been taken to address addiction or offending behaviour], would reduce the risk and ensure greater consistency. However, a further impact assessment should be carried out following implementation. *Release*

It is envisaged that the clarification of the allocation of cases to Culpability B is likely to lead to more cases being sentenced within Culpability B. This may, of course, mean that some cases are sentenced less severely than they may have been and other more severely. It does not seem that any of the proposed changes are likely to result in a radically different approach to sentencing. *CBA*

The CLSA and the Council of HM Circuit Judges repeated their misgivings about the proposals, though for opposing reasons:

The CLSA are not able to speculate on whether the proposals will have an impact on sentencing in practise. There are consistently different sentences imposed for similar offences in different regions often taking into account established local concerns and priorities. Different Judges and Judicial tribunals will have different views. Frankly, the more certain the guidelines, the greater transparency and consistency as opposed to blurring and attempting to tailor guidelines. Sentencing should be certain, not speculative. It is not the role of the CLSA or indeed any other organisation to try to establish what the proposed expanded factors would be. *CLSA*

We re-iterate the proposed changes will, in our view, add an extra layer to the sentencing process which, save for the exceptions we have identified above, is unnecessary and likely to be counter-productive. There is likely to be a sense on the part of many judges that these proposals are too prescriptive and at odds with a discipline that is an art rather than a science. We respectfully take the view that many of the proposed expanded explanations stray into academic areas concerning offending rather than the practicalities of how to sentence an offender. *Council of HM Circuit Judges*

The Council has produced a combined [resource assessment](#) for the *General* guideline and expanded explanations. The resource assessment examines in some detail the potential for an impact on sentencing practice arising from the *General* guideline and expanded explanations and identifies those changes that are most likely to have an impact. In general the resource assessment concludes that as the *General* guideline and expanded explanations reflect current best practice, they are not expected to cause any overall significant changes in sentencing severity.

Equality and diversity

As a public body the Council is subject to the Public Sector Equality Duty (PSED) which means it has a legal duty to have due regard to:

- the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010;
- the need to advance equality of opportunity between those who share a “protected characteristic” and those who do not;
- foster good relations between those who share a “protected characteristic” and those who do not;

Under the PSED the relevant protected characteristics are: race; sex; disability; age; sexual orientation; religion or belief; pregnancy and maternity; and gender reassignment.

The expanded explanations consultation set out ways in which the Council had sought to have regard to equality and diversity issues, specifically the effect of the proposals on victims and offenders with protected characteristics. A question was asked: *Are there any other equality and diversity issues that the explanations should address?*

Most respondents who answered this question did not raise any issues, others referred to points that they had made earlier in response to specific explanations. The PRT responded as follows:

We believe that the following sections of the draft guidance will have disproportionate equality impacts in their current form and require revision:

- PSR guidance - Mental health; learning disability, women
- SA1 – Previous convictions - Mental health; learning disability; young adults, BAME
- A1 – Commission of the offence while under the influence of alcohol or drugs – Mental health; BAME
- A2. Offence was committed as part of a group – BAME; young adults
- A12. Offence committed in the presence of other(s) (especially children) - women
- A14. Blame wrongly placed on others – mental health; learning disability, autism
- A16. Offence committed on licence or post sentence supervision or while subject to court order(s) – mental health; learning disability; young adults; women
- M3. Remorse – learning disability, autism

The guideline should include clear links to the extensive information provided in the Equal Treatment Bench Book published by the Judicial College, which warrants much more vigorous dissemination including by the Sentencing Council

Many of the consultation responses raised issues of equality and diversity in response to individual factors and the Council considered these issues as integral to the review of the explanation for each factor. Examples of where changes were made with the aim of ensuring that courts take into account relevant equality considerations include:

- cross-referencing to the age and lack of maturity mitigating factor from relevant aggravating factors
- additions to the expanded explanation for the commission of the offence whilst under the influence of alcohol or drugs aggravating factor
- additions to the expanded explanation for the offence committed as part of a group aggravating factor
- additions to the expanded explanation for the age and lack of maturity mitigating factor

- additions to the expanded explanation for the sole or primary carer for dependent relatives mitigating factor
- the provision of a link to the Equal Treatment Bench Book from all guidelines. The Council considered that the inclusion of the link will serve to reinforce much of the guidance in the expanded explanations to ensure fairness for offenders and victims.

