

## Local area duty

The Coroners and Justice Act 2009 sets out the duties of the Sentencing Council, for which it is accountable to Parliament. Section 129, entitled 'Promoting awareness', contains the following statutory obligation:

- (1) The Council must publish, at such intervals as it considers appropriate—
  - (a) in relation to each local justice area, information regarding the sentencing practice of the magistrates' courts acting in that area, and
  - (b) in relation to each location at which the Crown Court sits, information regarding the sentencing practice of the Crown Court when it sits at that location.

The Council considered this duty when it was first established in 2010 but came to the conclusion at that time that it was not appropriate to formally gather or publish information at this level, due to the difficulties with interpreting local level data. The concern was that it could be potentially misleading if any analysis were not able to control for the factors that may have an influence on the sentence, and would not be able to be captured in the data. These intrinsic difficulties were acknowledged in the *What next for the Sentencing Council? consultation*, issued in 2020.

Despite this, a small number of consultees did encourage the Council to reconsider and to put in place mechanisms to overcome the difficulties with analysis in this area. These responses were considered by the Council and we subsequently committed to an action to 'Consider how best to make use of local area data in our work by undertaking a review of options', within the Sentencing Council's strategic objectives 2021-2026, published in response to this consultation in November 2021, which can be viewed [here](#).

The Council has now undertaken an initial review of this duty and the options for future work in this area. It has reviewed the available existing data, assessed the requirements for conducting robust analysis and considered the work that would be needed to address this duty against its other stated priorities for this next period.

Much of the sentencing data the Council relies on is administrative data owned by the Ministry of Justice, over which it has little control. This dataset (the 'Court Proceedings Database' or CPD) does not contain many of the detailed case factors known to be relevant in sentencing outcomes, such as the harm or culpability categorisation, any aggravating or mitigating factors, or accurate and detailed guilty plea information. While the Council's

offence-specific data collections do contain these factors, it remains the case that they still do not cover many other important elements which would be needed to understand the full context behind possible regional differences in sentencing; for example, the case load being heard at the court or any relevant socio-economic factors relating to the offenders being sentenced. Furthermore, these data collections are limited by their size: they cover only a sample of courts and only selected offences, and so after taking into account response rates, the coverage of the data is insufficient to support comprehensive and robust analysis across England and Wales. As a result of these considerations, our current assessment is that the factors set out in the consultation remain significant concerns; we do not currently have sufficient data to control for all the relevant factors, which continues to pose the risk that any analysis conducted either by us, or using data we have published, would not be robust enough to ensure meaningful and accurate conclusions can be drawn from it.

As outlined in our strategic objectives, we are currently actively seeking to improve both the quality and quantity of the data we have available to us. We are continuing our discussions with HMCTS and colleagues working on the Common Platform to explore ways in which we may access more data in the future. This may provide the data we need that will enable us to publish comprehensive information on sentencing practice in local areas. Since this work is ongoing, it is not possible at this stage to conclude more fully what might be possible and we need to await the outcome of work in this area. Nevertheless, we plan to keep this action under review as part of our longer-term analytical plan and revisit it at the halfway point in our strategic action plan, in late 2023.