Conclusion and next steps

The two consultations have been an essential part of the Council's development of the *General* guideline and expanded explanations.

As a result of the consultations the Council has made the changes set out in the sections above. Any changes made to the expanded explanations in offence specific guidelines have also been made to the *General* guideline. Both are published on the Council's website (<https://www.sentencingcouncil.org.uk>) on 24 July 2019 to come into force for all individual offenders aged 18 and older and organisations sentenced on or after 1 October 2019. The *General* guideline and each individual expanded explanation will be marked as: 'effective from 1 October 2019'. On that date the SCG *Seriousness* guideline will be withdrawn.

The final resource assessment is published on 24 July 2019 on the Council's website.

The Council has produced a short video guide to accessing and using the *General* guideline and the expanded explanations, which is also published on its website.

The Council has worked with the Judicial College to produce training scenarios for magistrates to illustrate how the *General* guideline could be used in practice.

The following changes are published on 24 July 2019 and come into effect immediately:

- changes to the wording of medium culpability in the Theft, Robbery and Fraud guidelines
- addition of a link to the Equal Treatment Bench Book in all sentencing guidelines
- note indicating that the statutory maximum sentence has changed but is not yet reflected in a guideline (where applicable).

The following changes will be made by 1 October 2019 and come into effect immediately:

- standardisation of the presentation of maximum sentences across guidelines
- standardisation and updating of the wording relating to the 'dangerousness' provisions across relevant guidelines
- standardisation of the wording relating to credit to be given for time spent on qualifying bail
- in the remaining SGC guidelines – a drop-down box containing the list of common aggravating and mitigating factors that was previously available in the *Seriousness* guideline.

The Council is committed to keeping the digital guidelines up-to-date. The policy for making changes to digital guidelines and a log of any changes can be accessed from the updates page for [magistrates' court](#) and [Crown Court](#) guidelines.

Following the implementation of the *General* guideline and expanded explanations, the Council will monitor their impact over time.

Consultation respondents

General guideline

Insolvency Service
 Transition to Adulthood (T2A)
 SE Bench
 Association of Tenancy Relations Officers
 Mr Justice Baker
 Birmingham Law Society
 Chief Magistrate
 Criminal Law Solicitors' Association (CLSA)
 Crown Prosecution Service (CPS)
 Damazer JP
 Department of Health and Social Care
 The Howard League
 Michael Hudston
 London Fire Brigade
 Justices' Clerks' Society (JCS)
 Law Society
 Link
 Magistrates Association (MA)
 Magistrates Leadership Executive
 Naturewatch Foundation
 Northants PCC
 Residential Landlords Association
 Roy Stringer
 Stuart Smiles
 Sophie Flatt
 NFU
 WWF and TRAFFIC
 Justice Committee

Expanded explanations

Office of the Judge Advocate General
 Dr Carly Lightowers
 Professor Andrew Ashworth
 Anthony Brown
 Michael Evans
 Naturewatch Foundation
 Sarah Pye
 Richard Trahair
 Mr Justice Warby
 Victims' Commissioner
 West London Bench
 West Sussex Bench
 Bar Council
 British Transport Police
 Chief Magistrate
 Criminal Law Solicitors' Association (CLSA)
 Council of HM Circuit Judges
 Crown Prosecution Service (CPS)
 Families and Imprisonment Study
 Insolvency Service
 K Gosden
 Jackie Hooker
 Justices' Clerks' Society (JCS)
 Law Society
 Link
 Lucy Baldwin
 Magistrates Association (MA)
 P Moles
 Prison Reform Trust (PRT)
 Release
 Dr Shona Minson
 Sophie Flatt
 Transition to Adulthood (T2A)
 Ministry of Justice (MoJ)
 Criminal Bar Association (CBA)
 The Howard League
 Justice Committee

